

CITY OF HUNTSVILLE, TEXAS

Russell Humphrey, Mayor

Vicki McKenzie, Mayor Pro Tem
Position 3 At-Large
Bert Lyle, Position 1 At-Large
Karen Denman, Position 2 At-Large
Pat Graham, Position 4 At-Large



Tore Fossum, Ward 1
Casey Cox, Ward 2
Anissa Antwine, Ward 3
Jon Strong, Ward 4

HUNTSVILLE CITY COUNCIL AGENDA

TUESDAY, AUGUST 20, 2024

WORKSHOP 5:00 P.M. - Main Conference Room
REGULAR SESSION 6:00 P.M. - Main Conference Room

City of Huntsville Service Center Complex, 448 Highway 75 N, Huntsville, Texas, 77320

Persons with disabilities who plan to attend this meeting and may need auxiliary aids or services are requested to contact the City Secretary's office (936.291.5413) two working days prior to the meeting for appropriate arrangements.

WORKSHOP (5:00 p.m.)

DISCUSSION

- a.** Discuss FY 24-25 Proposed Budget
Aron Kulhavy, City Manager

MAIN SESSION (6:00 p.m.)

CALL TO ORDER

INVOCATION AND PLEDGES - *U.S. Flag and Texas Flag: Honor the Texas Flag. I pledge allegiance to thee, Texas, one state, under God, one, and indivisible.*

PROCLAMATION

PRESENTATIONS

PUBLIC HEARING

- a.** Public Hearing on Ordinance No. 2024-20 amendments to Chapter 24, Land Development, of the Code of Ordinances of the City of Huntsville, Texas to adopt the updated Development Code and Zoning Map of the City of Huntsville, Texas
Kevin Byal, Director of Development Services

1. CONSENT AGENDA

The presiding officer will call for public comments before action is taken on these items. *(Approval of Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations. An item may be removed from the Consent Agenda and added to the Statutory Agenda for full discussion by request of a member of Council.)*

- a.** Consider approving the Minutes from the August 6, 2024, Regular City Council Meeting.
Kristy Doll, City Secretary
- b.** Consider authorizing the City Manager to enter into an agreement for Solid Waste Rate study services.

Brent Sherrod, Public Works Director

- c. Consider adoption of Ordinance 2024-21 to amend the budget for FY 23-24 and/or CIP Project Budgets.
Steve Ritter, Finance Director
- d. Consider authorizing the City Manager to pay Mid-South Electric Cooperative for invoices related to the McGary Creek lift station project.
Kathlie Jeng-Bulloch, City Engineer
- e. Consider adopting Resolution #2024-17, and authorize the City Manager to enter into a Municipal Maintenance Agreement with the Texas Department of Transportation.
Brent Sherrod, Public Works Director
- f. Consider approving the increase of the purchase order for Extreme Comfort Heating and Cooling HVAC services.
Penny Joiner, Director of Parks and Leisure

2. STATUTORY AGENDA

- a. **First Reading** - Consider authorizing the City Manager to enter into an agreement with Extreme Comfort for the purchase and installation of two air conditioning units at the Huntsville Public Library.
Sam Masiel, Assistant City Manager
- b. **First Reading** - Consider adoption of Ordinance 2024-20, amending Chapter 24, Land Development, of the Code of Ordinances of the City of Huntsville, Texas to adopt the updated Development Code and Zoning Map of the City of Huntsville, Texas.
Kevin Byal, Director of Development Services
- c. **First Reading** - Consider adoption of Ordinance 2024-18, amending Chapter 46 Utilities of the Huntsville Municipal Code, to add Article a New Article IV “Stormwater Utility System” and adopting a process to form a schedule of rates and charges to be assessed.
Kathlie Jeng-Bulloch, City Engineer

3. CITY COUNCIL/MAYOR/CITY MANAGER

- a. Consider the appointments to the City of Huntsville Boards and Commissions.
Russell Humphrey, Mayor
- b. Consider authorizing the City Manager to enter into a Fixed Based Operation (FBO), lease agreement with Huntsville Aviation to provide aeronautical services at the Bruce Brothers Huntsville Regional Airport.
Aron Kulhavy, City Manager

4. MEDIA INQUIRIES RELATED TO MATTERS ON THE AGENDA

5. ITEMS OF COMMUNITY INTEREST

6. EXECUTIVE SESSION

- a. The City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.071, to receive legal advice on collecting delinquent Hotel Occupancy taxes on Motel 6 and its owners at 122 Interstate 45 North.
Leonard Schneider, City Attorney
- b. City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.074 – Personnel Matters: regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee: City Manager Aron Kulhavy.

7. RECONVENE

Take action on item discussed in executive session, if needed.

ADJOURNMENT

*If during the course of the meeting and discussion of any items covered by this notice, City Council determines that a Closed or Executive session of the Council is required, then such closed meeting will be held as authorized by Texas Government Code, Chapter 551, Section 551.071 – consultation with counsel on legal matters; 551.072 – deliberation regarding purchase, exchange, lease or value of real property; 551.073 – deliberation regarding a prospective gift; 551.074 – personnel matters regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; 551.076 – implementation of security personnel or devices; 551.087 – deliberation regarding economic development negotiation; Sec. 551.089 - deliberation regarding security devices or security audits; and/or other matters as authorized under the Texas Government Code. If a Closed or Executive session is held in accordance with the Texas Government Code as set out above, the City Council will reconvene in Open Session to take action, if necessary, on the items addressed during Executive Session.

CERTIFICATE

I, Kristy Doll, City Secretary, do hereby certify that the above notice was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website, www.HuntsvilleTX.gov, in compliance with Chapter 551, Texas Government Code.

DATE OF POSTING: August 16, 2024

TIME OF POSTING: 10:40 a.m.

TAKEN DOWN:

Kristy Doll

Kristy Doll, City Secretary



CITY COUNCIL AGENDA

8/20/2024

Agenda Item Number: a.

Agenda Item: Discuss FY 24-25 Proposed Budget

Initiating Department/Presenter: City Manager

Presenter:

Aron Kulhavy, City Manager

Recommended Motion: Not applicable

Strategic Initiative:

Discussion:

Previous Council Action:

Financial Implications:

Approvals:

Steve Ritter

Aron Kulhavy

Kristy Doll

Associated Information:



CITY COUNCIL AGENDA

8/20/2024

Agenda Item Number: a.

Agenda Item: Public Hearing on Ordinance No. 2024-20 amendments to Chapter 24, Land Development, of the Code of Ordinances of the City of Huntsville, Texas to adopt the updated Development Code and Zoning Map of the City of Huntsville, Texas

Initiating Department/Presenter: Development Services

Presenter:

Kevin Byal, Director of Development Services

Recommended Motion: Public Hearing

Strategic Initiative: Goal #3, Economic Development – Promote and enhance a strong and diverse economy.

Discussion: An updated zoning ordinance offers several key benefits. Primarily, Chapter 211 of the Texas Local Government Code mandates that zoning promotes “the public health, safety, morals, or general welfare” and protects and preserves “places and areas of historical, cultural, or architectural importance.” Zoning must also align with our comprehensive plan.

These principles are crucial for preserving the character of Huntsville and ensuring that all citizens and business owners have the certainty and predictability they deserve as our city grows. This need has been recognized and discussed over the past four years, with discussions beginning even earlier.

On June 5, 1990, the Huntsville City Council established three zoning districts that have largely remained unchanged for 34 years. As the city has experienced increased development pressure, challenges in managing growth and protecting neighborhoods have arisen.

In response, the City Council authorized an update to the Comprehensive Plan in September 2020, involving community input through town hall meetings, listening sessions, and an advisory committee. This process identified a need for additional zoning districts and led to funding being allocated to revise the development code and zoning map in the FY 21/22 budget. The City Council’s Strategic Initiative the following year emphasized the need for updated zoning guidelines.

An 8-member steering committee was appointed to provide feedback on these revisions. Progress was reviewed in joint City Council and Planning Commission meetings. An open house on June 8, 2023, allowed for public input, followed by a public hearing on June 15, 2023, where residents’ comments were addressed. However, the City Council ultimately voted against adopting the updated zoning ordinance as presented.

Earlier this spring, during the development of the City Council’s 2024 Strategic Initiatives, updated zoning districts were once again prioritized. It was decided to reduce the number of zoning districts from

those presented last year and to revise the Development Code accordingly. The revised zoning districts now better reflect current land use patterns, maintain nonconforming uses, guide commercial development to main corridors, and protect residential areas from potential gentrification. The update also retains existing overlay districts and adds two new ones.

On July 18, 2024, the Planning and Zoning Commission held a public hearing and unanimously recommended approval of the updated Development Code and Zoning Map. About 20 people attended the hearing, with two speaking in favor and three speaking against the changes.

The final draft is now ready for a public hearing and City Council consideration.

The revised Development Code and Zoning Map are attached to agenda item 2b of this packet.

Previous Council Action: August 2, 2022 – A joint workshop with the City Council and the Planning Commission was held to initiate the process of the update.

April 18, 2023 – A 2nd joint workshop with City Council and the Planning Commission was held for an update on the process.

August 1, 2023 – City Council held a public hearing and the 1st reading of the adopting Ordinance.

August 15, 2023 – City Council considered the 2nd reading of the adopting ordinance and postponed action until the September 5, 2023, City Council meeting.

September 5, 2023 – City Council voted 5 to 3 against approving the ordinance.

March 5, 2024 – City Council received a presentation on revisions to the Development Code and Zoning Map.

April 18, 2024 – The Planning Commission held a workshop to review and comment on the revisions.

May 7, 2024 – A joint workshop with City Council and the Planning Commission was held for a presentation on the revisions.

July 18, 2024 – The Planning Commission held a public hearing and voted unanimously to recommend approval of the updated Development Code and Zoning Map.

Financial Implications: None

Approvals:

Kevin Byal
Sam Masiel
Aron Kulhavy
Kristy Doll

Associated Information:



CITY COUNCIL AGENDA

8/20/2024

Agenda Item Number: 1.a.

Agenda Item: Consider approving the Minutes from the August 6, 2024, Regular City Council Meeting.

Initiating Department/Presenter: City Secretary

Presenter:

Kristy Doll, City Secretary

Recommended Motion: Motion to approve the Minutes from the August 6, 2024, Regular City Council Meeting.

Strategic Initiative: N/A

Discussion: N/A

Previous Council Action: N/A

Financial Implications: N/A

Approvals:

Kristy Doll

Associated Information:

1. August 6, 2024 City Council Meeting Minutes - final

MINUTES FROM THE HUNTSVILLE CITY COUNCIL REGULAR MEETING HELD ON THE 6th DAY OF AUGUST 2024, AT THE CITY OF HUNTSVILLE SERVICE CENTER COMPLEX, LOCATED AT 448 HIGHWAY 75, IN THE CITY OF HUNTSVILLE, COUNTY OF WALKER, TEXAS, AT 6:00 P.M.

The Council met in a workshop and regular session with the following:

COUNCILMEMBERS PRESENT: Mayor Pro Tem McKenzie, Councilmember Ward 1 Fossum, Councilmember At-Large Position 2 Denman, Councilmember Ward 2 Cox, Councilmember Ward 3 Antwine, Councilmember Ward 4 Strong

COUNCILMEMBERS ABSENT: Councilmember At-Large Position 1 Lyle, Councilmember At-Large Position 4 Graham, Mayor Humphrey

OFFICERS PRESENT: Aron Kulhavy, City Manager; Kristy Doll, City Secretary; Leonard Schneider, City Attorney

WORKSHOP (5:00 p.m.)

Mayor Pro Tem McKenzie called the Workshop to order at 5:00 p.m.

DISCUSSION

- a. **Discuss the proposed FY 24-25 Budget and related CIP Project Steve Ritter, Finance Director**

Councilmember Pat Graham arrived at 5:10 p.m.

Mayor Humphrey arrived at 5:26 p.m.

Mayor Humphrey adjourned the Workshop without objection at 5:57 p.m.

MAIN SESSION (6:00 p.m.)

CALL TO ORDER

Mayor Humphrey called the meeting to order at 6:03 p.m.

INVOCATION AND PLEDGES - *U.S. Flag and Texas Flag:* *Honor the Texas Flag. I pledge allegiance to thee, Texas, one state, under God, one, and indivisible.*

Mayor Humphrey gave the invocation and led the pledges.

PRESENTATIONS

- a. **Presentation from TML to the Solid Waste Department with a R.O.A.D. ready certificate.**
- b. **Receive a presentation from the Small Business Administration (SBA) on disaster recovery programs.**

1. CONSENT AGENDA

The presiding officer will call for public comments before action is taken on these items. (*Approval of Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations. An item may be removed from the Consent Agenda and added to the Statutory Agenda for full discussion by request of a member of Council.*)

- a. **Consider approving the Minutes from the July 16, 2024, Regular City Council Meeting.**

Kristy Doll, City Secretary

b. Consider approval of the TIRZ 2021, 2022, 2023 and 2024 Annual Reports

Councilmember Jon Strong made a motion to approve Consent Agenda Items A and B. The motion was seconded by Councilmember Tore Fossum. The motion Passed (8 - 0). Yes: Russell Humphrey, Karen Denman, Vicki McKenzie, Jon Strong, Pat Graham, Anissa Antwine, Tore Fossum, Casey Cox; No: None

2. STATUTORY AGENDA

a. Second Reading-To consider adopting Ordinance 2024-17, to approve the Development Plan for the Planned Development of the approximately 86.56-acre tract of land adjacent to the 150 Block of FM 247 and also just east of American Legion Drive located on Walker County Property ID #13938, #13939, and #13941.

Councilmember Vicki McKenzie made a motion to Move to adopt Ordinance 2024-17 for approval of the Development Plan for the Planned Development of the approximately 86.56-acre tract of land adjacent to the 150 Block of FM 247 and also just east of American Legion Drive located on Walker County Property ID #13938, #13939, and #13941. The motion was seconded by Councilmember Anissa Antwine. The motion Passed (6 - 2).

Roll Call Vote: Yes: Russell Humphrey, Karen Denman, Vicki McKenzie, Jon Strong, Anissa Antwine, Casey Cox; No: Pat Graham, Tore Fossum

b. First Reading- Consider adoption of Ordinance 2024-19, amending Chapter 46 Utilities, Article II, Waters and Sewers, Division 2 Water, of the Code of Ordinances of the City of Huntsville and Adopting Rules and Regulations Herein Set Forth for the Maintenance and Operation of the City of Huntsville System.

Councilmember Vicki McKenzie made a motion to waive the first reading requirements and adopt Ordinance 2024-19, amending Chapter 46 Utilities, Article II, Waters and Sewers, Division 2 Water of the Code of Ordinances of the City of Huntsville and Adopting Rules and Regulations Herein Set Forth for the Maintenance and Operation of the City of Huntsville System. The motion was seconded by Councilmember Tore Fossum. The motion Passed (8 - 0). Yes: Russell Humphrey, Karen Denman, Vicki McKenzie, Jon Strong, Pat Graham, Anissa Antwine, Tore Fossum, Casey Cox; No: None

c. Consider approval of announcing the City Council's intention to adopt a tax rate in compliance with the Texas State's Truth in Taxation laws; a rate not to exceed \$0.3585 per \$100 valuation for the City's 2024 – 2025 Fiscal Year (Tax Year 2024).

Councilmember Vicki McKenzie made a motion to approve the City Council's intention to adopt a tax rate in compliance with the Texas State's Truth in Taxation laws; a rate not to exceed \$0.3585 per \$100 valuation for the City's 2024 – 2025 Fiscal Year (Tax Year 2024). The motion was seconded by Councilmember Tore Fossum. The motion Passed (8 - 0).

Roll Call Vote: Yes: Russell Humphrey, Karen Denman, Vicki McKenzie, Jon Strong, Pat Graham, Anissa Antwine, Tore Fossum, Casey Cox; No: None

3. CITY COUNCIL/MAYOR/CITY MANAGER

4. MEDIA INQUIRIES RELATED TO MATTERS ON THE AGENDA

5. ITEMS OF COMMUNITY INTEREST

ADJOURNMENT

Mayor Humphrey adjourned the meeting without objection at 6:33 p.m.

ATTEST:

CITY OF HUNTSVILLE:

Kristy Doll, City Secretary

Russell Humphrey, Mayor



CITY COUNCIL AGENDA

8/20/2024

Agenda Item Number: 1.b.

Agenda Item: Consider authorizing the City Manager to enter into an agreement for Solid Waste Rate study services.

Initiating Department/Presenter: Public Works

Presenter:

Brent Sherrod, Public Works Director

Recommended Motion: Move to authorize the City Manager to enter into an agreement with for Solid Waste rate study services.

Strategic Initiative: Goal #6 - Finance - Provide a sustainable , efficient, and fiscally sound government through conservative fiscal practices and resource management.

Discussion: Services for a rate study for Solid waste rates was budgeted for in the FY 23-24 Budget. The most recent rate study for water and wastewater rates was completed in November 2014. City staff issued a Request for Qualifications (RFQ) for the rate study services on June 2024 with proposals due by June 25, 2024. The City received proposals from seven firms/companies. A team/committee of 3 city staff (2 from Public Works and 1 from Finance) scored the proposals based on the Evaluation Criteria provided in the RFQ which were a) Project Approach and Quality Assurance/Control (40 points), b) Demonstrated Applicable Experience of the Company (35 points), and c) Personnel Qualifications and Experience (25 points),. The firm/company scoring the highest on their proposal was NewGen Strategies & Solutions LLC The cost proposal provided by NewGen was \$58,140.00

Previous Council Action: None.

Financial Implications: Item is budgeted: In the amount of: \$75,000 was budgeted for this service in the FY 23-24 Budget

Approvals:

Steve Ritter

Sam Masiel

Aron Kulhavy

Kristy Doll

Associated Information:

1. PSA-NewGen_Huntsville TX

Professional Services Agreement

This **PROFESSIONAL SERVICES AGREEMENT** ("Agreement") is dated August 9, 2024 by and between **NewGen Strategies and Solutions, LLC** ("Consultant"), with offices at **8140 North Mopac Expressway, Suite 1-240, Austin, TX 78759** and **City of Huntsville** ("Client"), with a mailing office at **1212 Avenue M, Huntsville, TX 77340**.

NOW, THEREFORE in consideration of the promises herein and for other good and valuable consideration, the parties agree as follows:

1. **Scope of Services:** Consultant and Client agree Consultant will perform services as described in Exhibit A – Scope of Services.
2. **Independent Contractor:** Consultant is an independent contractor and is not an employee of Client. Services performed by Consultant under this Agreement are solely for the benefit of Client. Nothing contained in this Agreement creates any duties on the part of Consultant toward any person not a party to this Agreement.
3. **Standard of Care:** Consultant will perform services under this Agreement with the degree of skill and diligence normally practiced by professional engineers or consultants performing the same or similar services. No other warranty or guarantee, expressed or implied, is made with respect to the services furnished under this Agreement and all implied warranties are disclaimed.
4. **Changes/Amendments:** This Agreement and its exhibits constitute the entire agreement between the Parties and together with its exhibits supersede any prior written or oral agreements. This Agreement may not be changed except by written amendment signed by both Parties. The estimate of the level of effort, schedule and payment required to complete the Scope of Services, as Consultant understands it, is reflected herein. Services not expressly set forth in this Agreement or its exhibits are excluded. Consultant shall promptly notify Client if changes to the Scope of Services affect the schedule, level of effort or payment to Consultant and the schedule and payment shall be equitably adjusted. If Consultant is delayed in performing its services due to an event beyond its control, including but not limited to fire, flood, earthquake, explosion, strike, transportation or equipment delays, act of war, or act of God, then the schedule or payment under the Agreement shall be equitably adjusted, if necessary, to compensate Consultant for any additional costs due to the delay.
5. **Fee for Services:** The fee for services associated with Exhibit A will be based on the actual hours of services furnished multiplied by Consultant's billing rates as of the date of its monthly invoice plus all reasonable expenses directly related to the services furnished under Exhibit A at a not-to-exceed price of \$58,140, shown in Exhibit B.

Professional Services Agreement

6. **Payment:** Client shall pay Consultant for services furnished under this Agreement upon submission of monthly invoices in an amount equal to actual hours of services furnished multiplied by the current billing rate of the respective consultant. Additionally, Client shall reimburse Consultant monthly for reasonable expenses at cost and at cost plus 10% for the services of any Subconsultant. Client shall pay Consultant in U.S. dollars within thirty (30) days of receipt of invoices less any disputed amounts. If Client disputes any portion of the invoice, the undisputed portion will be paid and Consultant will be notified in writing, within ten (10) days of receipt of the invoice of the exceptions taken. Consultant and Client will attempt to resolve the payment dispute within sixty (60) days or the matter may be submitted to arbitration as provided below. Additional charges for interest shall become due and payable at a rate of one and one-half percent (1-1/2%) per month (or the maximum percentage allowed by law, whichever is lower) on the unpaid, undisputed invoiced amounts. Any interest charges due from Client on past due invoices are outside any amounts otherwise due under this Agreement. If Client fails to pay undisputed invoiced amounts within sixty (60) days after delivery of invoice, Consultant, at its sole discretion, may suspend services hereunder or may initiate collections proceedings without incurring any liability or waiving any right established hereunder or by law.

Remit Payment To: 275 W. Campbell Road, Suite 440 Richardson, TX 75080. Contact Lauree Kiely at 972-590-8940 for ACH Payment Information.

7. **Indemnity:** To the extent permitted by law, Consultant agrees to indemnify, defend and hold harmless Client and its directors, officers, shareholders and employees from and against any liability (including without limitation, reasonable costs and attorneys' fees) incurred by Client to the extent caused by Consultant's negligent acts, errors or omissions, including judgments in favor of any third party.

To the extent permitted by law, Client agrees to indemnify, defend and hold harmless Consultant and its directors, officers, shareholders, employees and subconsultants from and against any liability (including, without limitation, reasonable costs and attorney's fees) incurred by Consultant to the extent caused by Client's negligent acts, errors or omissions, including judgments in favor of any third party.

8. **Reperformance of Services:** If Client believes any of the services provided under this Agreement do not comply with the terms of this Agreement, Client shall promptly notify Consultant to permit Consultant an opportunity to investigate. If the services do not meet the applicable standard of care, it will promptly reperform the services at no additional cost to Client, including assisting Client in selecting remedial actions. If Client fails to provide Consultant with prompt notice of non-compliance and an opportunity to investigate and reperform its services, Consultant's total obligation to Client will be limited to the costs Consultant would have incurred to reperform the services.
9. **Insurance:** Consultant shall maintain insurance with the following required coverages and minimum limits and upon request, will provide insurance certificates to Client:

Professional Services Agreement

Worker's Compensation	Statutory
Employer's Liability	U.S. \$1,000,000
Commercial General Liability	U.S. \$1,000,000 per occurrence
	U.S. \$1,000,000 aggregate
Comprehensive General Automobile	U.S. \$1,000,000 combined single limit
Professional Liability	U.S. \$1,000,000 per claim and in the aggregate

10. **Work Product:** Client shall have the unrestricted right to use the documents, analyses and other data prepared by Consultant under this Agreement ('Work Products'); provided, however Client shall not rely on or use the Work Products for any purpose other than the purposes under this Agreement and the Work Products shall not be changed without the prior written approval of Consultant. If Client releases the Work Products to a third party without Consultant's prior written consent, or changes or uses the Work Products other than as intended hereunder, (a) Client does so at its sole risk and discretion, (b) Consultant shall not be liable for any claims or damages resulting from the change or use or connected with the release or any third party's use of the Work Products and (c) Client, to the extent allowed by law, shall indemnify, defend and hold Consultant harmless from any and all claims or damages related to the release, change or reuse.
11. **Limitation of Liability:** No employee of Consultant shall have individual liability to Client. To the extent permitted by law, the total liability of Consultant, its officers, directors, shareholders, employees and subconsultants for any and all claims arising out of this Agreement, including attorneys' fees, and whether caused by negligence, errors, omissions, strict liability, breach of contract or contribution, or indemnity claims based on third party claims, shall not exceed the revenue received by Consultant under this Agreement or one hundred fifty thousand dollars (U.S. \$150,000.00), whichever is greater.
12. **No Consequential Damages:** In no event and under no circumstances shall either party be liable to the other for any principal, interest, loss of anticipated revenues, earnings, profits, increased expense of operation or construction, loss by reason of shutdown or non-operation due to late completion or otherwise or for any other economic, consequential, indirect or special damages.
13. **Information Provided by Others:** Client shall provide to Consultant in a timely manner any information Consultant indicates is needed to perform the services hereunder. Consultant may rely on the accuracy of information provided by Client and its representatives.
14. **Opinions of Cost:** Consultant does not control the cost of labor, materials, equipment or services furnished by others, nor does it control pricing factors used by others to accommodate inflation, competitive bidding or market conditions. Consultant estimates of operation expenses or construction costs represent its best judgment as an experienced and qualified professional and are not a guarantee of cost. This section does not apply to the cost of Consultant performing the Scope of Services.
15. **Safety and Security:** Consultant has established and maintains programs and procedures

Professional Services Agreement

for the safety of its employees. Unless specifically included as a service to be provided under this Agreement, Consultant specifically disclaims any authority or responsibility for job site safety and safety of persons other than Consultant's employees. Consultant shall not provide any such services and disclaims any responsibility under this Agreement related to site security or the assessment, evaluation, review, testing, maintenance, operation or safety practices or procedures related to security.

16. **Termination:** Either party may terminate this Agreement upon thirty (30) days prior written notice to the other party. Client shall pay Consultant for all services rendered to the date of termination plus reasonable expenses for winding down the services. If either party defaults in its obligations hereunder, the non-defaulting party, after giving seven (7) days written notice of its intention to terminate or suspend performance under this Agreement, may, if cure of the default is not commenced and diligently continued, terminate this Agreement or suspend performance under this Agreement.
17. **Dispute Resolution:** Consultant and Client shall attempt to resolve conflicts or disputes under this Agreement in a fair and reasonable manner and agree that if resolution cannot be made to attempt to mediate the conflict by a professional mediator. If mediation does not settle any dispute or action which arises under this Agreement or which relates in any way to this Agreement or the subject matter of this Agreement within ninety (90) days after either requests mediation, either party may bring a claim to the applicable state or federal court.
18. **Miscellaneous:**
- a. This Agreement is binding upon and will inure to the benefit of Client and Consultant and their respective successors and assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party.
 - b. Any notice required or permitted by this Agreement to be given shall be deemed to have been duly given if in writing and delivered personally or five (5) days after mailing by first-class, registered, or certified mail, return receipt requested, postage prepaid and addressed or when read receipt is transmitted and received by client if sent via email to the address below:

Client:	City of Huntsville
Attention:	Christina Bodin-Turner, Purchasing Specialist
Email Address:	cbodinturner@huntsvilletx.gov
Address:	1212 Avenue M • Huntsville, TX 77340
Consultant:	NewGen Strategies and Solutions, LLC
Attention:	Dave Yanke, President
Email Address:	dyanke@newgenstrategies.net
Address:	8140 North Mopac Expressway, Suite 1-240 Austin, TX 78759

Professional Services Agreement

Copy To: Lauree Kiely
 NewGen Strategies and Solutions, LLC
 275 W. Campbell Road, Suite 440
 Richardson, TX 75080
 lkiely@newgenstrategies.net

- c. Client expressly agrees that all provisions of the Agreement, including the clause limiting the liability of Consultant, were mutually negotiated and that but for the inclusion of the limitation of liability clause in the Agreement, Consultant's compensation for services would otherwise be greater and/or Consultant would not have entered into the Agreement.
- d. If any provision of this Agreement is invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect and the provision declared invalid or unenforceable shall continue as to other circumstances.
- e. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas.
- f. In any action to enforce or interpret this Agreement, the prevailing party shall be entitled to recover, as part of its judgment, reasonable attorneys' fees and costs from the other party.
- g. This Agreement shall not be construed against Consultant only on the basis that Consultant drafted the Agreement.
- h. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original instrument, but all of which taken together shall constitute one instrument.
- i. **Texas Government Code Mandatory Provision.** City of Huntsville may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it; (i) does not boycott Israel; and (ii) does not boycott Israel during the term of the contract. (Texas Government Code. Chapter 2270.002) by accepting this rider, the Consultant hereby verifies that it does not boycott Israel as that term is defined in the Texas Government Code, Section 808.001. as amended. Further, the Consultant hereby certifies that it is not a company identified under the Texas Government Code, Section 2252.152 as a company engaged in business with Iran, Sudan, or Foreign Terrorist Organization.
- j. The signer of this Agreement for Consultant represents, warrants, assures and guarantee that he or she has full legal authority to execute this Agreement on behalf of Consultant and to bind Consultant to all of the terms, conditions, provisions and obligations herein contained.

Professional Services Agreement

IN WITNESS WHEREOF, the Parties have signed this Agreement the date first written above.

CLIENT

Signature _____
Name _____
Title _____
Date _____

NewGen Strategies and Solutions, LLC

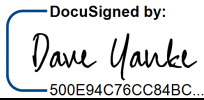
Signature  _____
Name Dave Yanke
Title President
Date 8/9/2024

Exhibit A – Scope of Services and Timeline
Exhibit B – Cost Proposal

Exhibit A

CITY OF HUNTSVILLE, TEXAS
RFQ No. 24-27

TAB A. PROJECT APPROACH AND QA/QC

1. Work Plan

NewGen's primary focus is providing cost of service and management advice to utilities of all kinds – water, sewer, electric, solid waste, and natural gas. Our value is in improving the use of each of our clients' data to develop intentional and strategic plans to ensure the operational and financial sustainability of their utilities.

We believe it is critical that the City's consultant has a clear understanding of the City's goals concerning this Study and then ensures that the work plan meets those needs. Our proposed work plan closely follows the approaches and methodologies utilized by Project Team members in many of our solid waste cost of service and rate design studies. Therefore, the City can be assured that the work plan proposed has been time tested and proven in numerous studies across the nation. At the same time, we are always flexible in adjusting our scope of services and/or providing additional analyses as part of the cost of service study, if desired.

Task 1 – Project Initiation

Initial Data Request and Data Assessment

Soon after contract award, NewGen will provide the City an initial request for information related to the solid waste services. The information requested will include operating, financial, management, policy, and ordinance data. For example, some of the items requested will include:

- Historical and current budgets
- Historical billing data
- Any contracts or inter-local agreements
- Schedule of debt service payments and covenants
- City financial policies
- Capital improvement plan
- Personnel roster
- An inventory of rolling stock and equipment
- Contracts, Memos of Understanding (MOU) for all wholesale customers, to the extent applicable
- Historical tonnages and revenues

Throughout the course of the project, data received by the Project Team will be sampled and tested for accuracy. The sampling and testing of data is imperative to ensure the billing data used to set rates as well as data used in the development of proper cost allocations and reliable revenue projections is as accurate as possible. The Project Team will work closely with the City's billing staff to obtain the appropriate billing data. In addition, the Project Team will conduct interviews with City staff during our review of the historical data to ensure the Project Team fully understands the information provided.

Data provided in response to the initial data request will allow the Project Team to begin the Study and become familiar with the City's operations and policies in order to maximize the effectiveness of our time with City representatives during the project kickoff meeting.

Kickoff Meeting

NewGen will work with City staff to schedule an in-person kickoff meeting. The primary purpose for the kickoff meeting is to allow the key Project Team consultants and participants from the City to be introduced and lay the general framework for how the Study will be conducted. This meeting will also allow for the finalization of the proposed work approach, as well as discussion and clarification of the information previously provided by the City and the City's goals and objectives.

CITY OF HUNTSVILLE, TEXAS
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Task 2 – Cost of Service Analysis

Determination of Test-Year Revenue Requirement

The revenue requirement will be developed using the cash needs approach, which closely follows municipal budgeting practices. This approach incorporates a utility's operation and maintenance costs, debt service and bond coverage requirements, cash funded capital outlays, reserve requirements, and transfers. The revenue requirement is influenced by both internal and external factors. An example of an internal factor is a financial policy to maintain a certain operating reserve balance or to cash fund equipment purchases. An example of an external factor is a bond covenant requirement to maintain a certain debt reserve balance or coverage ratio. Both internal and external factors will be incorporated into the revenue requirement developed by NewGen.

In developing the revenue requirement, the Project Team will assess and forecast the cost of service by analyzing historical costs, the current budget, and any forecasts made by the City for future fiscal years. The Project Team will develop the revenue requirement for a "test-year" (using the current City's fiscal year budget). The test-year is a common term in rate studies that refers to an adjusted fiscal year's costs that will be used as a basis for setting rates. The test-year will be adjusted to reflect expected recurring costs and revenues, so as not to include any one-time or non-recurring events. The revenue requirement will account for any non-rate or miscellaneous revenue sources, such as late payment fees, in order to isolate the revenue required to be recovered from utility rates.

Forecast of the Five-Year Revenue Requirement

Using the test year previously developed, the Project Team will develop a five-year revenue requirement forecast. Interviews with City staff will be conducted to gather additional data to complete this task, as it is crucial to thoroughly analyze the assumptions used in projecting the revenue requirement. These assumptions may include, but may not be limited to growth rate, inflation rates, increase in contractual obligations and contractor costs, changes in operations/staffing, and capital improvements. An assessment of the rolling stock, equipment and facilities funding needs will be made to ensure sufficient recovery to keep these assets in good working condition and expand the service, as necessary. The Project Team will work closely with City staff to establish appropriate reserve funds and examine the planned method of financing (e.g., cash, debt, grants) for future capital needs. This will include analysis of the impact on rates, operating and capital reserve targets, and debt coverage requirements.

Determination of Realizable Revenue at Current Rates/Fees

NewGen will determine the revenue generated by current rates/fees to properly evaluate the cost of service, the magnitude of overall rate increases, if any, and the need for redistribution of revenue responsibility between customer classes. This task will also provide a "check" to confirm NewGen has correctly reconstructed the billing data provided by City staff.

Allocation to Service Categories

Service categories represent the various solid waste services provided by the City, such as residential refuse collection, recycling collection, compost collection, etc., as well as the cost of the services that are contracted out (landfill operations, etc.). The administration of the City's solid waste operations is also a service category that typically includes any transfers for overhead services provided by the City, such as the City Attorney, Human Resources, Accounting, etc. (that are cost based).

Some costs, such as landfill disposal costs, are directly attributable to a particular service category and can be directly assigned to the appropriate service category. Other costs, such as administration, are associated with the provision of multiple (or all) services. For costs that cannot be directly assigned, NewGen will develop cost-causal allocators to facilitate an equitable division of the cost to appropriate service categories. For example, allocators may be developed based on a detailed assessment of how direct labor or equipment is allocated to the various service categories. At the kickoff meeting the Project Team will begin discussions with City staff to determine the proper service categories to be developed.

Allocation to Customer Classes

Once the service categories are identified it will be necessary to identify the customer classes that should be allocated costs from each of these service categories. For example, the residential customer class might be allocated its proportional share of services that it receives directly, such as refuse collection, refuse disposal, but also its share of services that it receives indirectly, such as administration and special event support. The same issue will be addressed for commercial customers (dumpsters, roll offs, etc.).

Determination of the Cost of Service

NewGen will then use the fully allocated revenue requirement forecast in conjunction with the billing data for the forecast period, to determine the cost of providing solid waste services for the five-year forecast. This will provide the City the necessary framework to assess the adequacy and equity of current and proposed rates.

Task 3 – Rate Design

Rate Design

The proposed rates will be developed to reflect the cost of service results and industry best practices as well as policy decisions made by the City. Policy decisions might include various considerations, such as accommodations for affordability or incentivizing economic development.

NewGen will obtain a comprehensive understanding of the City's goals and objectives regarding rates to enable the utility to meet its pricing objectives and financial policies. City policies will be reviewed by NewGen throughout the course of conducting the analysis and, if appropriate, will be vetted by the City.

Rate and Service Comparison/Benchmarking

The Project Team has substantial experience assisting other solid waste utilities and will leverage this experience in comparing the City's services and rates to at least five (5) other local municipal solid waste utilities, as selected by the City.

As part of this benchmarking, we will compare the City's rates vs. other cities' rates, along with the types and "levels" of service provided. The specific format and approach for conducting this survey will be discussed with City staff prior to undertaking this effort.

Task 4 – Reports and Final Presentation

Draft Report Preparation

NewGen will develop a draft report summarizing our findings, conclusions, and recommendations based on our analysis for the City's review and comment. The Project Team is committed to ensuring that the City thoroughly

CITY OF HUNTSVILLE, TEXAS
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understands the recommendations in the draft report and will ensure that City staff has sufficient time to have their concerns and/or questions addressed prior to finalizing the report.

Final Report and Presentation

Upon receipt of City staff comments, the Project Team will make appropriate changes and provide the City with the final report.

NewGen will develop a Microsoft PowerPoint presentation to convey the findings and recommendations from the Study to the City Council, stakeholders and the public. NewGen will provide a draft version of the presentation to City staff for review and comment with sufficient time to allow for all questions or concerns to be addressed. NewGen will revise the presentation, as appropriate, to accommodate City staff comments. The Project Manager, Mr. Dave Yanke, will present the findings and recommendations from the Study at one Financial Committee meeting and two City Council meetings.

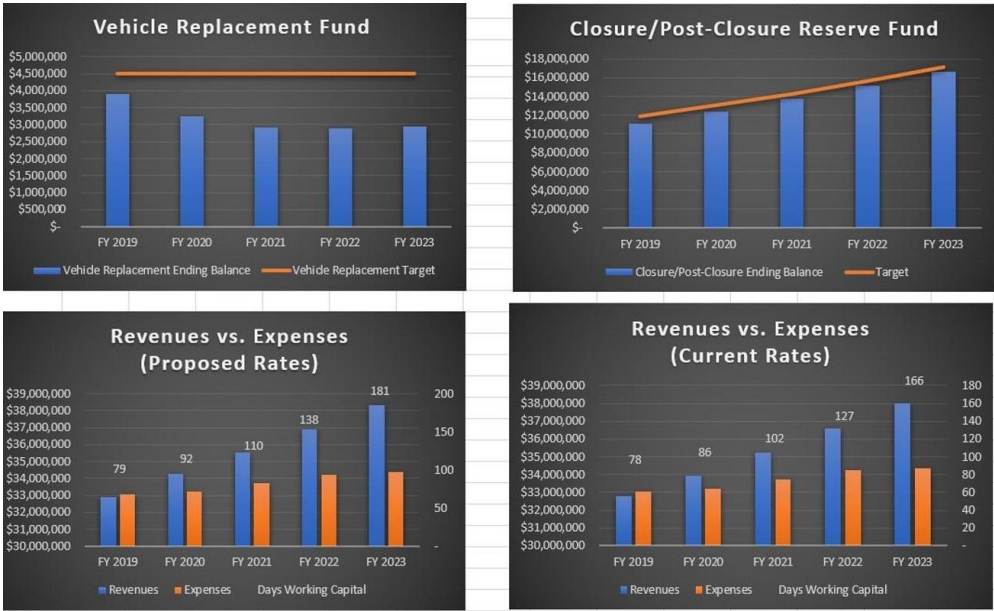
Task 5 – Model Development and Training

As a key output and deliverable from the Study, NewGen will develop an easy-to-use dynamic and interactive financial model using Microsoft Excel® software which can assist the City on an ongoing basis in the analysis and adjustment of solid waste rates.²

NewGen prides itself in developing user-friendly models which are specific to and reflect the unique operational characteristics and contractual commitments of each client. While our Project Team utilizes standard best practices in developing rate models, each model we develop is unique and does not reflect a “canned” or “off-the-shelf” product. Given the unique nature of each of our clients, we believe it is important that the product produced as part of a rate study also be unique and reflective of our client’s overall goals and objectives.

The model developed by our team will produce a series of interactive schedules, each of which will address a principal topic (O&M costs, debt service, tonnage – diverted and disposed, cost of service, etc.). Built into the model will be a series of summary-level graphics that will be used as stand-alone charts (e.g., total outstanding debt by year, cash balance by year, projected rate increases by year, etc.) and contained on a user dashboard. The graphics are fed by the data contained in the model and are produced with no additional effort on the part of the user. Examples of such a dashboard are shown below; however, this will be tailored specifically to the City to contain the infographics needed by City staff to facilitate effective communication with the City Council and the utility’s customers.

² We have provided an electronic version of an excel-based sample rate model completed for a similar utility on the usb drive accompanying our submittal.



NewGen’s rate model is not proprietary, and we do not charge any form of licensing fee or royalty for continued use of the developed model. NewGen will provide training and appropriate support documentation to City staff on the model’s function. However, more importantly, NewGen will stand ready to assist and support City staff in the operation of the model for one-year after model training, at no additional charge. This will include dedicated staff who are knowledgeable in the model’s function that can quickly and efficiently address questions and assist City staff in timely developing rate scenarios that may be needed.

In addition to training City staff, NewGen will also provide user instructions, embedded within the rate model, which can be used to guide users in its operation. If requested, NewGen will establish an ongoing, on-call relationship with key City stakeholders where our team can be available to assist in updates or amendments to the model and to answer questions or make changes that may be needed during the City’s budgeting and rate adoption process.

Resource Requirements

This project will be staffed 100% by NewGen staff, and there will be no need for subcontractors. In addition, we have sufficient staff within our firm’s solid waste practice, that have solid waste cost of service and rate design experience (10 staff) that the City can be assured that qualified staff will be conducting this Study for the City of Huntsville under the supervision of Dave Yanke.

Timeline

The Project Team will be ready to commence work immediately upon notice to proceed. The timeline below is based on a start date of mid-July 2024, with completion of the Study by mid-December 2024. This proposed timeline assumes the timely receipt of data from the City necessary to conduct an accurate and thorough analysis. Timing of the project (and key deliverable due dates) will be discussed at the kickoff meeting to ensure complete satisfaction on the part of the City.

We have found through our many years of conducting cost of service studies, that when there is a specific time frame and deadline, that it is best if NewGen and the client do two things: **1) layout a detailed schedule with**

CITY OF HUNTSVILLE, TEXAS
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specific deliverable due dates; and 2) schedule a weekly, or every other week meeting to ensure the project stays on track. NewGen would utilize both of these mechanisms if retained by the City to conduct this Study.

Task No.	Task Description	July	August	September	October	November	December
1	Project Initiation						
2	Cost of Service Analysis						
3	Rate Design						
4	Reports and Presentations					  	
5	Model Development and Training						

NOTE:

Bi-weekly virtual meetings will occur throughout the length of the project.

-  Project Kickoff Meeting (In-person)
-  Draft Report
-  Final Report
-  In-person presentations including one (1) Financial Committee meeting and two (2) City Council meetings, as directed by the City
-  Model Training

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Exhibit B

City of Huntsville
Solid Waste Rate Study and Model Development

Personnel		Dave Yanke Project Manager	Seth Cunningham QA/QC	Savanna Page Lead Analyst	Cari Anderson Analyst	Total Hours by Task	Total Labor by Task
Hourly Billing Rate		\$370	\$285	\$185	\$170		
Task No.	NewGen Task						
1	Project Initiation	8	2	2	8	20	\$ 5,260
2	Cost of Service Analysis	6	8	16	120	150	\$ 27,860
3	Rate Design	4	4	4	24	36	\$ 7,440
4	Reports and Final Presentation	14	0	4	24	42	\$ 10,000
5	Model Development and Training	2	4	8	16	30	\$ 6,080
		34	18	34	192	278	\$ 56,640
						Out-of-Pocket Expenses	\$ 1,500
						Total Proposed Budget	\$ 58,140



CITY COUNCIL AGENDA

8/20/2024

Agenda Item Number: 1.c.

Agenda Item: Consider adoption of Ordinance 2024-21 to amend the budget for FY 23-24 and/or CIP Project Budgets.

Initiating Department/Presenter: Finance

Presenter:

Steve Ritter, Finance Director

Recommended Motion: Move to approve Ordinance 2024-21 to amend the budget for FY 23-24 and/or CIP Project Budgets.

Strategic Initiative: Strategic Priority #3 - Quality of Life: Establish an environment where citizens can thrive and enjoy the City in which they live. Provide services that enhance the quality of life for all, with a focus on the full life cycle (children, students, families, and retirees) by creating amenities that support physical, mental and social well-being. Support access to quality health services, education, housing, transportation, recreation and natural environment. Strategic Priority #4 - Infrastructure: Develop and maintain a comprehensive and well planned infrastructure network that prepares for the challenges of the future and provides quality, modern and efficient, water, wastewater, drainage, and transportation services.

Discussion: Detailed explanation for the Budget Amendments is provided in the attachment, Exhibit A, to the Ordinance. The Budget Amendments were discussed with the Finance Committee at their August 6, 2024 meeting.

Previous Council Action: None

Financial Implications: See detailed explanation in Exhibit A

Approvals:

Steve Ritter

Sam Masiel

Aron Kulhavy

Kristy Doll

Associated Information:

1. Ordinance 2024-21 8.20.24 BAs
2. BAs 8.6.24 Fin Comm Changes 8.14.2024 for Cherry Hills

ORDINANCE NO. 2024-21

AN ORDINANCE OF THE CITY OF HUNTSVILLE, TEXAS, AMENDING THE 2023-2024 ANNUAL BUDGET AND CAPITAL IMPROVEMENTS PROJECTS (CIP) BUDGETS, ORDINANCE NO. 2023-20 TO AMEND ADOPTED EXPENDITURES OF THE BUDGET; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the 2023-2024 Annual Budget and CIP Budgets were adopted by Ordinance 2023-20 on September 19, 2023;

WHEREAS, various unforeseen circumstances affecting the City have presented themselves during the course of the fiscal year;

WHEREAS, the City Council considered the circumstances independently, deliberating appropriately on the associated revenues and expenditures and the overall impact on the general financial status of the City;

WHEREAS, pursuant to the laws of the State of Texas and the City Charter of the City of Huntsville, Texas, the City Council has determined that it will be beneficial and advantageous to the citizens of the City of Huntsville to amend the annual budget for fiscal year 2023 – 2024 and the Capital Improvements Projects (CIP) budget as set forth herein; and

WHEREAS, this ordinance combines the independent Council actions into one budget amendment document;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, that:

Section 1. The findings set forth above are incorporated into the body of this ordinance.

Section 2. The annual budget for fiscal year 2023 – 2024 is hereby amended to include the expenditures and revenues in Exhibit “A” and the Capital Improvements Projects budget is hereby amended to include the expenditures described in Exhibit “A” attached hereto and made a part of this ordinance as if set out verbatim herein.

Section 3. All ordinances of the City in conflict with the provisions of this ordinance are hereby repealed, and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 4. Should any section, portion, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the force or effect of any other section or portion of this ordinance.

Section 5. The necessity for amending the budget for the fiscal year 2023 – 2024 and Capital Improvements Projects, as required by the laws of the State of Texas, requires that this ordinance shall take effect immediately from and after its passage, as the law in such cases provides.

Section 6. This ordinance shall take effect immediately after its passage.

PASSED AND APPROVED on this the 20th day of August 2024.

THE CITY OF HUNTSVILLE, TEXAS

Russell Humphrey, Mayor

ATTEST:

APPROVED AS TO FORM:

Kristy Doll, City Secretary

Leonard Schneider, City Attorney

Budget Amendments FY 23-24

Finance Committee - August 6, 2024

Exhibit A
pg 1 of 2

Increase: Transfer to CIP - from Police & Fire constr. projs. CIP	\$ 280,223
Increase: Police Bldg - post construction repairs needed - CIP	\$ 100,000
Increase: Fire Stn. #2 - post construction repairs needed - CIP	\$ 100,000
Increase: Library HVAC replacement - CIP (a transfer to this project)	\$ 80,223

Explanation:	The Fund for the Police Headquarters and Fire Station #2 CIP projects has \$280,223 of monies still in the Fund after everything has been paid for (the \$280,223 amount includes an estimated \$5,200 of interest earnings to be received for July 2024). This \$280,223 balance is the result of interest earnings to the projects throughout the life of the projects. Both the Police Headquarters building and Fire Station #2 have various fixes needed post construction completion (both buildings have been in use for approximately 2 years now). This BA is requesting the use of \$100,000 each to use for various repairs to each of the buildings along with \$80,223 of the remaining unused interest to be used towards the cost of replacing the HVAC system at the Library which based on bids received needs a budget of \$350,000 (see other funding sources for the Library HVAC replacement in BAs following).
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Increase: Utility Fund - Bank/Paying Agent Fees (expense)	\$ 46,000
Increase: Utility Fund - Card Processing Fees (revenue)	\$ 46,000

Explanation:	Year to date (through 7/31/24) Card Processing Fees revenues exceed budget by roughly \$35,000 and year to date Bank/Paying Agent Fees expenses exceed budget by roughly \$20,000. This budget amendment will cover the current overage and anticipated expenses through September 30, 2024 (the end of the current fiscal year).
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Increase: Huntsville Beautification Special Revenue Fund - Transfer to General Fd.	\$ 21,500
Increase: General Fund - Transfers from Huntsville Beautification	\$ 21,500
Increase: General Fund - Parks Maintenance Expenditures	\$ 21,500

Explanation:	The Huntsville Beautification Special Revenue Fund has not had any programs or expenditures for many fiscal years now. The Fund has some remaining monies that can be used by Parks. Staff is requesting the remaining monies in the Huntsville Beautification Fund be transferred to the General Fund for Parks to be able to use these funds which would be in line with beautification of the City. Transferring the funds will allow staff to close out the Huntsville Beautification Special Revenue Fund.
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Decrease: Street CIP - Unallocated Budget	\$ 267,897
Increase: Library HVAC replacement - CIP (a transfer to this project)	\$ 177,277
Increase: General Fund - Street Infrastructure Project	\$ 76,000
Increase: Transfer to General Fund	\$ 14,620

Explanation:	Based on bids received for replacing the HVAC system at the Library a budget of \$350,000 is needed. \$80,223 is being requested from remaining monies from the new Police and Fire Buildings CIP projects (see the first BA in this group of 6 BAs). The \$177,277 is being requested here from Street CIP Unallocated Budget. The other sources (see the next BA) are from other General CIP projects either completed and still having left over budget or not yet completed but not needing the original full budgeted amount but still being able to finish the project. A major sub-grade failure was discovered on Cherry Hills during the re-paving process, requiring subgrade stabilization prior to the resurfacing of the street. The \$14,620 to the General Fund is not designated for use. It will assist in getting General Fund's Unallocated Reserve balance to the 25% required amount.
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Exhibit A
pg. 2 of 2

Increase: Library HVAC replacement - CIP	\$	92,500
Decrease: Parks Master Plan - CIP	\$	34,000
Decrease: Parks Trail Lighting ET Park - CIP	\$	28,500
Decrease: ET Park Improvements 21-22 - CIP	\$	30,000

Explanation:	Based on bids received for replacing the HVAC system at the Library a budget of \$350,000 is needed. \$80,223 is being requested from remaining monies from the new Police and Fire Buildings CIP projects (see the first BA in this group of 4 BAs). Another \$177,277 is being requested from Street CIP Unallocated Budget (see the previous BA in this group of BAs). The other sources here are from other General CIP projects either completed and still having left over budget or not yet completed but not needing the original full budgeted amount but still being able to finish the project.
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Increase: HOME/NSP Special Revenue Fund - Transfers to General Fund	\$	69,020
Increase: General Fund - Transfers from HOME/NSP SRF	\$	69,020

Explanation:	The HOME/NSP Special Revenue Fund has not had any activity other than some interest earnings since Fiscal Year 13 - 14. The Fund was created to account for transactions for housing construction costs and the related grant reimbursements from the 04 - 05 fiscal year through the 13 - 14 fiscal year. Remaining monies in this fund relate to grant reimbursements for administrative costs for city staff operating the grants. This budget amendment will move the monies for the administrative costs to the General Fund (where the staff was actually paid from) and will close out this Special Revenue Fund. Moving these funds to the General Fund will help restore the General Fund's Unallocated Reserves to the 25% required amount.
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reduced \$325,118 by Secretariat invoice amount of \$44,895

reduced \$125,118 by Secretariat invoice amount of \$44,895



CITY COUNCIL AGENDA

8/20/2024

Agenda Item Number: 1.d.

Agenda Item: Consider authorizing the City Manager to pay Mid-South Electric Cooperative for invoices related to the McGary Creek lift station project.

Initiating Department/Presenter: Engineering

Presenter:

Kathlie Jeng-Bulloch, City Engineer

Recommended Motion: Move to authorize the City Manager to pay Mid-South Electric Cooperative for invoices related to the McGary Creek lift station project in the amount of \$52,833.15.

Strategic Initiative: Strategic Priority #4, Infrastructure - Develop and maintain a comprehensive and well-planned infrastructure network that prepares for the challenges of the future and provides quality, modern and efficient, water, wastewater, drainage and transportation services.

Discussion: The McGary Creek Lift Station expansion CIP project was initiated in Fiscal Year 21-22 with the source of funds coming from ARP federal funds. The project has a total budget of \$5,878,395. To date almost \$2.4M has been spent on construction costs. At this point in the project Mid-South Electric Cooperative, the provider of electricity to the lift station, has indicated there is a need to upgrade electric services to the lift station. The cost for this upgrade is \$52,833.15. This cost is not a part of the contract with the contractor for construction. In order for the new expanded lift station to operate at its intended rate the upgrade in electric services is needed.

Previous Council Action: None for this cost.

Financial Implications: \$52,833.15 of additional cost to the project. The project has budget available in the amount of \$81,700.

Approvals:

Sam Masiel
Aron Kulhavy
Kristy Doll

Associated Information:

1. MidSouth invoice for upgraded services at McGary Creek Lift Station

Mid-South Electric Cooperative
PO Box 970
Navasota, TX 77868

Invoice No. 738800

INVOICE

Customer

Name CITY OF HUNTSVILLE
Address 1212 AVE M
City HUNTSVILLE TX ZIP 77342
Phone 936-291-5779

Misc

Date 8/2/2024

Location	Description	Unit Price	TOTAL
	COST IN AID OF CONSTRUCTION COST INCLUDES LABOR & MATERIALS	\$40,946.51	\$40,946.51
	COMMERCIAL DEPOSIT	\$11,561.64	\$ 11,561.64
	NEW CONNECT FEE	\$ 325.00	\$ 325.00
		SubTotal	\$52,833.15

Payment Select One...

Comments McGary Creek Lift Station

Name

CC #

Expires

TOTAL \$52,833.15

Office Use Only

Invoice for Interconnection fee. Please remit to 9409 N Highway 6 Loop S Navasota, TX 77868. If sending via USPS, remit to PO BOX 970 Navasota, TX 77868.

Date:

08/01/2024

CITY OF HUNTSVILLE

✓ Job Tracking #

738800



1212 AVE M

Dear **CITY OF HUNTSVILLE**,

Upon your request for service, Mid-South Synergy staked the job and derived the following cost estimate:

Estimated Construction Costs Due from the Member:

Total Material Cost:	\$ 11206.94	
Total Labor Costs:	\$ 5520.85	
Right Of Way Clearing Costs:	\$ 0.00	
Permit Costs:	\$ 0.00	
Mid-South Construction Credit:	\$ 0.00	
Mid-South Eng. Adjustment:	\$ 37867.55	
Retired Trans Svc Life Credit:	\$ 0.00	
Total Misc. Adjustments:	\$0.00	
Estimated Subtotal:	\$ 40946.51	COST SHARING APPLIED
Tax Amount:	\$ 0.00	TAX EXEMPT STATUS
Total Cost to Member:	\$ 40946.51	

THIS COST IS VALID FOR 90 DAYS FROM THIS LETTER'S ORIGIN DATE ABOVE.

The cost estimate for your job will include the following major material:

(Other minor materials are included in the material cost, but are not shown)

Poles	2
Transformers	1
Feet of Wire or Cable	260
Meter or Meter Pedestal	1
Required Commercial Deposit:	\$ 11561.64

This deposit is in addition to the above construction cost and DOES NOT count as credit towards that cost.

We accept payments by phone at 936-825-5100. You can also mail your check to the following address:

Mid-South Synergy
PO Box 970
Navasota, TX 77868

NOTE: the construction cost above is the amount owed by the member. If the actual cost incurred is greater than the estimate by \$50.00, the member will be required to pay the difference. Unit material cost may vary depending on pole and wire sizes. PLEASE BE SURE TO REFERENCE ATTACHED REQUIREMENTS ON NEXT PAGE.

**PLEASE BE SURE TO REFERENCE ATTACHED REQUIREMENTS
ON NEXT PAGE.**

Date:

08/01/2024

CITY OF HUNTSVILLE

✓ Job Tracking #

738800

1212 AVE M



MEMBER REQUIREMENTS

CONSTRUCTION WILL NOT BEGIN UNTIL THE MEMBER HAS PAID THE ESTIMATED AMOUNT AND HAS MET THE FOLLOWING CHECKED REQUIREMENTS.

NO EASEMENTS REQUIRED

NO PERMITS REQUIRED

MEMBER REQUIREMENTS



Meter Loop Must Meet Attached Spec



Trench/Coduit Must Meet Attached Spec

Following the member requirements your job will be processed as follows:

Pass Inspection (Any failed inspection will result in a \$40.00 trip fee)

Schedule for the next available construction date

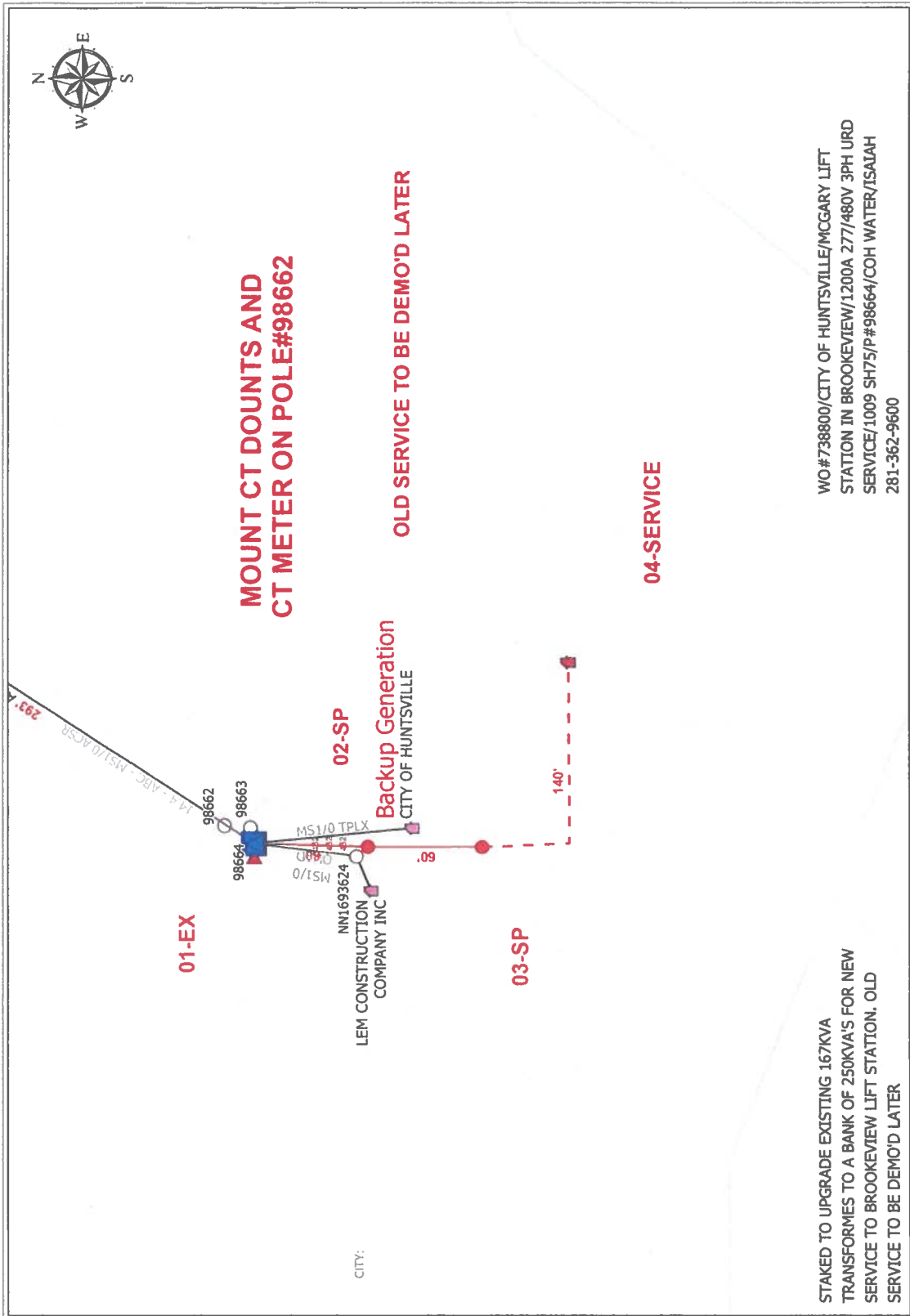
Job completion within 10 business days of final inspection (subject to crew availability)

Additional Comments:

If you have further questions, please contact Mid-South Synergy at (936)-825-5100.



REQ #:	16581
WO #:	738800
SUB:	MT ZION
CIRC:	042411
PHASE:	ABC
CNTY:	WALKER
CITY:	
SVC TYPE:	COMMERCIAL PERM
MTR TYPE:	OH
MBR NAME:	CITY OF HUNTSVILLE
MBR #:	10586006
911 ADDR:	1009 SH75N
HOME PH:	
CELL PH:	(936) 661-5168
NEAR LOC:	
STAKED BY:	MILES CONNER
DATE:	07/25/2024
CO-OP #:	
CO-OP #:	
BUILT BY:	
DATE BUILT:	
METER #:	
MTR READ:	
MULTIPLIER:	
PRINT DATE:	08/01/2024





CITY COUNCIL AGENDA

8/20/2024

Agenda Item Number: 1.e.

Agenda Item: Consider adopting Resolution #2024-17, and authorize the City Manager to enter into a Municipal Maintenance Agreement with the Texas Department of Transportation.

Initiating Department/Presenter: Public Works

Presenter:

Brent Sherrod, Public Works Director

Recommended Motion: Move to adopt Resolution #2024-17, and authorize the City Manager to enter into a Municipal Maintenance Agreement with the Texas Department of Transportation.

Strategic Initiative: Strategic Priority #1, Public Safety - Create a community where all individuals feel safe and protected, where citizens trust the effectiveness of our agencies through community engagement, technologies, and best practices. We strive to promote a culture of service, prevention and partnership.

Discussion: This agreement is updated on an "as requested" basis as requested by TxDOT. It was last updated in 2009 and TxDOT wants to ensure that every City in the State has approved the same version.

This agenda item seeks City Council approval to adopt Resolution #2024-17 and authorization for the City Manager to enter into a Municipal Maintenance Agreement with the Texas Department of Transportation (TxDOT). The City of Huntsville has exclusive dominion, control and jurisdiction over all public streets within the City limits. This agreement authorizes TxDOT to work on and maintain their roadways within the City limits and specifies the responsibilities of both parties for maintenance, control, supervision and regulation. TxDOT also requires a Resolution to be adopted by City Council concerning this agreement.

Previous Council Action: Ordinance 2009-36 and the corresponding Municipal Maintenance Agreement were passed by Council on May 5, 2009.

Financial Implications: None

Approvals:

Brent Sherrod

Leonard Schneider

Sam Masiel

Aron Kulhavy

Kristy Doll

Associated Information:

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1. Huntsville_Walker_MMA_Final
 2. Resolution 2024-17



2591 N. Earl Rudder Freeway, Bryan, TX 77803 | [979.778.2165](tel:979.778.2165) | WWW.TXDOT.GOV

May 22, 2024

Mayor Andy Brauninger
City of Huntsville
1212 Avenue M
Huntsville, TX 77340

Dear Mayor Brauninger,

It is time to update the Municipal Maintenance Agreement between the City of Huntsville and the Texas Department of Transportation (TxDOT). Please review the attached document and have the agreement signed by the authorized person. Also, have either the attached ordinance or resolution executed, whichever is appropriate by your city charter, and return with the signed agreement.

To ensure consistency of format for the mapping of each city within the TxDOT Bryan District, we have provided Exhibits A, B, and D, as described in the Municipal Maintenance Agreement. These attachments provided are based on previous Municipal Maintenance Agreements and the city limits TxDOT has on file. If there are discrepancies to the attached maps, please feel free to contact Danielle Lamphear at Danielle.Lamphear@TxDOT.gov or 979-778-9621 to communicate any comments.

Once TxDOT receives the signed agreement, we will sign and send you a final executed agreement.

Respectfully,

DocuSigned by:

Jace M. Lee, P.E.

Director of Maintenance
Bryan District

Cc: Delmy Reyes, P.E., Huntsville Area Engineer, TxDOT
Danielle Lamphear, Bryan District Maintenance Office, TxDOT

OUR VALUES: *People • Accountability • Trust • Honesty*

OUR MISSION: *Connecting You With Texas*

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MUNICIPAL MAINTENANCE AGREEMENT

This Municipal Maintenance Agreement ("Agreement") is made this _____ day of _____ 20____, by and between the State of Texas through the Texas Department of Transportation ("State"), and the City of _____ Huntsville _____ (population _____ 45,960 _____, 2020, latest Federal Census) acting by and through its duly authorized officers ("City").

RECITALS

A. Chapter 311 of the Transportation Code gives the City exclusive dominion, control, and jurisdiction over and under the public streets within its corporate limits and authorizes the City to enter agreements with the State to fix responsibilities for maintenance, control, supervision, and regulation of State highways within and through its corporate limits; and

B. Section 221.002 of the Transportation Code authorizes the State, at its discretion, to enter agreements with cities to fix responsibilities for maintenance, control, supervision, and regulation of State highways within and through the corporate limits of such cities; and

C. The Executive Director, acting for and on behalf of the Texas Transportation Commission, has made it known to the City that the State will assist the City in the maintenance and operation of State highways within the City, conditioned that the City will enter into agreements with the State for the purpose of determining the respective responsibilities of the parties; and

D. The City has requested the State to assist in the maintenance and operation of State highways within the City as described herein. The Municipal Ordinance or Resolution authorizing the undersigned City Official to execute this Agreement on behalf of the City is attached as **Exhibit C**.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, it is agreed as follows:

ARTICLE I. COVERAGE

1. State assumption of maintenance and operations described in this Agreement shall be effective on the date of execution of this agreement by the Texas Department of Transportation.
2. In this Agreement, the use of the words "State Highway" shall be construed to mean all numbered highways that are part of the State's Highway System.

3. This Agreement is intended to cover and provide for State participation in the maintenance and operation of the following classifications of State Highways within the City:
 - A. Non-Controlled Access highways or portions thereof which are described as "State Maintained and Operated" highways in the document attached and incorporated as **Exhibit A**.
 - B. All State highways or portions thereof which have been designated by the Texas Transportation Commission, or are maintained and operated, as Controlled Access Highways and which are described in the document attached and incorporated as **Exhibit B**.
4. In the event that the present system of State highways within the City is changed by cancellation, modified routing, new routes, or a change to City boundaries, the State shall terminate maintenance and operation and this Agreement shall become null and void on those portions of the highways which are no longer on the State Highway System; and this Agreement shall apply to the new highways on the State Highway System within the City; and they shall be classified as "State Maintained and Operated" under paragraph 3 above, unless the execution of a new agreement on the changed or new portions of the highways is requested by either the City or the State.
5. Exhibits that are a part of this Agreement may be changed with both parties' written concurrence. Additional exhibits may also be added with both parties' written concurrence. The Parties shall periodically update any exhibits to reflect changes to the State Highway System under paragraph 3. Paragraph 4 shall apply to changes to the State Highway System regardless of whether an exhibit has been updated under this Paragraph.
6. The terms of the Agreement apply to a State Highway described by paragraphs 2-4 of this Article, unless provided otherwise in a specific project agreement.

ARTICLE II. GENERAL CONDITIONS

1. The City authorizes the State to maintain and operate the State highways covered by this agreement in the manner set out herein.
2. This agreement is between the State and the City only. No person or entity may claim third party beneficiary status under this contract or any of its provisions, nor may any non-party sue for personal injuries or property damage under this contract.
3. This agreement is for the purpose of defining the authority and responsibility of both parties for maintenance and operation of State highways through the City. This agreement shall supplement any special agreements between the State and the City for the maintenance, operation, and/or construction of the State highways covered herein, and this agreement shall supersede any existing Municipal Maintenance Agreements.

4. Traffic regulations, including speed limits, shall be established only after traffic and engineering studies have been completed by the State or City, as applicable and in accordance with 43 Tex. Admin. Code Ch. 25, Subch. B, and approved by the State.
5. The State shall install, maintain, and operate, when required, all traffic signs and associated pavement markings necessary to regulate, warn, and guide traffic on State highways within the State right-of-way, including main lanes and frontage roads, except as otherwise provided in this paragraph and elsewhere in this Agreement.
 - A. At the intersections of off-system approaches to State highways, the City shall install and maintain (1) all stop signs, yield signs, and one-way signs to regulate, warn, and guide traffic on the off-system street, even if such signs are to be installed on State right-of-way, and (2) any necessary stop or yield bars and pedestrian crosswalks outside the main lanes or outside the frontage roads, if such exist. These signs and markings must meet or exceed the latest State breakaway standards, if applicable, and be in accordance with the latest edition/revision of the Texas Manual on Uniform Traffic Control Devices
 - B. The City shall install and maintain all street name signs except for those mounted on State-maintained traffic signal poles or arms or special advance street name signs on State right-of-way.
 - C. Any other signs or pavement markings desired by the City on State right-of-way shall require prior written authorization by the State, and shall be installed and maintained by the City.
 - D. All signs and markings installed by the City under this Paragraph must meet or exceed the latest State breakaway standards, if applicable, and be in accordance with the latest edition/revision of the Texas Manual on Uniform Traffic Control Devices. All existing signs or markings shall be upgraded on a maintenance replacement basis to meet these requirements.
6. Traffic control devices such as signs, traffic signals, and pavement markings, with respect to type of device, points of installation, and necessity, shall be determined by traffic and engineering studies as provided by regulation in the Texas Administrative Code.
 - A. The City shall not install, maintain, or permit the installation of any type of traffic control device which will affect or influence the use of State highways unless approved in writing by the State. Traffic control devices installed prior to the date of this agreement are hereby made subject to the terms of this agreement and the City agrees to the removal of such devices which affect or influence the use of State highways unless their continued use is approved in writing by the State.
 - B. It is understood that basic approval for future installations of traffic control signals by the State or as a joint project with the City, shall be indicated by the

proper City official's signature on the title sheet of the plans. Both parties should retain a copy of the signed title sheet or a letter signed by both parties acknowledging which signalized intersections are covered by this agreement. Any special requirements not covered within this agreement shall be covered under a separate agreement.

- C. This Agreement satisfies the agreement requirements of 43 Tex. Admin. Code § 25.5 concerning traffic signal installation, unless the parties determine a separate agreement is necessary to address project-specific issues that are not otherwise addressed by this Agreement.
7. Subject to approval by the State, any State highway lighting system may be installed by the City provided the City shall pay or otherwise provide for all cost of installation, maintenance, and operation, except in those installations specifically covered by separate agreements between the City and State.
 - A. For all highway lighting system projects, including those covered by separate agreements unless provided otherwise therein, (1) costs shall include the electricity required to construct and operate the lighting system, (2) the State shall not begin the trial phase of a newly installed lighting system until the applicable utility account is established by the City.
 - B. Attached as **Exhibit D** is a list of lighting installations subject to this Agreement, but which do not have a separate agreement. Exhibit D shall be updated as necessary pursuant to Article 1, Section 6.
 8. The City shall enforce the State laws governing the movement of loads which exceed the legal limits for weight, length, height, or width as prescribed by Chapters 621, 622, and 623 of the Transportation Code for public highways outside corporate limits of cities. The City shall also, by ordinance/resolution and enforcement, prescribe and enforce lower weight limits when mutually agreed by the City and the State that such restrictions are needed to avoid damage to the highway and/or for traffic safety.
 9. The City shall prevent future encroachments within the right-of-way of the State highways and assist in removal of any present encroachments when requested by the State except where specifically authorized by separate agreement; and prohibit the planting of trees or shrubbery or the creation or construction of any other obstruction within the right-of-way without prior approval in writing from the State. Permitted landscaping and public art installations shall be handled through separate agreements.
 10. New construction of sidewalks, shared use pathways, curb ramps, or other accessibility-related items by either Party shall comply with current ADA standards. Except as otherwise provided in this paragraph, the City is responsible for the maintenance of these items, regardless of whether the City or the State constructed the item. Maintenance includes keeping sidewalks clear of debris and vegetation, but does not

include pavement work except as provided in the next sentence. If a Party's highway project is considered an "alteration" under the ADA that triggers the requirement to construct or upgrade accessibility-related items, that Party is responsible for the construction or upgrade, unless provided otherwise in a separate agreement.

11. If the City has a driveway permit process that has been submitted to and approved by the State, the City shall issue permits for access driveways on State highway routes and shall assure the grantee's conformance, for proper installation and maintenance of access driveway facilities, with either a Local Access Management Plan that the City has adopted by ordinance and submitted to the State or, if the City has not adopted by ordinance and submitted to the State a Local Access Management Plan, the State's Access Management Manual. If the City does not have an approved city-wide driveway permit process, the State shall issue access driveway permits on State highway routes in accordance with the City's Local Access Management Plan, adopted by city ordinance and submitted to the State or, if the City has not adopted by ordinance and submitted a Local Access Management Plan, the State's Access Management Manual.
12. The use of unused right-of-way and areas beneath structures for public functions, such as parking, recreation, and law enforcement use, shall be determined by a separate agreement.
13. The State shall be responsible for installation, repair, and maintenance of any mailbox supports installed on the State highway system, including any markings needed on the mailbox supports.
14. The State shall be responsible for installation, repair, and maintenance of any roadside barriers including guardrail, guardrail end treatments, cable barriers, and concrete barriers needed for traffic safety on the state highway system.
15. The State shall be responsible for any structural repairs needed at bridges, culverts, drainage pipes, embankments, and retaining walls on the state highway system.
16. For purposes of this Agreement, "grade separation structure" is defined as any bridge, overpass, or similar structure that raises the roadway above ground level, regardless of what is underneath the structure.

ARTICLE III. NON-CONTROLLED ACCESS HIGHWAYS

The following specific conditions and responsibilities shall apply to the non-controlled access State highways described in Exhibit A, in addition to the General Conditions in Article II above.

1. State's Responsibilities (Non-Controlled Access)

- A. Maintain the traveled surface and foundation beneath such traveled surface necessary for the proper support of vehicular loads encountered, and maintain the shoulders.

- B.** Assist in mowing and litter pickup within the right of way to supplement City resources, when requested by the City and if State resources are available.
- C.** Assist in sweeping and otherwise cleaning the traveled surface and shoulders to supplement City resources, when requested by the City and if State resources are available.
- D.** Assist in snow and ice control to supplement City resources, when requested by the City and if State resources are available.
- E.** Structural maintenance and repairs of drainage facilities within the limits of the right-of-way and State drainage easements. This does not relieve the City of its responsibility for drainage of the State highway facility outside of the right of way or State easements but within its corporate limits.
- F.** In cities with less than 50,000 population, the State shall install and maintain school safety devices, school crosswalks, and crosswalks installed in conjunction with pedestrian signal heads. This does not include other pedestrian crosswalks.
- G.** Install, operate, and maintain traffic signals in cities with less than 50,000 population.
- H.** In cities equal to or greater than 50,000 population, the State may provide for installation of traffic signals when the installation is financed in whole or in part with federal-aid funds, if the City agrees to enter into an agreement setting forth the responsibilities of each party.

2. City's Responsibilities (Non-Controlled Access)

- A.** Prohibit angle parking, except upon written approval by the State after traffic and engineering studies have been conducted to determine if the State highway is of sufficient width to permit angle parking without interfering with the free and safe movement of traffic.
- B.** Install and maintain all parking restriction signs, pedestrian crosswalks (except as provided in Art. II.5), parking stripes, and special guide signs when agreed to in writing by the State. Cities greater than or equal to 50,000 population shall also install, operate, and maintain all school safety devices and school crosswalks.
- C.** Signing and marking of intersecting city streets with State highways shall be the full responsibility of the City (except as provided under Art. II.5).
- D.** Require installations, repairs, removals or adjustments of publicly or privately owned utilities or services to be performed in accordance with Texas Department of Transportation specifications and subject to approval of the State in writing.

- E.** Regular cleanups and litter control to ensure drainage facilities are clear. Further, State structural maintenance and repair of drainage facilities within the right-of-way does not relieve the City of its responsibility for drainage of the State highway facility outside of the right-of-way or State easements but within its corporate limits, except where participation by the State is specifically covered in a separate agreement between the City and the State.
- F.** Install, maintain, and operate all traffic signals in cities equal to or greater than 50,000 population. Any variations shall be handled by a separate agreement.
- G.** Perform mowing and litter pickup.
- H.** Sweep and otherwise clean the pavement, including grade separation structures. This includes cleaning and removing litter, trash, discarded personal property, unauthorized temporary shelters, or any other unauthorized item from all areas within the right of way, including underneath a grade separation structure.
- I.** Perform snow and ice control.
- J.** Retain all functions and responsibilities for maintenance and operations which are not specifically described as the responsibility of the State.

ARTICLE IV. CONTROLLED ACCESS HIGHWAYS

The following specific conditions and responsibilities shall apply to the controlled access State highways described in Exhibit B, in addition to the General Conditions in Article II above.

1. State's Responsibilities (Controlled Access)

- A.** Maintain the traveled surface and foundations of the main lanes, ramps, and frontage necessary for the proper support of vehicular loads encountered.
- B.** Mow and clean up litter within the outermost curbs of the frontage roads or the entire right-of-way width where no frontage roads exist. Assist in performing these operations between the right-of-way line and the outermost curb or crown line of the frontage roads on the City's request and if State resources are available.
- C.** Sweep and otherwise clean the traveled surface and shoulders of the main lanes, ramps, grade separation structures, and frontage roads.
- D.** Remove snow and control ice on the main lanes and ramps. Assist in these operations on the frontage roads and grade separation structures on the City's request and if State resources are available.

- E.** Install and maintain school safety devices, school crosswalks, and crosswalks installed in conjunction with pedestrian signal heads on frontage roads. This does not include other pedestrian crosswalks.
- F.** Install, operate and maintain traffic signals at ramps and frontage road intersections, unless covered by a separate agreement.
- G.** Structural maintenance and repair of drainage facilities within the limits of the right-of-way and State drainage easements. This does not relieve the City of its responsibility for drainage of the State highway facility outside of the right-of-way or State easement but within its corporate limits.

2. City's Responsibilities (Controlled Access)

- A.** Prohibit, by ordinance or resolution and through enforcement, all parking on frontage roads except when parallel parking on one side is approved by the State in writing. Prohibit all parking on main lanes and ramps and at such other places where such restriction is necessary for satisfactory operation of traffic, by passing and enforcing ordinances or resolution and taking other appropriate action in addition to full compliance with current laws on parking.
- B.** When considered necessary and desirable by both the City and the State, the City shall pass and enforce an ordinance or resolution providing for one-way traffic on the frontage roads except as may be otherwise agreed to by separate agreements with the State.
- C.** Secure the approval of the State before any utility installation, repair, removal or adjustment is undertaken, crossing over or under the highway facility or entering the right-of-way. In the event of an emergency, it being evident that immediate action is necessary for protection of the public and to minimize property damage and loss of investment, the City, without the necessity of approval by the State, may at its own responsibility and risk make necessary emergency utility repairs, notifying the State of this action as soon as practical.
- D.** Pass necessary ordinances or resolutions and retain responsibility for enforcing the control of access to an expressway/freeway facility.
- E.** Sweep and otherwise clean the pavement other than the traveled surface and shoulders, including underneath grade separation structures. This includes cleaning and removing litter, trash, discarded personal property, unauthorized temporary shelters, or any other unauthorized item.
- F.** Mow and clean up litter between the right-of-way line and the outermost curb or crown line of the frontage roads, including drainage facilities in this area.

- G. Install and maintain all parking restriction signs, pedestrian crosswalks (except as provided by Art. II.5), and parking stripes when agreed to by the State in writing.
- H. Signing and marking of intersecting city streets to State highways shall be the full responsibility of the City (except as provided by Art. II.5).
- I. Retain all functions and responsibilities for maintenance and operations which are not specifically described as the responsibility of the State. State maintenance of drainage facilities within the right-of-way does not relieve the City of its responsibility for drainage of the State highway facility outside of the right-of-way but within its corporate limits except where participation by the State is specifically covered in a separate agreement between the City and the State.

ARTICLE V. TERMINATION

- 1. All obligations of the State to maintain and operate a State highway covered by this agreement shall terminate if and when such highway ceases to be designated as part of the State highway system.
- 2. Should either party fail to properly fulfill its obligations under this Agreement, the other party may terminate this agreement upon 30 days written notice.
- 3. Upon termination, all maintenance and operation duties on non-controlled access State highways shall revert to City responsibilities, except that the State shall retain all maintenance and operation responsibilities on controlled access State highways.

City of Huntsville

State of Texas

Signature

TxDOT District Engineer

Name

Name

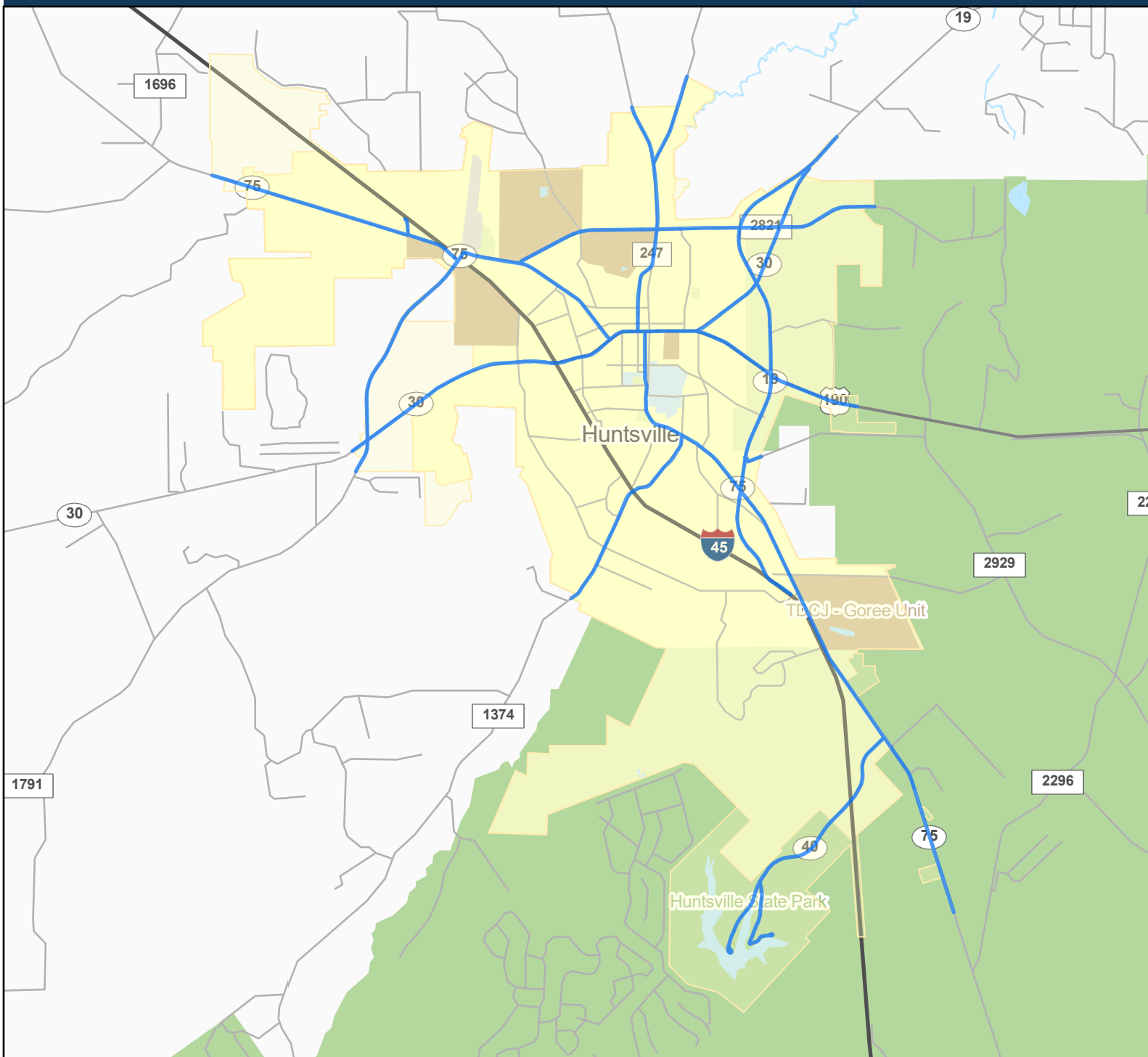
Title

Date

Date

Exhibit A - Huntsville

2023



HWY	From	To
FM0247	City limits	US 190/SH 30 (11th Street)
FM0980	City limits	FM 247
FM1374	SH 75 (Sam Houston Ave)	City limits
FM1791	IH 45 WFR / SH 75	City limits
FM2821	SH 75 (Sam Houston Ave)	City limits
FM3411	SH 19	City limits

HWY	From	To
PR0040	City limits	City limits
SH0019	City limits	IH 45/SH 30 (11th Street)
SH0030	City limits	City limits
SH0075	City limits	City limits
SS0059	SH 75 (Sam Houston Ave)	IH 45 west frontage road
US0190	IH 45/SH 30 (11th Street)	City limits

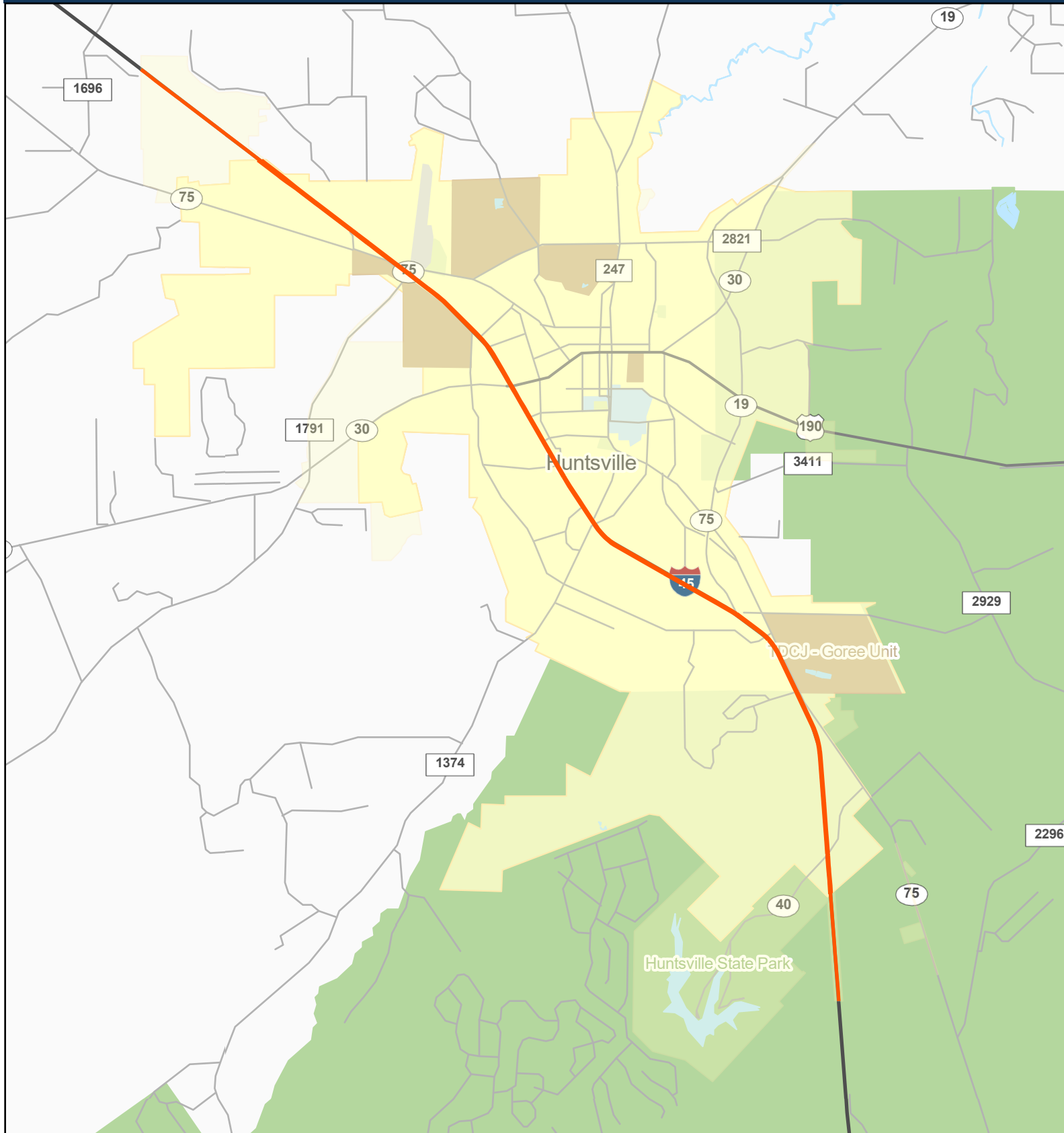


0 2 Miles



Exhibit B - Huntsville

2023



HWY	From	To
IH0045	The north city limits	The south city limits



0 2 Miles



Exhibit D

Lighting Maintained by TxDOT

City of Huntsville-

<u>Location</u>	<u>ID</u>	<u>Mounting</u>	<u>No. of Lights</u>	<u>Longitude/Latitude</u>	
IH 45 & FM 1791	01	Signal Light	1	30.736274	-95.590262
	02	Signal Light	1	30.736310	-95.589820
IH 45 & SH 75	01	Luminaire	2	30.741057	-95.596130
	02	Luminaire	2	30.740600	-95.595429
	03	Luminaire	2	30.740145	-95.594736
	04	Luminaire	2	30.739690	-95.594041
	05	Luminaire	2	30.739241	-95.593356
	06	Luminaire	2	30.734052	-95.585437
	07	Luminaire	2	30.733621	-95.584782
	08	Luminaire	2	30.733187	-95.584124
	09	Luminaire	2	30.732736	-95.583487
	10	Luminaire	2	30.732256	-95.582872
	11	Luminaire	2	30.731759	-95.582284
	12	Luminaire	2	30.731255	-95.581695
	13	Luminaire	2	30.730760	-95.581119
	14	Luminaire	2	30.730248	-95.580512
	15	Luminaire	2	30.729744	-95.579926
	16	Luminaire	2	30.729241	-95.579346
	17	Luminaire	2	30.728735	-95.578753
	18	Luminaire	2	30.728236	-95.578164
	19	Luminaire	2	30.727736	-95.577580
	20	Luminaire	2	30.727233	-95.576992
	21	Luminaire	2	30.726728	-95.576403
	22	Luminaire	2	30.726223	-95.575818
	24	Luminaire	1	30.739331	-95.594831
	25	Luminaire	1	30.732689	-95.582717
	27	Luminaire	1	30.734400	-95.586786
	29	Luminaire	1	30.739755	-95.593204

SH 30 & Brazos Dr.	01	Signal Light	1	30.718342	-95.575224
	02	Signal Light	1	30.718354	-95.574875
	03	Signal Light	1	30.718573	-95.575021
	04	Signal Light	1	30.718584	-95.575256
SH 30 & Veterans Memorial Pkwy	01	Signal Light	1	30.718257	-95.577134
	02	Signal Light	1	30.718504	-95.577157
	03	Signal Light	1	30.718486	-95.577475
IH 45 & Avenue S	01	Flashing Beacon	1	30.705406	-95.560604
	02	Flashing Beacon	1	30.705698	-95.560555
IH 45 & SH 19	01	Luminaire	2	30.692436	-95.550705
	02	Luminaire	2	30.692017	-95.549999
	03	Luminaire	2	30.691637	-95.549260
	04	Luminaire	2	30.691271	-95.548516
	05	Luminaire	2	30.685760	-95.537245
	06	Luminaire	2	30.685397	-95.536501
	07	Luminaire	2	30.685031	-95.535753
	08	Luminaire	2	30.684666	-95.535001
	09	Luminaire	2	30.684300	-95.534248
	10	Luminaire	1	30.685983	-95.530860
	11	Luminaire	1	30.685540	-95.530490
	12	Luminaire	1	30.685102	-95.530102
	13	Luminaire	1	30.684930	-95.534347
IH 45 & SH 19	14	Luminaire	1	30.686147	-95.539512
	15	Luminaire	1	30.681735	-95.530196
	16	Luminaire	1	30.659536	-95.510561
	17	Luminaire	1	30.660128	-95.510749
	18	Luminaire	1	30.661285	-95.511155
	19	Luminaire	2	30.683938	-95.533502
	20	Luminaire	2	30.683571	-95.532761
	21	Luminaire	1	30.664046	-95.512267

SH 19 & SH 75	01	Luminaire	1	30.696433	-95.531997
	02	Luminaire	1	30.696111	-95.532035
	03	Luminaire	1	30.695037	-95.531061
	04	Luminaire	2	30.701184	-95.530770
	05	Luminaire	2	30.700477	-95.530883
	06	Luminaire	2	30.699770	-95.531000
	07	Luminaire	2	30.699062	-95.531115
	08	Luminaire	2	30.692422	-95.532191
	09	Luminaire	2	30.691682	-95.532307
	10	Luminaire	2	30.690948	-95.532365
	11	Luminaire	2	30.690208	-95.532352
	12	Luminaire	2	30.689468	-95.532260
SH 19 & Bearkat Blvd.	01	Luminaire	1	30.709078	-95.528359
	02	Luminaire	1	30.708553	-95.526755
	03	Luminaire	2	30.705906	-95.529058
	04	Luminaire	2	30.705264	-95.529381
	05	Luminaire	2	30.704640	-95.529690
	06	Luminaire	2	30.703996	-95.529958
	07	Luminaire	2	30.703288	-95.530228
	08	Luminaire	2	30.702586	-95.530447
	09	Luminaire	2	30.701887	-95.530628
SH 19 & US 190	01	Luminaire	1	30.716504	-95.526407
	02	Luminaire	1	30.716164	-95.525900
	03	Luminaire	1	30.715938	-95.524973
	04	Luminaire	2	30.722073	-95.525581
	05	Luminaire	2	30.721339	-95.525565
	06	Luminaire	2	30.720452	-95.525541
	07	Luminaire	2	30.719847	-95.525526
	08	Luminaire	2	30.719105	-95.525506
	09	Luminaire	1	30.715695	-95.524602
	10	Luminaire	1	30.716479	-95.525882
US 190 & SH 30	01	Signal Light	1	30.723624	-95.540578
	02	Signal Light	1	30.723612	-95.540377
	03	Signal Light	1	30.723859	-95.540323
	04	Signal Light	1	30.723891	-95.540532

SH 19 & Old Colony Rd.	01	Signal Light	1	30.723465	-95.525636
	02	Signal Light	1	30.723725	-95.525584
E Crest Dr & FM 60	01	Luminaire	2	30.737421	-95.531488
	02	Luminaire	2	30.736747	-95.531133
	03	Luminaire	2	30.736099	-95.530726
	04	Luminaire	2	30.735449	-95.530309
	05	Luminaire	2	30.734795	-95.529902
	06	Luminaire	2	30.734139	-95.529489
	07	Luminaire	2	30.729749	-95.526764
	08	Luminaire	2	30.729068	-95.526434
	09	Luminaire	2	30.728363	-95.526161
	10	Luminaire	2	30.727640	-95.525944
	11	Luminaire	1	30.732098	-95.528777
	12	Luminaire	1	30.731543	-95.529200
	13	Luminaire	1	30.732931	-95.528159
	14	Luminaire	1	30.733507	-95.527864
	15	Luminaire	1	30.730963	-95.527986
SH 19 & FM 2821	01	Signal Light	1	30.742067	-95.530983
	02	Signal Light	1	30.742330	-95.531256
	03	Signal Light	1	30.742062	-95.532384
	04	Signal Light	1	30.742284	-95.532518
FM 2821 & FM 247	01	Signal Light	1	30.741751	-95.549119
	02	Signal Light	1	30.741765	-95.548855
	03	Signal Light	1	30.742024	-95.548823
	04	Signal Light	1	30.742014	-95.549090
FM 247 Park & Ride	01	Luminaire	1	30.742659	-95.548671
	02	Luminaire	1	30.743484	-95.548650
	03	Luminaire	1	30.744311	-95.548629

SH 75 & FM 2821	01	Signal Light	1	30.736016	-95.577491
	02	Signal Light	1	30.735762	-95.577285
SH 75 & FM 1374	01	Signal Light	1	30.705310	-95.543990
	02	Signal Light	1	30.705206	-95.543721
	03	Signal Light	1	30.705477	-95.543713
	04	Signal Light	1	30.705583	-95.543985
SH 75 & Brookview	01	Luminaire	1	30.741203	-95.601992
75 & Kate Bar Ross	01	Signal Light	1	30.736960	-95.586292
	02	Signal Light	1	30.736941	-95.585914
	03	Signal Light	1	30.737245	-95.586188
SH 75 & Southwood drive	01	Signal Light	1	30.680547	-95.521313
	02	Signal Light	1	30.680516	-95.521674
	03	Signal Light	1	30.680734	-95.521861
	04	Signal Light	1	30.680781	-95.521602
SH 75 Boettcher	01	Signal Light	1	30.697295	-95.533484
	02	Signal Light	1	30.697557	-95.533372
IH 45 sh19	01	high mast	6	30.683826	-95.529153
	02	high mast	6	30.682211	-95.527370
	03	high mast	6	30.680640	-95.525464
	04	high mast	6	30.680097	-95.526930
	05	high mast	6	30.678165	-95.525105
	06	high mast	6	30.678682	-95.523081
	07	Luminaire	1	30.681732	-95.530193
	08	Luminaire	1	30.684931	-95.534346
	09	Luminaire	1	30.686148	-95.539514

IH 45 & veterans	01	high mast	6	30.677172	-95.520571
	02	high mast	6	30.674763	-95.519467
SH 75 & 10th Street	01	Signal Light	1	30.724398	-95.560636
	02	Signal Light	1	30.724557	-95.560734
SH 30 & Ave Q	01	Signal Light	1	30.722188	-95.558646
	02	Signal Light	1	30.722581	-95.558697
SH 73 & 13th street	01	Luminaire	1	30.721763	-95.551568

RESOLUTION NO. 2024-17

A RESOLUTION APPROVING THE AGREEMENT DATED MAY 22, 2024, BETWEEN THE STATE OF TEXAS AND THE CITY OF HUNTSVILLE, FOR THE MAINTENANCE, CONTROL, SUPERVISION AND REGULATION OF CERTAIN STATE HIGHWAYS AND/OR PORTIONS OF STATE HIGHWAYS IN THE CITY OF HUNTSVILLE; AND PROVIDING FOR THE EXECUTION OF SAID AGREEMENT; AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE:

SECTION 1. That the certain agreement dated MAY 22, 2024, between the State of Texas and the City of Huntsville for the maintenance, control, supervision and regulation of certain State Highways and/or portions of State Highways in the City of Huntsville be and the same is, hereby approve; and that the City Manager is hereby authorized to execute said agreement on behalf of the City of Huntsville and to transmit the same to the State of Texas for appropriate action.

PASSED AND APPROVED THIS 20th DAY OF August, 2024

THE CITY OF HUNTSVILLE:

Russell Humphrey, Mayor

ATTEST:

APPROVED AS TO FORM:

Kristy Doll, City Secretary

Leonard Schneider, City Attorney



CITY COUNCIL AGENDA

8/20/2024

Agenda Item Number: 1.f.

Agenda Item: Consider approving the increase of the purchase order for Extreme Comfort Heating and Cooling HVAC services.

Initiating Department/Presenter: Parks and Leisure

Presenter:

Penny Joiner, Director of Parks and Leisure

Recommended Motion: Move to approve the increase of the purchase order for Extreme Comfort Heating and Cooling HVAC services.

Strategic Initiative: Strategic Priority #3, Quality of Life – Establish an environment where citizens can thrive and enjoy the city in which they live. Provide services that enhance the quality of life for all, with focus on the full life cycle (children, students, families, and retirees) - by creating amenities that support physical, mental and social well-being. Support access to quality health services, education, housing, transportation, recreation, and natural environment.

Discussion: Extreme Comfort Heating and Cooling was awarded the bid for HVAC maintenance and services in January 2023. The original purchase order was for \$35,000. It was increased in March 2024 to \$49,500. On July 2, it was increased to \$65,000 with the City Council's approval. Due to unforeseen, necessary unit replacements and additional maintenance issues, we are requesting to increase the purchase order to \$100,000, an increase of \$35,000. This purchase order is set to expire on November 30, 2024. Because the purchase order is in excess of \$50,000, the item requires Council approval.

Previous Council Action: City Council previously approved an increase on July 2, 2024.

Financial Implications: Increases spending for this purchase order up to the amount of \$100,000.

Approvals:

Penny Joiner
Steve Ritter
Sam Masiel
Aron Kulhavy
Kristy Doll

Associated Information:

1. Bid Tab - Bid NO. 23-09 Heating, Ventilation and Air Conditioning (HVAC) Services

Bid Tabulation
Project Name: Bid NO. 23-09 Heating, Ventilation and Air Conditioning (HVAC) Services
Location: 1212 Avenue M Huntsville, TX 77340
Date: Wednesday, November 30, 2022 Time: 2:30 P.M. Central Time



		McCloskey Mechanical Contractors, Inc.	T&R Mechanical	RDI Mechanical	AMS of Houston	Extreme Comfort	LBR Mechanical
Item	Description	Price	Price	Price	Price	Price	Price
1	Initial inspection/trip charge (flat rate)	\$ 75.00	\$ 40.00	\$ 95.00	\$ 85.00	\$ 50.00	\$ 75.00
2	Standard one (1) technician rate per hour for services and repair (labor) during regular business hours from 8:00 a.m. to 5:00 p.m. Monday through Friday.	\$ 75.00	\$ 110.00	\$ 110.00	\$ 95.00	\$ 50.00	\$ 95.00
	List rate for additional technician during regular hours	\$ 72.00	\$ 110.00	\$ 110.00	\$ 95.00	\$ 50.00	\$ 85.00
3	Rate per hour for services and repair (labor) on weekends, holidays and non business hours on week days.	\$ 110.00	\$ 176.00	\$ 165.00	\$ 135.00	\$ 100.00	\$ 142.50
4	Percentage to be charged above invoice price for replacement parts, material and new units/equipment purchased by the contractor. Example: A part from an AC unit needs to be replaced and the part costs the contractor 100.00 dollars. If you give a 20% above invoice price, the City will pay you \$120.00 for such part. $\$100.00 + (\$100.00 \times .20 \%) = \120.00 .	15%	35%	42.5%	20%	20%	20%



CITY COUNCIL AGENDA

8/20/2024

Agenda Item Number: 2.a.

Agenda Item: First Reading - Consider authorizing the City Manager to enter into an agreement with Extreme Comfort for the purchase and installation of two air conditioning units at the Huntsville Public Library.

Initiating Department/Presenter: Parks and Leisure

Presenter:

Sam Masiel, Assistant City Manager

Recommended Motion: If the Council wishes to waive the two-reading requirement, the recommended motion is "Move to waive the two-reading requirement and move to authorize the City Manager to award a contract to authorize the City Manager to enter into an agreement with Extreme Comfort for the purchase and installation of two air conditioning units at the Huntsville Public Library."

Strategic Initiative: Strategic Priority #3, Quality of Life – Establish an environment where citizens can thrive and enjoy the city in which they live. Provide services that enhance the quality of life for all, with focus on the full life cycle (children, students, families, and retirees) - by creating amenities that support physical, mental and social well-being. Support access to quality health services, education, housing, transportation, recreation and natural environment.

Discussion: The Huntsville Public Library has experienced persistent HVAC issues over the years. The proprietary control system (Metasys) for each unit requires service from Johnson Controls, resulting in substantial maintenance costs. Additionally, since the company's headquarters are in Houston and their technicians and mechanics are based in that area, repairs typically take several days to complete.

In June, the City sought bids to replace the two existing units and remove the Metasys operating system at the library. This change would enable the City to work with its current HVAC vendor for maintenance needs and allow Staff to manually adjust the temperature as needed.

After carefully reviewing the bids, staff recommends proceeding with Extreme Comfort, a company based in Huntsville, Texas. Already under contract with the City for maintaining and replacing smaller units in our facilities, Extreme Comfort has consistently prioritized service for the City and has proven to be a reliable partner. In addition to our positive experience with Extreme Comfort, their bid included a call-out rate that was more desirable than the call-out rate of low bid from Way Engineering.

If authorized to proceed, Extreme Comfort will replace the existing units with two 60-ton rooftop Trane units controlled by Honeywell Pro Vision 8000 Series thermostats.

Previous Council Action: This item was initially discussed in the Finance Committee on May 7, 2024, and the budget amendments were discussed at the Finance Committee on August 6, 2024.

Financial Implications: \$336,760.20

Approvals:

Penny Joiner

Steve Ritter

Sam Masiel

Aron Kulhavy

Kristy Doll

Associated Information:

1. Bid Tabulation HVAC

Bid Tabulation

Project Name: NO. 24-29 Replace HVAC System at Huntsville Public Library

Location: 1220 11th Street

Date: Thursday, July 17, 2024 at 2:00 PM



			Way Engineering	Extreme Comfort	RDI Mechanical, Inc.	Mechanical 73	Kept Companies	R.E.C Industries, Incl
Item No.	Description	UOM	Total	Total	Total	Total	Total	Total
1	New Equipment Cost	Lot	\$	\$	\$ 252,000.00	\$ 292,470.00	\$	\$ 368,880.00
	Lead Time for New Equipment	Days	Est. 140 Calendar Days	147-161 Calendar Days	196 Calendar Days	140 Calendar Days	Information Not Available	98-112 Calendar Days
2	Labor Cost - Remoal and Disposal of Existing HVAC System	Lot	\$	\$	\$ 47,624.00	\$ 79,400.00	\$	\$ 15,000.00
	Time Needed to Complete Item 2	Days	Calendar Days	Calendar Days	1 Calendar Days	21 Calendar Days	Calendar Days	2 Calendar Days
3	Labor Cost - Installation of New HVAC System	Lot	\$	\$	\$ 94,976.00	\$ 79,400.00	\$	\$ 189,775.00
	Time Needed to Complete Project 3		Calendar Days	Calendar Days	4 Calendar Days	21 Calendar Days	Calendar Days	16-18 Weeks
Grand Total			\$ 297,927.27	\$ 336,760.20	\$ 394,600.00	\$ 451,270.00	\$ 501,992.76	\$ 571,655.00

Bid states they are using JCI Controls.



CITY COUNCIL AGENDA

8/20/2024

Agenda Item Number: 2.b.

Agenda Item: First Reading - Consider adoption of Ordinance 2024-20, amending Chapter 24, Land Development, of the Code of Ordinances of the City of Huntsville, Texas to adopt the updated Development Code and Zoning Map of the City of Huntsville, Texas.

Initiating Department/Presenter: Development Services

Presenter:

Kevin Byal, Director of Development Services

Recommended Motion: First Reading - No action necessary.

Strategic Initiative: Strategic Priority #3, Quality of Life – Establish an environment where citizens can thrive and enjoy the city in which they live. Provide services that enhance the quality of life for all, with focus on the full life cycle (children, students, families, and retirees) - by creating amenities that support physical, mental and social well-being. Support access to quality health services, education, housing, transportation, recreation and natural environment.

Discussion: An updated zoning ordinance offers several key benefits. Primarily, Chapter 211 of the Texas Local Government Code mandates that zoning promotes “the public health, safety, morals, or general welfare” and protects and preserves “places and areas of historical, cultural, or architectural importance.” Zoning must also align with our comprehensive plan.

These principles are crucial for preserving the character of Huntsville and ensuring that all citizens and business owners have the certainty and predictability they deserve as our city grows. This need has been recognized and discussed over the past four years, with discussions beginning even earlier.

On June 5, 1990, the Huntsville City Council established three zoning districts that have largely remained unchanged for 34 years. As the city has experienced increased development pressure, challenges in managing growth and protecting neighborhoods have arisen.

In response, the City Council authorized an update to the Comprehensive Plan in September 2020, involving community input through town hall meetings, listening sessions, and an advisory committee. This process identified a need for additional zoning districts and led to funding being allocated to revise the development code and zoning map in the FY 21/22 budget. The City Council’s Strategic Initiative the following year emphasized the need for updated zoning guidelines.

An 8-member steering committee was appointed to provide feedback on these revisions. Progress was reviewed in joint City Council and Planning Commission meetings. An open house on June 8, 2023, allowed for public input, followed by a public hearing on June 15, 2023, where residents’ comments were addressed. However, the City Council ultimately voted against adopting the updated zoning ordinance as presented.

Earlier this spring, during the development of the City Council’s 2024 Strategic Initiatives, updated zoning districts were once again prioritized. It was decided to reduce the number of zoning districts from those presented last year and to revise the Development Code accordingly. The revised zoning districts now better reflect current land use patterns, maintain nonconforming uses, guide commercial development to main corridors, and protect residential areas from potential gentrification. The update also retains existing overlay districts and adds two new ones.

On July 18, 2024, the Planning and Zoning Commission held a public hearing and unanimously recommended approval of the updated Development Code and Zoning Map. About 20 people attended the hearing, with two speaking in favor and three speaking against the changes.

The final draft is now ready for a public hearing and City Council consideration.

Previous Council Action: August 2, 2022 – A joint workshop with the City Council and the Planning Commission was held to initiate the process of the update.

April 18, 2023 – A 2nd joint workshop with City Council and the Planning Commission was held for an update on the process.

August 1, 2023 – City Council held a public hearing and the 1st reading of the adopting Ordinance.

August 15, 2023 – City Council considered the 2nd reading of the adopting ordinance and postponed action until the September 5, 2023, City Council meeting.

September 5, 2023 – City Council voted 5 to 3 against approving the ordinance.

March 5, 2024 – City Council received a presentation on revisions to the Development Code and Zoning Map.

April 18, 2024 – The Planning Commission held a workshop to review and comment on the revisions.

May 7, 2024 – A joint workshop with City Council and the Planning Commission was held for a presentation on the revisions.

July 18, 2024 – The Planning Commission held a public hearing and voted unanimously to recommend approval of the updated Development Code and Zoning Map.

Financial Implications:

Approvals:

Kevin Byal
Leonard Schneider
Sam Masiel
Aron Kulhavy
Kristy Doll

Associated Information:

1. Ordinance 2024-20 amending Dev Code
2. Exhibit 1_Development Code
3. Exhibit_1_Map
4. PC Minutes 7-18-24

ORDINANCE 2024-20

AN ORDINANCE OF THE CITY OF HUNTSVILLE AMENDING CHAPTER 24 LAND DEVELOPMENT OF THE HUNTSVILLE, TEXAS CODE OF ORDINANCES BY ADOPTING REVISIONS TO THE DEVELOPMENT CODE OF THE CITY OF HUNTSVILLE, TEXAS; REQUIRING THE PUBLICATION OF THIS ORDINANCE; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR A PENALTY; MAKING OTHER PROVISIONS AND FINDINGS THERETO; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Huntsville, Texas, on August 18, 2015, adopted an Official Development District Map and Development Code for the City, which, in accordance with the Comprehensive Plan, was designed to manage the density of population to the end that congestion may be lessened in public streets and that the public health, safety, convenience, and general welfare is promoted in accordance with Chapter 211, Municipal Zoning Authority of the Texas Local Government Code; and

WHEREAS, the Planning and Zoning Commission of the City of Huntsville held public hearings prior to consideration of amending the ordinance;

WHEREAS, the Planning and Zoning Commission recommended adopting the updates to the City of Huntsville Development Code; and

WHEREAS, the Planning and Zoning Commission recommended adopting the updates to the City of Huntsville official Zoning map; and

WHEREAS, the City Council held a public hearing at their meeting on August 20, 2024 prior to consideration of amending the Ordinance and Map.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, COUNTY OF WALKER, STATE OF TEXAS:

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Huntsville, Texas, and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

II. AMENDMENT

The Development Code of the City of Huntsville, Texas, Chapter 24, Land Development, of the Huntsville, Texas Municipal Code and Zoning Map shall be amended as shown in Exhibit 1 attached hereto and incorporated herein.

III. REPEALER

All ordinances or parts of ordinances in force when the provisions of this Ordinance becomes effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of any such conflict.

IV. SEVERABILITY

Should any paragraph, sentence, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

V. EFFECTIVE DATE

This Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Article 4.13 of the Charter of the City of Huntsville, Texas. The City Secretary shall publish the caption of this Ordinance in the official City newspaper at least twice within ten (10) days of its passage.

VI. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 12 of the Development Code of the City of Huntsville, Texas.

PASSED AND APPROVED on this the ____ day of _____ 2024

THE CITY OF HUNTSVILLE, TEXAS

Russell Humphrey, Mayor

ATTEST:

Kristy Doll, City Secretary

APPROVED AS TO FORM:

Leonard Schneider, City Attorney



UNIFIED DEVELOPMENT ORDINANCE

Contents:

Article 1 Introductory Provisions

Article 2 Zoning Districts

Article 3 Overlay Districts

Article 4 Use Regulations

Article 5 Lot and Setback Regulations

Article 6 Parking and Driveway Access

Article 7 Landscaping and Buffers

Article 8 Signs

Article 9 Flood Protection

Article 10 Infrastructure and Public Improvements

Article 11 Nonconformities

Article 12 Development Review and Approval Procedures

Article 13 Administration

Article 14 Enforcement

Article 15 Terminology and Definitions

Appendix 1: Preliminary Plan Submittal Requirements

Appendix 2: Final Plat Submittal Requirements

ARTICLE 1 INTRODUCTORY PROVISIONS

Contents:

- 1.100 Official Name (Title)
- 1.200 Authority
- 1.300 Effective Date
- 1.400 Applicability and Jurisdiction
- 1.500 Purposes
- 1.600 Commentaries
- 1.700 Minimum Requirements
- 1.800 Interpretation
- 1.900 Compliance Required
- 1.1000 Conflicting Provisions
- 1.1100 Transitional Provisions
- 1.1200 Severability

1.100 OFFICIAL NAME (TITLE)

The official title of this document is the *Development Code of the City of Huntsville, Texas*. For convenience it is referred to throughout this document simply as the “Development Code.”

1.200 AUTHORITY

The Huntsville City Council adopts this Development Code pursuant to the powers granted in the City Charter and the Texas Local Government Code, including Chapters 211 and 212.

1.300 EFFECTIVE DATE

The provisions of this Development Code become effective on **Insert Council Adoption Date**, except as otherwise expressly stated.

1.400 APPLICABILITY AND JURISDICTION

The provisions of this Development Code apply to all public and private development within the corporate limits of the City of Huntsville, except as provided by state or federal law or as otherwise expressly stated in this Development Code.

1.500 PURPOSES

This Development Code is adopted for the purposes of:

- 1.501 Protecting and promoting the public health, safety and general welfare; and
- 1.502 Implementing the policies and goals contained in the City of Huntsville’s Comprehensive Plan and other adopted plans of the City.

1.600 COMMENTARIES

Commentaries are sometimes included in this Development Code as a means of clarifying provisions or providing supplemental information for code users. Text marked as “commentary” has no regulatory effect. It is intended solely as a guide for administrative officials and the public.

Commentary: Commentaries will have this appearance.

1.700 MINIMUM REQUIREMENTS

- 1.701 The provisions of this Development Code are the minimum requirements deemed necessary to carry out the Development Code’s stated purpose and intent.
- 1.702 In addition to the requirements of this Development Code, all uses and development and construction activities must comply with all other applicable ordinances, laws, regulations and standards, including but not limited to:
 - 1.702.A Municipal code [Chapter 12](#) (Buildings and Building Regulations);
 - 1.702.B Construction Specifications for Public Improvements; and
 - 1.702.C Standard Drawings for Public Improvements.
- 1.703 Compliance with this Development Code is a precondition for the issuance of any permits or approval of plats, public improvements or private improvements within the City or its extraterritorial jurisdiction.
- 1.704 All references in the Development Code to other governmental regulations are for informational purposes only and do not constitute a complete list of such regulations. These references do not imply any responsibility for the City to enforce regulations imposed by other government authorities.

1.800 INTERPRETATION

In the interpretation and application of this Development Code, all provisions must be:

- 1.801 Liberally construed in favor of the City; and
- 1.802 Deemed neither to limit nor repeal any other powers granted to the City under state statutes.

1.900 COMPLIANCE REQUIRED

Except as otherwise expressly stated in this Development Code:

- 1.901 Land may not be used for any purpose other than one that is allowed in the subject zoning district.
- 1.902 A building or structure may not be erected, moved, reconstructed, extended, or structurally altered for any purpose other than one that is allowed in the subject zoning district.
- 1.903 Buildings, structures, and land may be used and occupied only in compliance with the requirements specified in this Development Code.
- 1.904 All lots created or modified must comply with all applicable regulations of the subject zoning district.

1.1000 CONFLICTING PROVISIONS

1.1001 Conflict with State or Federal Regulations

If the provisions of this Development Code are inconsistent with those of the state or federal government, the more restrictive provision governs, to the extent allowed by law. The more restrictive provision is the one that imposes more stringent controls.

1.1002 Conflict with Other City Regulations

If the provisions of this Development Code are inconsistent with one another or if they conflict with provisions found in other adopted ordinances or regulations of the City, the more restrictive provision governs unless otherwise expressly stated. The more restrictive provision is the one that imposes more stringent controls.

1.1003 Conflict with Private Agreements and Covenants

This Development Code is not intended to interfere with, abrogate, or annul any easement, covenant, deed restriction, or other agreement between private parties. If the provisions of this Development Code impose a greater restriction than imposed by an agreement or covenant among private parties, the provisions of this Development Code govern. The City is not responsible for monitoring or enforcing agreements or covenants among private parties.

1.1100 TRANSITIONAL PROVISIONS

The provisions of this section address the transition from the previous Development Code (the one in effect before the effective date specified in Sec. 1.300) to this Development Code.

1.1101 Applications, Permits and Approvals

1.1101.A Any building, development, or structure for which a building permit was issued or a complete permit application had been accepted for processing before the effective date specified in Sec. 1.300 may be completed in conformance with the issued building permit and other applicable permits and conditions, even if such building, development or structure does not comply with provisions of this Development Code.

1.1101.B Applications for development approvals that were submitted in complete form and are pending approval on the effective date specified in Sec. 1.300 must be reviewed wholly under the terms of the Development Code in effect immediately before the effective date specified in Sec. 1.300. Building permits may be issued for construction or development approved under this paragraph (§1.1101.B), even if such building, development or structure does not fully comply with provisions of this Development Code.

1.1102 Violations Continue

1.1102.A Any violation of the previous Development Code will continue to be a violation under this Development Code and be subject to penalties and enforcement under Article 14.

1.1102.B If the use, development, construction or other activity that was a violation under the previous Development Code complies with the express terms of this Development Code, enforcement action will cease, except to the extent of collecting penalties for violations that occurred before the effective date specified in Sec. 1.300.

- 1.1102.C The adoption of this Development Code does not affect any pending or future prosecution of, or action to abate, violations of the previous Development Code that occurred before the effective date specified in Sec. [1.300](#).

1.1200 SEVERABILITY

If any portion of this Development Code is held to be invalid or unconstitutional by a court of competent jurisdiction, that portion is to be deemed severed from the Development Code and in no way affects or diminishes the validity of the remainder of the Development Code.

ARTICLE 2 ZONING DISTRICTS

Contents:

2.100 The Districts

2.200 Zoning District Map

2.300 Lot and Setback Regulations

2.400 Supplemental District Regulations

2.100 THE DISTRICTS

The City's zoning districts are listed in Table 2-1 and Table 2-2.

Table 2-1, Zoning Districts			
Zoning District	Future Land Use Category	Purpose	Former Zoning District
Residential			
Medium Density Residential (MR)	General Residential	This designation covers areas with predominantly single-family residential uses at typical in-city densities.	Neighborhood Conservation (NC) and Management (M)
High Density Residential (HR)	Multi-Family Residential	This designation involves areas devoted primarily to structures with multiple residential units, at a greater intensity (i.e., units per building or acre) than found in single-family residential. Higher intensities may be appropriate in certain locations. Site design and open space standards may be applied to offset the relative density of this residential type, to ensure adequate recreational space on the site for residents, and to provide buffering and screening between this and less intensive residential uses. This use category can also provide a transition from primarily residential to mainly non-residential areas.	Management (M)
Simple Living Residential (SLR)	General Residential	This designation is for small lot living in a variety of structure types and arrangements including site-built homes, manufactured homes and manufactured home parks, recreation vehicles, tiny homes, and cottage courts.	Management (M)

Table 2-1, Zoning Districts			
Zoning District	Future Land Use Category	Purpose	Former Zoning District
Nonresidential and Mixed Use			
Industrial (IN)	Industrial	This designation accommodates uses that are intensive in terms of how “light” industrial and especially “heavy” industrial activities can affect other nearby properties. This can include factors such as noise, vibration, light/glare, odor, truck traffic, and hours of operation, as well as the sheer scale and intensity of some heavy industrial uses. Depending on the standards applied through development regulations, an industrial area can allow for a wide range of uses, from office/warehouse to wholesale, product assembly, and manufacturing. Some communities aim for a more aesthetic business or industrial “park” environment, with specific standards for building arrangement and orientation, extensive landscaping, and especially full screening of loading and outdoor activity/storage areas, if such external activity is even permitted. A campus feel may be further reinforced by private or public streetscape and design enhancements, including special signage at industrial area entries and key intersections, unified lighting design, etc.	Management (M)
Mixed Use (MU)	Corridor Mixed Use	This designation is for properties in commercial retail, office and service uses along and near high-profile roadway corridors as well as other locations to accommodate neighborhood-focused businesses. Commercial uses include typical “big-box” developments that will draw patrons from a wide area, while neighborhood-focused businesses include smaller footprint sites that cater to serving a smaller area where mixed-use development outcomes are desired and encouraged. The mix of uses may include residential, especially to provide additional housing options and forms within the community. Major public and/or institutional facilities may also serve as development anchors within the area. Where non-residential and mixed-use developments are adjacent to residential neighborhoods, site standards involving building scale and placement should be triggered to ensure compatibility.	Management (M)

Table 2-1, Zoning Districts			
Zoning District	Future Land Use Category	Purpose	Former Zoning District
Public and Institutional (PI)	Public/ Institutional	This designation is for public facility land uses and their vicinities that warrant special consideration. Such consideration is necessary either to: (1) protect a major community asset or other highly valued use; or (2) buffer and protect nearby properties from potential adverse effects depending on the nature and operational aspects of the public use. This is for all public and institutional facilities.	Management (M)
Downtown (D)	Downtown Area Mixed Use	This designation, in many cities, involves the most intensively developed area of the community in terms of the greatest coverage of sites with building footprints and the least amount of private development area devoted to off-street parking and landscaping. Instead, most parking is accommodated on-street and/or within public parking areas. This enables most streets and other public spaces to be framed by buildings with zero or minimal front setbacks, creating “architectural enclosure” versus the progressively more open feel in other character areas (auto-oriented, suburban, etc.). All of these elements, along with a mixed-use orientation, make these areas of a city the most conducive for pedestrian activity and interaction. Public plazas and pocket parks can provide green space amid the urban environment and a place to gather and host community events.	Downtown (D)
Planned Development (PD)	N/A	This designation is intended to allow a diverse mixture of residential and/or nonresidential uses and structures that function as cohesive and unified projects. The districts encourage innovation by allowing flexibility in permitted use, design, and layout requirements in accordance with a Unified Development Ordinance. This should provide benefits by providing opportunities for employment and services closer to residences.	Planned Development (PD)

Table 2-2, Overlay Districts			
Zoning District	Future Land Use Category	Purpose	Former Zoning District
I-45 Overlay (I-45-O)	N/A	This designation is established to recognize the corridor as a unique area that promotes a mix of uses that may include commercial, retail, office, and special areas, along the corridor.	New
Veterans Memorial Parkway Overlay (VMPO)	N/A	This designation is for an area bounded by the right-of-way of Veteran's Memorial Parkway beginning at its most southern end at the intersection of the west feeder road of IH-45 and ending at the most northern end at the intersection of the west feeder road of IH-45.	Veterans Memorial Parkway Overlay (VMPO)
Airport Hazard Overlay (AHO)	N/A	This designation is intended to protect the municipal airport and the surrounding area from the encroachment of incompatible land uses that may present hazards to users of the airport as well as persons living or working in the airport vicinity.	Airport Hazard Overlay (AHO)
Residential Protection Overlay (RP-O)	N/A	This designation is intended to protect property values by conserving the overall character and function of previously existing single-family detached house residential areas of the City.	Neighborhood Conservation (NC)

2.200 ZONING DISTRICT MAP

2.201 Establishment

The location and boundaries of the zoning districts are shown on a geographic coverage layer that is maintained as part of the City's geographic information system (GIS). This geographic coverage layer constitutes the City's Official Zoning Map. The Official Zoning Map, including all notations, references, data and other information shown on it, is adopted and incorporated into this UDO and has the same legal force and effect as the UDO.

2.202 Available for Inspection

The map that is officially on file at City Hall is available for public inspection. This map shall control in the event of a conflict between the official map and any other reproduction of the map.

2.203 Maintenance, Updates, and Publishing

The City Planner is responsible for directing revisions to the Official Zoning Map to reflect its amendment as soon as possible after the effective date of any zoning map amendment. No unauthorized person may alter or modify the official map.

2.204 Map Interpretations

Where any uncertainty exists about a zoning district boundary, the City Planner is authorized to refer the matter to the Board of Adjustment for a determination or make an administrative interpretation using the following rules of interpretation:

- 2.204.A A boundary shown on the Official Zoning Map as approximately following lot lines will be construed as following those lot lines.
- 2.204.B A boundary shown on the Official Zoning Map as approximately following a street, alley, or railroad line will be construed as following the centerline of the street, alley or railroad right-of-way.
- 2.204.C A boundary shown on the Official Zoning Map as approximately following the shoreline or centerline of a river, stream, lake or other water body will be construed as following the actual shoreline or centerline of that water body.
- 2.204.D A boundary shown on the Official Zoning Map as approximately parallel to, or as an apparent extension of, a feature described above will be construed as being actually parallel to, or an extension of, the feature.
- 2.204.E If a boundary shown on the Official Zoning Map is inconsistent with a description included within an amending ordinance, the amending ordinance governs.

2.205 Classification of Annexed Land

Territory annexed to the City will be classified in the MR zoning district, with the Residential Protection Overlay, unless otherwise provided by the annexation plan adopted by City Council.

2.300 LOT AND SETBACK REGULATIONS

Principal uses and structures in all zoning districts are subject to the lot and setback regulations of Article 5.

2.400 SUPPLEMENTAL DISTRICT REGULATIONS

2.401 Simple Living Residential District

2.401.A Purpose

The Simple Living Residential (SLR) District provides for a variety of different types and arrangements of housing that may be constructed or manufactured on or off-site and which may be placed on individual lots or a common lot. This district may accommodate manufactured homes, manufactured home parks, recreational vehicle parks, tiny homes on individual lots, or cottage court formats. Neighborhoods may serve as permanent or temporary residences.

2.401.B Applicability

The SLR District may be applied in a zone change request within a residential land use category on the Future Land Use Map, as deemed appropriate. These residential use types provide options that contribute to the overall availability of housing choice in the City. They may be appropriate on smaller infill properties suitable for this scale of development, when the adjacent uses and natural environment provide for compatibility, and in locations proximate to employment areas.

2.401.C **Land Uses**

The following land uses, as depicted in Figure 2-1, SLR District Residential Uses, are permitted in the SLR District, subject to the standards of this Section:

- 1. Manufactured home park or subdivision;
- 2. Recreational vehicle park;
- 3. Tiny house community; and
- 4. Residential and nonresidential land uses permitted as of right or by Conditional Use Permit according to Table 4-1, Use Table.



2.402 Lot and Setback Regulations

2.402.A Residential Uses

Dimensional requirements for new residential development in the SLR District shall comply with the standards in Table 2-3, *SLR District Lot Size and Building Setback Standards*, below.

2.402.B Nonresidential Development

Proposed new mixed use and nonresidential development in the SLR District shall comply with the requirements of the MU District in Section 5.300, *Nonresidential and Mixed Use Lot Size and Building Setback Requirements*.

Table 2-3: SLR District Lot Size and Building Setback Standards										
Housing Type	Min. Open Space (Percent of Site)	Min. Site Area (Acres)	Min. Lot or Pad Area (Feet)	Min. Lot or Pad Width (Feet)	Min. Setbacks (Feet)				Min. Building Or Vehicle Separation (Feet)	Max. Height (Feet)
					Street	Street Side	Side	Rear		
Manufactured Home Park/ Detached House Subdivision	10	5	4,000	40	20	15	5	10	10	35
Manufactured Home ²	10	N/A	3,500	35	20	15	5	10	10	35
Recreational Vehicle Park	5	5	1,200	25	50 ¹	50 ¹	25	25	10	15
Tiny House Community	15	1	1,200	25	20	15	5	10	10	35
TABLE NOTES: 1. No recreational vehicle parking pad shall be closer than 50 feet from any exterior property line. 2. Manufactured homes placed on a legal nonconforming lot outside a manufactured home park or subdivision.										

2.403 SLR District Use Standards

2.403.A Recreational Vehicle Park

Refer to Section 4.200, *Supplemental Use Regulations*.

2.403.B Manufactured Home Park or Subdivision

Refer to Section 4.200, *Supplemental Use Regulations*.

2.403.C Tiny House Community

1. Building Standards

A tiny house that is part of a tiny house community shall be built to the City's residential building code.

2. Maximum Floor Area
A tiny house shall consist of a total maximum floor area of 600 square feet, excluding any loft space.
3. Permanent Foundations
Tiny houses that are part of a tiny house community shall be constructed on a permanent foundation. Tiny houses on wheels or other non-permanent foundations are prohibited from being part of a tiny house community but may be placed on a lot within a RV park or manufactured home park.
4. Prefabricated Tiny Houses
A Prefabricated tiny house shall have proof of inspection by a recognized agency and is required to be skirted.

2.404 Open Space

The following shall apply to required open space in the SLR District

- 2.404.A Open Space
Open space shall be provided at the minimum required in Table 2-3, *SLR District Lot Size and Building Setback Standards*, and shall include a central green lawn or garden area, playground, or plaza as a central focal point of all dwellings.
- 2.404.B Walkways
Common improvements of the common area shall include pedestrian walkways connecting each dwelling unit to a community-wide sidewalk network, shared parking areas or garages.
- 2.404.C Buffer Requirements
The site shall provide a buffer around the perimeter that preserves existing vegetation and incorporates landscape materials, berms, or a wall or fence to provide a visual buffer from adjacent development. See Section 7.500, *Buffers*.

2.405 Garages

The following garage structure requirements shall apply to a residential use in the SLR District.

- 2.405.A Access
If provided, detached garages serving more than one dwelling unit shall be accessed via a private drive or alley.
- 2.405.B Bays
A detached garage building shall not exceed four car bays unless it is screened by a buffer required in Section 7.500, *Buffers*.
- 2.405.C Design
Detached garage buildings shall be consistent in architecture and design to the principal dwellings.

2.406 PD District Refer to Section 12.400 Planned Developments

2.406.A Minimum Area

Each PD district established must have a minimum contiguous area of at least 5 acres.

2.407 MU District

2.407.A Generally, In addition to the applicable standards in this UDO, buildings in the Mixed Use (MU) District shall comply with the following standards.

2.407.B Percentage of Residential.

1. *Horizontal Mixed Use.* For a horizontal mixed-use development, a maximum of 60 percent of the land area of the development shall consist of permitted residential uses. A Building Permit for residential construction shall not be approved for the development until Building Permits have been approved for a minimum of 20 percent of the planned nonresidential development on the approved Master Development Plan.
2. *Vertical Mixed Use.* For a vertical mixed-use building, residential uses are prohibited on the first floor; however, there shall be no minimum or maximum percentage of mixing of permitted residential or nonresidential uses based on floor area.

2.407.C Enhanced Building Form and Design.

1. *360-Degree Architecture.* No particular architectural style is mandated. However, the architectural style of the front facade shall be expressed on all four sides of the building.
2. *Detailing.* All buildings shall contain architectural details that promote good design, which shall include a minimum of three of the following:
 - a. Entry portico;
 - b. Chimneys or cupolas;
 - c. Transom windows;
 - d. Dormers;
 - e. Window canopies;
 - f. Eaves in excess of 18 inches;
 - g. Covered porches (extending along 50 percent of the building facade and projecting a minimum of four feet from the face of the building);
 - h. A minimum of 80 percent of each facade visible from a public right-of-way, public park or open space, or residential use is composed of masonry, natural stone, or other material approved by the City Planner;
 - i. Decorative window shutters; or
 - j. Other features approved by the City Planner.
3. *Awnings and Canopies.* Awnings and canopies, if installed, shall meet the following standards:
 - a. Awnings and canopies shall be attached and integral to the principal structure;

- b. Awnings and canopies shall not obstruct any portion of any window except that transom windows may be located under awnings and canopies;
 - c. Canopies shall have columns, beams, and/or brackets of adequate size to give both structural and visible means for support;
 - d. A minimum clearance of eight feet from finished grade to the bottom of the awning or canopy is required and it shall not exceed 16 feet in height.
4. *Blank Walls.* Except where necessary to accommodate the future expansion of a building intended for construction within two years, blank walls are not allowed. No building wall may include an area that is larger than 15 feet tall by 25 feet wide that does not include one or more of the following:
- a. Windows;
 - b. Doors;
 - c. Building wall offset that complies with the building wall offset requirements in Section [3.400](#);
 - d. Sign(s), in accordance with [Article 8](#);
 - e. Architectural details that relieve the appearance of the blank wall;
 - f. A canopy or an arcade;
 - g. Vines or other plantings on wall trellises that cover at least 60 percent of the facade elevation; or
 - h. Other methods approved by the City Planner.

ARTICLE 3 OVERLAY DISTRICTS

Contents:

3.100 General

3.200 Veteran's Memorial Parkway Overlay District

3.300 Airport Hazard Overlay District

3.400 I-45 Overlay

3.500 Residential Protection Overlay District

3.100 GENERAL

3.101 Purpose and Application

Overlay districts are tools for dealing with special situations or accomplishing area-specific planning goals. As the name implies, overlay districts are “over-laid” on zoning district classifications to alter some or all of the regulations that apply in the underlying zoning district.

3.102 Interpretation

3.102.A Overlay district regulations apply in combination with underlying (base) zoning district regulations and all other applicable regulations of this Development Code. Overlay districts impose additional regulations or modify regulations of the underlying zoning district.

3.102.B Unless otherwise expressly stated, all applicable regulations of the underlying zoning district apply to property in an overlay district.

3.102.C When overlay district regulations conflict with regulations that apply in the underlying zoning district, the regulations of the overlay district govern.

3.200 VETERAN'S MEMORIAL PARKWAY OVERLAY DISTRICT

3.201 Description

The Veteran's Memorial Parkway Overlay (VMPO) district applies to properties with frontage along the right-of-way of Veteran's Memorial Parkway beginning at its most southern end at the intersection of the west feeder road of IH-45 and ending at the most northern end at the intersection of the west feeder road of IH-45. This Overlay is illustrated on the Official Zoning Map.

3.202 Uses

Generally, the uses listed in Table 4.1, as permitted or conditional uses for each base zoning district upon which the VMPO District is applied, shall be permitted or conditional uses allowed in the overlay.

3.203 Building Design Standards

The building design standards of Section 3.4010 shall apply to the VMPO district. Portable buildings, modular buildings, pre-manufactured buildings, buildings manufactured as industrialized housing and buildings are prohibited in the VMPO district, except those used as temporary construction offices.

3.204 Signage

Signage in the VMPO district shall comply with Article 8 Signs and Section 8.503 Signs Allowed

3.205 **Overlay District Regulations**

The following development standards apply within the VMPO district:

3.205.A **Overhead and Underground Utilities**

1. All utility, whether service drops or primary, must be placed underground within the Veteran's Memorial Parkway right-of-way, except at state highways.
2. When allowed, any overhead utilities must be located within the right-of-way, as far as possible from the travel lanes of the road.
3. Any overhead facilities proposed along the section of Veteran's Memorial Parkway at the Raven's Nest Golf Course must be presented to City Council for review and approval, with options and cost estimates for overhead or underground facilities or re-routing around the perimeter of the golf course.

3.300 AIRPORT HAZARD OVERLAY DISTRICT

3.301 **Purpose**

The Airport Hazard Overlay (AHO) district is intended to protect the municipal airport and the surrounding area from the encroachment of incompatible land uses that may present hazards to users of the airport as well as persons living or working in the airport vicinity. The overlay district regulations are further intended to:

- 3.301.A Prevent or control influences that are adverse to the airport property and to the safe conduct of aircraft in the vicinity of the municipal airport;
- 3.301.B Prevent creation of conditions hazardous to aircraft operation;
- 3.301.C Prevent conflict with land development that may result in loss of life and property; and
- 3.301.D Encourage development that is compatible with airport use characteristics within the intent and purpose of this Development Code.

3.302 **Zones Established**

The Airport Hazard Overlay district is divided into sub-districts (zones). These zones are shown on the City's official Airport Hazard Zoning Map, which is adopted as part of this Development Code. The zones are as follows:

3.302.A **Non-precision Instrument Runway Approach Zone (AHO/AN)**

The inner edge of non-precision instrument runway approach zone (also referred to simply as the "approach zone") coincides with the width of the primary surface and is 500 feet in width. The non-precision instrument runway approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

3.302.B **Transitional Zones (AHO/T)**

The transitional zones are the areas beneath the transitional surfaces. These surfaces extend outward and upward at 90-degree angles to the runway centerline, and the runway centerline extends at a slope of 7 feet horizontally for each one foot vertically from the sides of the primary approach surfaces to the point that they intersect the horizontal surface.

- 3.302.C **Horizontal Zone (AHO/H)**
The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- 3.302.D **Conical Zone (AHO/C)**
The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward from the periphery for a horizontal distance of 4,000 feet.
- 3.303 **Height Limitations**
Except as otherwise provided, no person may erect, alter, allow to grow or maintain any structure or tree in any zone within the airport hazard overlay created to a height more than the applicable height limit established for such zone. If more than one height limitation covers an area, the more restrictive height limit governs.
- 3.303.A **Nonprecision Instrument Runway Approach Zone (AHO/AN)**
The nonprecision instrument runway approach zone slopes upward one foot vertically for each 34 feet of horizontal distance beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- 3.303.B **Transitional Zones (AHO/T)**
The transitional zone slopes upward and outward one foot vertically for each 7 feet of horizontal distance beginning at the sides of and at the same elevation as the primary surface and the approach zones, and extending to a height of 150 feet above the airport elevation, which is 363 feet above mean sea level. Additionally, there are established height limits sloping upward and outward one foot vertically for each 7 feet of horizontal distance beginning at the side of and at the same elevation as the approach zones, and extending to where they intersect the horizontal or conical surface.
- 3.303.C **Horizontal Zone (AHO/H)**
The horizontal zone extends 150 feet above the airport elevation or a height of 513 feet above mean sea level.
- 3.303.D **Conical Zone (AHO/C)**
The conical zone slopes upward and outward 20 feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
- 3.304 **Use Restrictions**
Notwithstanding any other provisions of this section, no one may use land or water within any airport hazard zone in a way that creates electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, result in glare in the eyes of pilots using the airport, impair visibility near the airport, or otherwise in any way create a hazard or endanger the landing, takeoff or maneuvering of aircraft intending to use the airport.

3.305 Nonconforming Uses

3.305.A Regulations not Retroactive

The airport hazard overlay regulations do not require the removal, lowering or other changes or alterations of any nonconforming structure or tree in existence on October 15, 1976.

3.305.B Marking and Lighting

The owner of any existing nonconforming structure or tree must install, operate and maintain any markers and lights that the City Council deems necessary to indicate to the operators of aircraft near the airport the presence of such airport hazards.

3.306 AHO Permits

3.306.A Future Uses

No person is allowed to make any material change in the use of the land, and no person can erect, alter, plant or otherwise establish a structure or tree in any airport hazard district zone unless the person applies for and receives an AHO permit from the City Planner.

1. No AHO permit is required for a tree or structure of less than 75 feet of vertical height above the ground in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway unless such tree or structure, because of the terrain, land contour or topographic feature, would extend above the height limit prescribed for the respective zone.
2. An applicant for an AHO permit must indicate the purpose of the permit with sufficient information to determine whether the resulting use, structure or tree would conform to the airport hazard overlay regulations. If such determination is in the affirmative, the permit will be granted. No AHO permit may be granted for activities that are inconsistent with the AHO district regulations unless a variance has been approved by the Board of Adjustment.

3.307 Existing Uses

No AHO permit may be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on October 15, 1976.

3.308 Hazard Marking and Lighting

Any AHO permit granted must, if such action is deemed advisable in light of the purposes of the airport hazard overlay zone and reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain a signal to indicate to pilots the presence of an airport hazard.

3.400 I-45 Overlay

- 3.401 **Purpose**
The I-45 Overlay (I-45-O) is established to recognize the corridor as a unique area that promotes a mix of uses that may include commercial, retail, office, and special areas, along the corridor.
- 3.402 **Applicability**
The I-45-O District applies to properties with frontage along Interstate 45. This Overlay is illustrated on the Official Zoning Map.
- 3.403 **Uses, Generally**
The uses listed in Table 4.1, as permitted or conditional uses for each base zoning district upon which the I-45-O District is applied, shall be permitted or conditional uses allowed in the overlay.
- 3.404 **Permitted Uses**
The following uses shall be permitted by right regardless of the base zoning district:
- 3.404.A Apartment/condominium;
 - 3.404.B Personal improvement service;
 - 3.404.C Research service;
 - 3.404.D Assembly and Entertainment;
 - 3.404.E Financial service;
 - 3.404.F Lodging;
 - 3.404.G Office; and
 - 3.404.H Retail sales.
- 3.405 **Conditional Uses**
The following uses shall require a conditional use permit regardless of the base zoning district:
- 3.405.A Hospital;
 - 3.405.B Wireless communications;
 - 3.405.C Animal service;
 - 3.405.D Commercial service;
 - 3.405.E Funeral or mortuary service; and
 - 3.405.F Vehicle Sales and Service.
- 3.406 **Lot and Setback Regulations**
- 3.406.A Residential Development. Dimensional requirements for new residential development in the I-45-O District shall comply with the standards for the HR zoning district in Sec. 5.200.
 - 3.406.B Nonresidential Development. Proposed new mixed use and nonresidential development in the I-45-O District shall comply with the underlying base zoning district standards, as outlined in Section 5.300, except that:
 - 1. The minimum lot width shall be 125 feet; and
 - 2. The maximum front setback shall be 115 feet.
- 3.407 **Parking and Driveway Access**
Parking in the I-45-O District shall comply with the requirements of Article 6, except that a maximum of 25 percent of the required parking may be located within the street building setback for interior lots and a maximum of 50 percent of the required parking may be located within the street building setback for corner lots.

3.408 Landscaping and Buffers

Landscaping and buffers in the I-45-O District shall comply with the requirements of [Article 7](#), Landscaping and Buffers, except that:

3.408.A Minimum Landscaping. At least 20 percent of the total lot area must be devoted to landscape development.

3.408.B Plantings Adjacent to Building. Plantings adjacent to the building, as depicted in Figure 3-1, shall be installed according to the following:

1. Minimum Area. Principal buildings shall have plantings adjacent to the base of the building, according to the following formula:

Building area (sq. ft.)

$$\times 20\% \text{ of lot area} = \text{Minimum planting area adjacent to building}$$

Lot area (sq. ft.)

2. Width and Access. The planting area adjacent to the building shall be a minimum of six feet wide and may be crossed with walkways to provide access to the building.
3. Planting and Decorative Materials. A minimum of one ornamental or evergreen tree and five shrubs shall be planted within the planting area at the base of the building per every 50 linear feet, measured parallel to the building. The remaining portions of the planting area shall be planted with groundcover or consist of xeriscape groundcover, rocks, or decorative pavers.
4. Landscape Area Credit. Plantings adjacent to the building shall count toward the 20 percent minimum landscaping requirement established in [Sec 7.200](#).

Figure 3-1: Plantings Adjacent to Building



3.408.C **Parking Lot Plantings.** Plantings adjacent to the building, as depicted in Figure 3-1, shall be installed according to the following:

1. The minimum amount of landscape development that must be provided within (interior) and around (perimeter) off-street parking lot is calculated as follows:

$$\begin{array}{rcl} \text{Parking lot area (sq. ft.)} & & \text{Minimum required landscape} \\ & \times \text{ 30\% of lot area} & \text{development interior to parking} \\ \text{Lot area (sq. ft.)} & = & \text{area} \end{array}$$

3.408.D **Tree Preservation Credit.** Landscaping credits established in Sec. 7.400, apply, except that the City Planner may reduce the minimum landscaping requirements of this Section from 20 percent to 15 percent, rather than to 7.5 percent, if the applicant fulfills the obligations of Sec. 7.400.

3.409 **Signs**

Signs in the I-45-O District shall comply with the requirements of [Article 8, Signs](#).

3.4010 **Building Design**

3.4010.A **Building Design of Multi-Story Buildings.**

Buildings with more than two stories shall be designed with a clearly differentiated base, middle, and cap, as depicted in Figure 3-2.

1. **Building Cap.** A recognizable cap shall include one or more of the following features:

- a. Three-dimensional cornice treatments, other than just colored stripes or bands;
 - b. Sloping roofs with overhanging eaves and brackets; or
 - c. Stepped parapets with varying elevations.
2. Building Base. A recognizable base shall include a minimum of one of the following:
 - a. Taller ground floor height than the upper stories (by at least 2 feet);
 - b. Thicker walls, ledges, or sills;
 - c. Raised planters, that are integral to the building façade; or
 - d. Change in building materials or facade treatments.

Figure 3-2: Building Base, Middle, and Cap



FIGURE NOTES:

A = Base | B = Middle | C = Cap

3.4010.B Building Design of Multi-Story and Single-Story Buildings

The following standards shall apply to single- or multi-story buildings with facades that are visible from Interstate 45.

1. Building Windows/Transparency. Façade shall be occupied by windows or doorways that comprise a minimum of 35 percent but not more than 75 percent of the facade surface.
2. Building Entrances. Facades shall have clearly-defined customer entrances that include a minimum of three of the following features:
 - a. Canopies, awnings, porticos, arcades, or overhangs;
 - b. Over the door or peaked roof forms;
 - c. Arches;
 - d. Decorative lighting;
 - e. Outdoor patios or plazas;
 - f. Display windows;
 - g. Obviously differentiating architectural details such as moldings that are integrated into the building structure and design; or
 - h. Integral planters or wing walls that incorporate landscaped areas and/or places for sitting.
3. Building Articulation. Facades visible from Interstate 45 shall be articulated to provide visual interest and break up a large building as depicted in Figure 3-3 and Figure 3-4. A building shall:

- a. Incorporate a wall offset for a minimum of each 80 feet of building facade, where a portion of the facade (no less than 20 feet wide) is pushed back or pulled forward by a minimum of six feet; and
- b. Include a change in roof height of not less than 24 inches in height for a parapet roof or, for a pitched roof, modulation in which the highest ridge line and the lowest ridge line have a height difference of a minimum of six feet.

3.4010.C Portable buildings, modular buildings, pre-manufactured buildings and buildings manufactured as industrialized housing and buildings are prohibited in the I-45-O district, except those used as temporary construction offices.

Figure 3-3: Horizontal Building Articulation

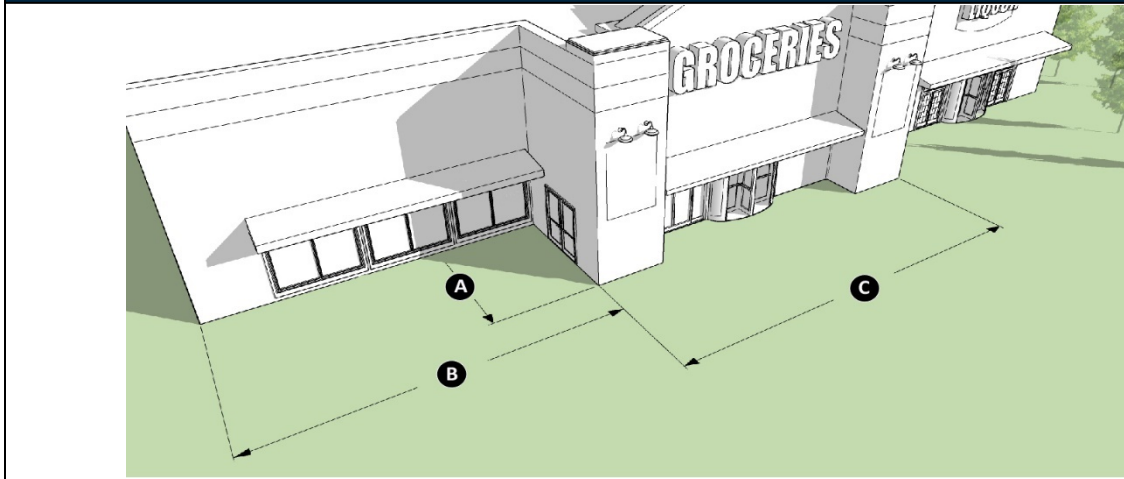


FIGURE NOTES:

A = Minimum of 6 feet | B = Minimum of 80 feet | C = Minimum of 20 feet

Figure 3-4: Vertical Building Articulation

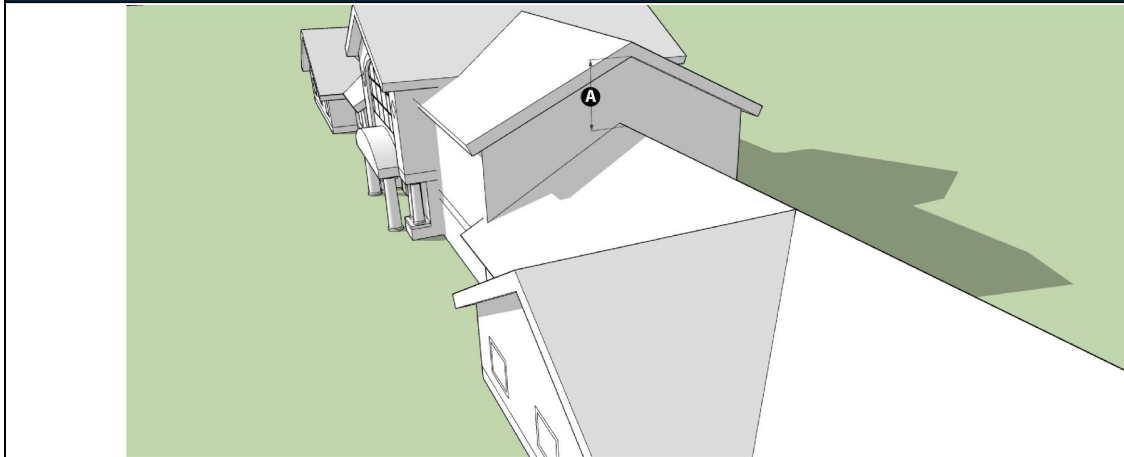


FIGURE NOTES:

A = Minimum of 6 feet

3.500 Residential Protection Overlay District

3.501 Purpose

The Residential Protection Overlay (RP-O) District is intended to help protect property values by conserving the overall character and function of previously existing single-family detached house neighborhoods. It is intended for application in stable single-family detached house neighborhoods.

Commentary: Applicable to the RP-O district, see Article 15, Definition of "Family".

3.502 Applicability

The RP-O District applies to existing development designated with such overlay on the Official Zoning Map.

3.503 Uses, Generally

The intended use is residential single-family occupancy only. In the RP-O District, when dwelling units are rented, it shall be for single-family occupancy only, tenancy shall be arranged on a month-to-month or longer basis. Uses where tenancy may be arranged for a shorter period are not considered residential; they are considered a form of lodging and are prohibited.

Commentary: Air B&B's in single family structures are considered Short-term lodging.

3.504 Building Design

Manufactured homes, mobile homes and steel shipping containers are prohibited in the RP-O District.

ARTICLE 4 USE REGULATIONS

Contents:

4.100 Allowed Uses

4.200 Supplemental Use Regulations

4.300 New and Unlisted Uses

4.100 ALLOWED USES

4.101 Use Table

4.101.A Medium Density Residential, High Density Residential, Simple Living Residential, Industrial, Mixed Use, Public and Institutional, and Downtown Districts

Principal uses are allowed in MR, HR, SLR, IN, MU, PI, and D zoning districts in accordance with Table 4-1.

4.101.B Planned Zoning Districts

The uses to be allowed in PD districts must be established at the time of development plan approval and identified in the ordinance establishing the subject PD district. The City Council is authorized to approve any use or combination of uses within a PD district.

4.102 Understanding the Use Table

4.102.A Uses

Uses are listed and defined in the first columns of Table 4-1.

4.102.B Permitted and Conditional Uses

1. Uses identified with a "P" are permitted as-of-right in the subject zoning district.
2. Uses identified with an "L" are permitted as-of-right, subject to limitations in Section 4.200, *Supplemental Use Regulations*, and Section 2.401, *Simple Living Residential District*.
3. Uses identified with a "C" are allowed only if approved in accordance with the conditional use approval procedures of Sec. 12.800.

4.102.C Prohibited Uses

1. Uses identified with an "X" are expressly prohibited. Uses that are not listed in Table 4-1 and that cannot reasonably be interpreted to fall within one of the use categories or subcategories described in the table are also prohibited.
2. The use of a recreational vehicle for habitation for longer than 90 days within or outside of a recreational vehicle park shall be prohibited Citywide.
3. The establishment of a mobile / manufactured dwelling unit outside of a manufactured home park / subdivision, on a vacant lot or that formerly had a conventional single-family detached house on it. Except as provided for in 4.203.C.

4.102.D Supplemental Regulations and Specific Limitations

1. The “Standards” (final) column of Table 4-1 identifies additional regulations that apply to listed uses. Compliance with supplemental regulations is required for all limited and certain conditional uses unless otherwise expressly stated.
2. All Accessory Uses and Structures and Home Occupations are subject to the standards in Sec. 4.201 and Sec. 4.202, respectively.
3. The standards in 4.203 shall only apply to replacement mobile or manufactured homes outside of a manufactured home park. New mobile or manufactured homes outside of a manufactured home park are prohibited except in the SLR district.
4. The standards in 4.2010 shall apply to any land use with equipment required to be screened or that has outdoor storage.

Table 4-1: Use Table											
P = Permitted by right L = Permitted by right subject to limitations C = Conditional use approval required (Sec. 12.800) X = Prohibited CV = Conventional Development Type IF = Infill Development Type											
Use Categories	Specific Uses	Residential Districts					Nonresidential and Mixed Use Districts				Standards
		MR		HR		SLR	IN	MU	PI	DT	
		CV	IF	CV	IF						
RESIDENTIAL USES											
Household Living	Detached house	P	P	P	P	P	X	P	X	C	--
	Townhouse (3+ units)	P	L	L	L	X	X	L	X	C	4.2011
	Two-unit house	P	P	P	P	X	X	P	X	C	--
	Multiplex	X	L	P	P	X	X	L	X	L	4.2012
	Apartment/condo	X	X	P	P	X	X	P	X	L	4.2013
	Purpose-Built Shared Housing, Attached	X	X	P/C	P/C	X	X	X	X	X	4.207
	Purpose-Built Shared Housing, Detached	X	X	L	L	X	X	X	X	X	4.207
	Mobile/Manufactured dwelling unit (outside of MH park)	X	X	X	X	P	X	X	X	X	4.203
	Manufactured Home Park / Subdivision	X	X	X	X	C	X	X	X	X	4.204
	Recreational Vehicle Park	X	X	X	X	C	X	X	X	X	4.205
	Tiny House Community	X	X	X	X	L	X	X	X	X	2.400
Group Living	Community Home	P	P	P	P	X	X	X	X	P	--
	Nursing Home	X	X	P	P	X	X	X	P	P	--
	All Other Group Living Uses	X	X	C	C	X	X	X	P	C	--

Table 4-1: Use Table

P = Permitted by right | **L** = Permitted by right subject to limitations |

C = Conditional use approval required (Sec. 12.800) |

X = Prohibited | **CV** = Conventional Development Type | **IF** = Infill Development Type

Use Categories	Specific Uses	Residential Districts					Nonresidential and Mixed Use Districts				Standards
		MR		HR		SLR	IN	MU	PI	DT	
		CV	IF	CV	IF						
PUBLIC, CIVIC AND INSTITUTIONAL											
Public, Civic and Institutional	Aircraft Landing Area	X	X	X	X	X	C	X	C	X	--
	College or University	X	X	X	X	X	X	P	P	P	--
	Community Center	C	C	C	C	C	P	P	P	P	--
	Correctional Facility (Private)	X	X	X	X	X	C	X	C	X	--
	Governmental Facility	P	P	P	P	P	P	P	P	P	--
	Fraternal Organization	C	C	C	C	C	P	P/C	P	P/C	4.2014
	Hospital	X	X	X	X	X	P	P	P	P	--
	Library	C	C	C	C	C	P	P	P	P	--
	Museum or Cultural Facility	X	X	X	X	X	P	P	P	P	--
	Natural Resource Preservation	P	P	P	P	P	P	P	P	P	--
	Parks and Recreation	P	P	P	P	P	P	P	P	P	--
	Religious Assembly	C	C	C	C	C	P	P	P	P	--
	Safety Service	C	C	C	C	C	P	P	P	P	--
	School	C	C	C	C	C	P	P	P	P	--
	Trade School	X	X	X	X	X	P	P	P	X	--
	Utilities and Public Service Facility, Minor	P	P	P	P	P	P	P	P	P	--
	Utilities and Public Service Facility, Major	C	C	C	C	C	P	P	P	C	--
	Wireless Communications, Freestanding tower	X	X	X	X	X	C	C	C	X	--
	Wireless Communications, Building or tower-mounted antenna	C	C	C	C	C	C	C	C	C	4.206

Table 4-1: Use Table

P = Permitted by right | **L** = Permitted by right subject to limitations |

C = Conditional use approval required (Sec. 12.800) |

X = Prohibited | **CV** = Conventional Development Type | **IF** = Infill Development Type

Use Categories	Specific Uses	Residential Districts					Nonresidential and Mixed Use Districts				Standards
		MR		HR		SLR	IN	MU	PI	DT	
		CV	IF	CV	IF						
COMMERCIAL											
Animal Service	All Animal Service	X	X	X	X	X	X	P/C	X	P/C	4.2015
Assembly and Entertainment	All Assembly and Entertainment	X	X	X	X	L	X	P	X	P	4.2016
Commercial Service	Research Service	X	X	X	X	X	P	P	X	X	--
	All Other Commercial Service Uses	X	X	X	X	X	P	P	X	X	--
Day Care	All Day Care	C	C	C	C	C	X	P	P	P	--
Eating Establishment	All Eating Establishments	X	X	C	C	C	P	P	P	P	--
Funeral or Mortuary Service	All Funeral or Mortuary Service	X	X	X	X	X	X	P/L	X	P	3.405
Lodging	Recreational Vehicle Park	X	X	X	X	C	X	X	X	X	--
	All other Lodging Uses	L	L	L	L	L	X	P	X	P	4.2020
Mobile Food Vendor	All Mobile Food Vendors	X	X	X	X	L	P	P	P	P	4.208 4.209
Office	Financial Service	X	X	X	X	X	P	P	P	P	--
	All other Office	X	X	L	L	X	P	P	P	P	4.2017
Retail Sales, Service and Repair	All Retail Sales	X	X	L	L	X	P	P	P	P	4.2018
	All Personal Improvement Service	X	X	X	X	L	P	P	P	P	4.2018
	All Repair Service	X	X	X	X	L	P	P	X	P	4.2018
	Car Wash	X	X	X	X	P	P	X	X	X	--
Vehicle Sales and Service	Fuel Station	X	X	X	X	P	P	P/C	X	X	4.2019
	Vehicle Maintenance	X	X	X	X	P	P	P	X	X	--
	Vehicle Repair	X	X	X	X	L	P	P/C	X	X	4.2019
	Vehicle Sales, Rental, and Leasing	X	X	X	X	P	P	P	P	X	--
INDUSTRIAL											
Industrial, Heavy	All Heavy Industrial	X	X	X	X	X	C	X	X	X	--
Industrial, Light	All Light Industrial	X	X	X	X	X	P	X	X	X	--
Mining/Extraction	Underground	X	X	X	X	X	C	C	C	X	--

Table 4-1: Use Table											
P = Permitted by right L = Permitted by right subject to limitations C = Conditional use approval required (Sec. 12.800) X = Prohibited CV = Conventional Development Type IF = Infill Development Type											
Use Categories	Specific Uses	Residential Districts					Nonresidential and Mixed Use Districts				Standards
		MR		HR		SLR	IN	MU	PI	DT	
		CV	IF	CV	IF						
	Surface or Above-Ground	X	X	X	X	X	C	X	X	X	--
Recycling Facility	Recyclable Material Drop-off Facility	X	X	X	X	X	P	X	X	X	--
	Recyclable Material Processing Facility	X	X	X	X	X	C	X	X	X	--
Wholesale, Distribution & Storage	Self-Service Storage Facility	X	X	X	X	X	P/C	P/C	X	X	"C" within 200 feet of Residential district; otherwise "P"
	All Other Wholesale, Distribution and Storage	X	X	X	X	X	P	P	X	X	--
AGRICULTURAL											
Agriculture	Farming/General Agricultural	X	X	X	X	X	P	P	P	P	--
	Community Garden	P	P	P	P	P	P	P	P	P	--

4.200 SUPPLEMENTAL USE REGULATIONS

4.201 Accessory Uses and Structures

Accessory uses and structures are permitted in connection with lawfully established principal uses in accordance with the regulations of this subsection.

4.201.A Allowed Uses and Structures

- The following accessory uses and structures are allowed in all zoning districts:
 - Attached and detached private garages;
 - Storage sheds;
 - Children's play equipment and playhouses;
 - Vegetable or flower gardens;
 - Private greenhouses;
 - Private tennis courts;

- g. Private swimming pools;
 - h. Gazebos, decks, fountains and other landscape features;
 - i. Solar collectors, geothermal heat pumps and electric vehicle charging equipment;
 - j. Television (receiving) antennas;
 - k. Amateur ("Ham") radio service antennas; and
 - l. Guest houses or rooms for non-paying guests within an accessory building, provided that such facilities:
 - (1) are used only for the occasional and gratuitous housing of guests of the occupant of the principal building;
 - (2) do not contain separate utility meter equipment;
 - (3) do not include a stove or oven; and
 - (4) are not used for permanent occupancy as a dwelling unit.
2. The City Planner is authorized to permit other accessory uses and structures based on a determination that the proposed use or structure:
- a. Is customarily found in conjunction with the subject principal use or principal structure;
 - b. Is subordinate and clearly incidental to the principal use; and
 - c. Provides a necessary function for or contributes to the comfort, safety or convenience of occupants of the principal use.
- 4.201.B **Time of Construction and Establishment**
- Accessory buildings must be established in conjunction with or after the principal building. They may not be established before the principal building is in place.
- 4.201.C **Location**
- Accessory uses and structures must be located on the same lot as the principal use to which they are accessory, except as otherwise expressly stated in this Development Code.
- 4.201.D **Setbacks**
- 1. Accessory buildings and structures are prohibited in street setbacks except as expressly allowed by the setback encroachment provisions of §5.805.B.
 - 2. Accessory building and structures over 5 feet in height must be set back at least 5 feet from all interior side and rear property lines except as expressly allowed by the setback encroachment provisions of §5.708.B. Such buildings and structures may not be located in utility easements.

4.202 Home Occupations

4.202.A **Intent**

The home occupation regulations of this section are intended to allow Huntsville residents to engage in customary home-based work activities while also helping to ensure that such "home occupations" will not adversely affect the character and livability of surrounding residential neighborhoods. The regulations are also intended to ensure that home occupations remain subordinate to the principal residential use of the property, and to ensure the residential viability of the dwelling is maintained. The regulations recognize that many types of work can be done in a home with little or no noticeable effect or adverse impact.

4.202.B Where Allowed

Home occupations are allowed as an accessory use to an allowed residential use, subject to all applicable regulations of this section.

4.202.C Regulations

1. The home occupation must be clearly incidental to the use of the dwelling as a residence.
2. There may be no visible evidence of the conduct of a home occupation when viewed from the street or right-of-way or from an adjacent lot. There may be no change in the exterior appearance of the dwelling unit that houses a home occupation or site upon which it is conducted that will make the dwelling appear less residential in nature or function. Examples of such prohibited alterations include parking lots, or adding commercial-like exterior lighting.
3. No equipment or process may be used in a home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process may be used that creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
4. Only passenger automobiles, passenger vans and passenger trucks may be used in the conduct of a home occupation. No other types of motor vehicles may be parked or stored on the premises.
5. The provisions of paragraph 4 (above) are not intended to prohibit deliveries and pickups by common carrier delivery vehicles (e.g., postal service, united parcel service, FedEx, et al.) of the type typically used in residential neighborhoods.
6. No persons other than immediate family members who reside in the dwelling unit may be employed or involved in the home occupation.
7. If there is more than one home occupation within the dwelling, the regulations of this section apply to the sum total of the activity related to such home occupations.

4.202.D Prohibited Home Occupations

Any use that does not comply with the regulations of §4.202.C is prohibited as a home occupation.

4.203 Mobile Homes and Manufactured Housing Unit

- 4.203.A The installation of any mobile home or manufactured housing unit for use as a dwelling unit is prohibited except as expressly stated in this section.
- 4.203.B A lawfully existing mobile home may be replaced with a (HUD-code) manufactured housing unit that is less than 20-years old.
- 4.203.C A lawfully existing mobile home may not be relocated within the city limits. The owner of a mobile home or manufactured housing unit may remove the home or housing unit from its location and install a replacement manufactured housing unit on the same property if the replacement is a newer model manufactured housing unit no less than 20-years old and it contains at least as much living space (floor area) as the mobile home or manufactured housing unit that was removed.
- 4.203.D It is unlawful for a person to place a manufactured housing unit within the City unless the manufactured housing unit is equipped with permanently affixed skirting that effectively hides the underside of the manufactured housing unit or mobile home from view. The owner and occupant will have 30 days from the date of the electrical inspection to install the required skirting. All skirting must be constructed of rock, brick, plastic, metal, treated

wood, concrete masonry materials or other materials approved by the Building Official, and must be installed so there is no visible gap between the finished floor of the manufactured housing unit and the ground. Cloth of any type, or shrubbery, is not acceptable material for skirting. Existing manufactured housing units or mobile homes with existing skirting that is in good condition may be allowed until replacement is needed.

- 4.203.E The skirting used on a particular manufactured housing unit or mobile home must be consistent in material, orientation and color, must be of such design as to not permit the passage of a sphere 4 inches or greater in diameter and must present a continuous and complete surface.
- 4.203.F The skirting requirements of §4.203.D and §4.203.E also apply to all other building types utilizing pier and beam or post and beam construction.
- 4.203.G No more than 3 manufactured housing units may be placed on or occupy a single lot except within a mobile home/manufactured housing park. Mobile home/manufactured housing parks are allowed only in those zoning districts indicated in Table 4-1 and are subject to the supplemental use regulations of §4.204.
- 4.203.H Any new manufactured housing units placed inside the city limits shall be less than 20 years old on the date of application and, if it is replacing a previous manufactured housing unit, then it shall be newer than the unit that it is replacing.

4.204 Mobile Home/Manufactured Housing Parks/Subdivisions

Mobile home/Manufactured Housing Parks/Subdivisions are subject to all applicable city regulations including subdivision plat standards of §12.700 the infrastructure and public improvement standards of Article 10, and the standards in §3.500, *Simple Living Residential District*.

4.205 Recreational Vehicle Parks

Recreational vehicle parks are subject to all of the following regulations, in addition to those in Section 3.500, *Simple Living Residential District*.

- 4.205.A The maximum number of RV or camping spaces may not exceed 25 units per acre.
- 4.205.B Each RV or camping space must have a minimum area of 1,200 square feet.
- 4.205.C At least 5% of the overall RV park area must be set aside and improved as a common recreation area for RV park guests.
- 4.205.D Infrastructure and public improvements must be provided in accordance with Article 10.
- 4.205.E The maximum rental and occupancy period per unit may not exceed 90 days per RV park in a calendar year.
- 4.205.F All recreational vehicles must be separated from other RVs and other buildings by a distance of at least 10 feet.

4.206 Wireless Communications Towers

Wireless communications towers are subject to all of the following regulations.

4.206.A Prohibited Locations

Freestanding towers are prohibited in the following areas:

1. Within 7,000 feet of the Sam Houston Statue-Huntsville Visitor Center; and
2. Within the D zoning district.

4.206.B Setbacks

1. Guy wire anchors must be set back at least 10 feet from abutting lots and at least 25 feet from public property or streets.
2. The base of all freestanding towers must be set back from abutting lots and public property and streets by a distance equal to at least 40% of the tower's overall height or the distance between the tower's base and any guy wire anchors, whichever results in the greater setback distance.

4.206.C Landscape Buffers

A landscape buffer must be provided around the perimeter of all sites occupied by freestanding towers in accordance with the buffer regulations of Sec. 7.500.

4.207 Purpose-Built Shared Housing

- 4.207.A The City's Purpose-Built Shared Housing Design Criteria is hereby incorporated by reference as if fully set forth in this Development Code. All Purpose-Built Shared Housing, Attached and Detached, constructed or modified, must comply with applicable Purpose-Built Shared Housing Design Criteria.
- 4.207.B A Purpose-Built Shared Housing development shall require a Conditional Use Permit within 200 feet of a MR district, otherwise the development shall be permitted by right.

4.208 Mobile Food Vendors

4.208.A Inspections, Permits and Fees

1. A Mobile Food Vendor shall submit a completed application for an annual Mobile Food Vending Permit to the City of Huntsville Department of Development Services and shall complete all required inspections through the City of Huntsville Central Inspections, Health Division and the City of Huntsville Fire Department. An annual Mobile Food Vending Permit shall be required for each individual mobile unit utilized. The required annual Mobile Food Vending Permit fee shall be as established by ordinance from time to time and the required fee shall accompany the application for each annual Mobile Food Vending Permit.
2. A Mobile Food Vendor shall obtain:
 - a. An Annual Mobile Food Vending Permit issued by the Department of Development Services;
 - b. An annual Health Permit from the City of Huntsville Health Division prior to conducting business in the City.
3. The annual Mobile Food Vending Permit and annual Health Permit are not transferable and shall be valid for one (1) year from the date of permit issuance;
4. A separate Itinerant Vendor Permit, as required by Sec. 32-34 of the City of Huntsville Code of Ordinance, shall be required for each location where business is conducted.
5. Subsequent renewal shall be subject to all requirements listed above.

4.208.B Mobile Food Vendor Requirements

1. A Mobile Food Vendor shall comply with all regulations established by the City of Huntsville Code of Ordinances, the Texas Food Establishment Rules, the City of Huntsville Development Code, and the City of Huntsville Fire Marshal's office and maintain compliance with all requirements of this Article.
2. Residing and/or dwelling within a mobile food unit is strictly prohibited.

3. A mobile food vendor/unit is prohibited from operating on the same lot as a residential dwelling.
4. Failure to comply with these standards may result in revocation of a vendor permit. If vendor permit is revoked, the vendor must wait six (6) months before they can reapply.
5. No Mobile Food Vendor shall conduct business in the public right-of-way and shall not block any fire lane or drive aisle. The Mobile Food Vendor shall not locate a mobile unit in such a manner or location that obstructs the passage or visibility of any sidewalk, street, alley or street intersection by causing people to congregate at or near the mobile unit.
6. A Mobile Food Vendor shall not locate on any private property without the written permission of the property owner. The written permission shall include the authorization to place a mobile food unit on the property and authorize employees of the mobile food unit, as well as patrons, access to restroom facilities within three hundred (300) feet of the mobile food unit. If at any time the property owner instructs the Mobile Food Vendor to leave, they must comply and leave the property immediately. A copy of the owner's written and signed permission to operate in a stationary location shall be kept within the mobile unit for documented verification.
7. All Mobile Food Vendors situated on the property shall be located on an all-weather surface as approved by the City Building Official.
8. Hours of operation. Mobile Food Vendors shall not operate between 12:00 a.m. and 6:00 a.m. During these prohibited hours of operation, the mobile unit shall be properly stored or screened. Vendors wishing to operate outside of these hours may apply for a Conditional Use Permit.
9. Mobility requirement. Mobile Food Vendors must remain capable of being moved and not permanently fixed or placed.
10. All structures (vehicles) shall be kept in good repair. Tires must be left on the mobile food unit and fully inflated at all times.
11. Each mobile unit may have one permanently attached sign on the mobile unit and one (1) sandwich board, each no larger than thirty-six (36) inches tall by twenty-four (24) inches wide. Signage must be removed when mobile unit is not on location.
12. Waste disposal.
 - a. **On-site.** Each mobile unit shall be equipped with a portable trash receptacle and the Mobile Food Vendor shall be responsible for proper disposal of solid waste and waste water in compliance with this code.
 - b. **Off-site.** All waste must be disposed of at a commissary location unless located with a Mobile Food Vendor court that provides central waste disposal.
13. Electrical Service
 - a. **On-site electrical connections.** Each mobile food establishment shall obtain electricity from, and be within thirty (30) feet of a permanent power source designed and constructed in accordance with the National Electrical Code and, as approved by the City. Portable generators may be used when permanent power is not available. Portable generators are prohibited within 500 feet of an occupied residential unit.

4.208.C Storage When Not In Use

Any mobile unit stored on a lot within the City Limits shall be entirely enclosed within a building, or hidden from view behind the primary structure, or approved opaque screening. All City residential parking requirements apply.

4.208.D **Special Events**

1. Any mobile unit/food vendor participating in an event sponsored by the City, the Huntsville-Walker County Chamber of Commerce, Sam Houston State University, Huntsville I.S.D., or Texas Department of Criminal Justice shall be considered exempt from the Mobile Food Vendor Permit and shall comply with all other regulations established by the City of Huntsville Code of Ordinances and Development Code. A Mobile Food Vendor must be in possession of an annual Health Permit or apply for a Temporary Food Permit from the City of Huntsville. Additionally, Food Handlers License from the State must be submitted to the City of Huntsville Health Division. Event applications are to be submitted to the organizer of the City sponsored event.
2. The mobile food unit fee will be waived, however, all applicable event fees will remain in effect.
3. On-site inspections may be waived by the Building Inspector, Fire Marshal's office and/or Health Inspector at the discretion of each department or division.

4.208.E **Separation**

A Mobile Food Vendor shall require a Conditional Use Permit within 200 feet of a MR district, otherwise the development shall be permitted by right.

4.209 Mobile Food Vendor Courts

Though similar to restaurants, Mobile Food Vendor Courts must meet additional requirements to address potential hazards specific to mobile establishments.

4.209.A Though similar to restaurants, Mobile Food Vendor Courts must meet additional requirements to address potential hazards specific to mobile establishments.

1. A Mobile Food Vendor Court must meet all of the applicable requirements of the zoning district in which it is located and as required by the Development Code and Code of Ordinances.
2. Each Mobile Food Vendor in a Court shall have a current Mobile Food Vending Permit and Health Permit issued by the City of Huntsville. A separate Itinerant Vendor Permit as required by Sec. 32-34 of the City of Huntsville Code of Ordinance shall be required for each location where business is conducted.
3. Mobile Food Vendor establishment spaces within a court shall be set back at least twenty-five (25) feet from the front and fifteen (15) feet from the rear lot lines and set back from the side lot lines as specified for the zoning district where located.
4. Mobile food units shall be located a minimum of ten (10) feet from other mobile food units and from any other structures.
5. A Conditional Use Permit is required for Mobile Food Vendor Courts when located within two hundred (200) feet of a MR District.

4.209.B **Development Standards**

1. The Texas Food Establishment Rules (TFER) Section 229.167 (d)(10) states a private home used as a living or sleeping quarters may not be used for conducting food establishment operations.
2. Restroom requirement for a mobile food court may be met through one (1) of the following methods:
 - a. Permanent bathrooms as required by the International Plumbing Code and the Texas Architectural Barriers Act and have obtained a City Building

Permit. Restrooms must be permanent facilities - manufactured units/trailers are prohibited.

- b. Bathroom facilities within a building(s) located not more than three hundred (300) feet from the premises authorized by written consent of the property owner.
3. Each mobile food establishment shall obtain electricity from, and be within thirty (30) feet of a permanent power source designed and constructed in accordance with the National Electrical Code and, as approved by the City. Portable generators are prohibited within a mobile food vendor court.
4. Each mobile food establishment shall obtain water from, and be within fifty (50) feet of, a back-flow protected hose bib connected directly to the City water supply.
5. A City Building Inspector shall make the appropriate inspections of the location, equipment, vehicle/units and other reasonable inspections concerned with the mobile food court operation to assure compliance with the applicable adopted codes, ordinances, requirement of all City, State and Federal statutes.
6. Mobile Food Vendor Courts must provide current and complete contact information including but not limited to: address, phone number, and any other information reasonable required by the City Manager or his/her designee for designated on-call personnel to be a principal point of contact for City staff and the individual vendors.
7. Residing and/or dwelling within a Mobile Food Vendor Court overnight is strictly prohibited.
8. Failure to comply with these standards may result in termination or suspension of Certificate of Occupancy/Mobile Food Vendor License/CUP.
9. Hours of operation. Mobile food courts shall be allowed to engage in business only between the hours of 6:00 a.m. and 12:00 a.m. Vendors wishing to operate outside of these hours may apply for a Conditional Use Permit.
10. No Mobile Food Vendor, structure associated with the Mobile Food Court use, nor any seating areas shall be located in a required setback, buffer yard, access easement, drainage easement, floodplain, driveway, utility easement and/or fire lane unless written authorization is provided by the City Manager or his/her designee.
11. Mobile Food Vendors/vehicles shall demonstrate that the vehicle or unit is readily moveable if required by the City. Any alteration, removal, attachment, placement or change in, under or upon the mobile food vehicle or unit that would prevent or otherwise reduce ready mobility is prohibited. Permitted Mobile Food Vendors/vehicles located within a court shall be exempt from having to remove the vehicle from the site during non-operating hours so long as such operation is in compliance with its use permit.
12. All structures (vehicles) shall be kept in good repair. Tires must be fully inflated at all times.
13. Waste Disposal
 - a. On-site. All vendors/vehicles selling food or beverages must provide at least one (1) appropriately sized trash receptacle adjacent to or as a part of their stand/operation.
 - b. Off-site. Mobile food courts shall have access to a common dumpster and to a common grease disposal container or grease trap, approved by the City. Common trash and grease disposal containers shall be enclosed within an area screened from view in accordance with City Ordinances. Trash enclosure shall not be located in the street setback. Mobile food establishments shall not be connected directly to, or indirectly discharge their wastewater into, the City wastewater system unless a grease trap is installed.

14. Lighting

- a. A photometric lighting plan shall be submitted to the City Building Official during the development review process. This plan shall show illumination levels and points of intersection between fixtures, as well as use of energy-efficient exterior lighting.
- b. Any lights used in conjunction with a permitted use shall be shielded or directed away from adjacent uses and roads.
- c. Use of the lowest wattage and highest energy efficiency available is required.

4.209.C **Parking Requirements**

1. Mobile food courts must provide paved parking and access per the requirements of [Article 6](#) PARKING AND DRIVEWAY ACCESS. See [6.402.F](#) for additional requirements for shared parking.
2. No Mobile Food Vendors shall be located in any required setback.

4.209.D **Application Requirements**

The following items must be submitted concurrently to the City of Huntsville Development Services Department:

1. Development Permit Application
2. Site Plan, drawn to a conventional scale showing:
 - a. location and surface type of the proposed Mobile Food Vendor locations.
 - b. location of customer table-seating and any associated shelter structures.
 - c. location of water hose bibs and electrical service connections.
 - d. location and surface type of parking spaces and driveways.
 - e. location and surface type of pedestrian access.
 - f. location and description of outdoor lighting.
 - g. location of restroom(s).
 - h. location of individual trash receptacles and common trash/grease disposal facilities, and type/height of common trash/grease disposal screening, (see [Section 7.200](#) GARBAGE AND RECYCLING DUMPSTERS.)
3. Civil Site Plans
 - a. Engineered civil site plans must be provided in accordance with the City's *Engineering Standards, Specifications and Design Criteria*.
4. Construction Plans
 - a. Construction plans must be submitted showing, in detail, all improvements proposed to be constructed.
5. Off-site Restroom Agreement (if applicable) including:
 - a. signature and contact information of property owner for subject restroom.
 - b. site plan showing location of restroom.
6. Shared Parking Agreement (if applicable) including:
 - a. signature and contact information of property owner for shared parking location.
 - b. site plan showing:
 - i. location of shared parking.
 - ii. total number of parking spaces available at shared parking location.
 - iii. land uses occurring on site at proposed shared parking location, including square footages.

4.2010 Equipment Screening and Outdoor Storage Requirements

4.2010.A Equipment Screening

All accessory equipment associated with the operation of a commercial facility, including but not limited to air conditioning units, generators, and utility boxes, must be screened from view of public rights-of-way and public access easements to the maximum extent possible. The design of the equipment enclosure must be architecturally compatible with the surrounding environment and structures.

4.2010.B Outdoor storage shall be limited to the following design and operational standards:

1. Storage. Outdoor storage shall be limited to materials, products, or equipment used, produced, or manufactured by a permitted use.
2. Location. Outdoor storage areas shall be located to the rear or side of the main building, away from the street frontage and public ROW.
 - a. Outdoor storage areas shall not be located within, or occupy any required parking areas, setback areas, or landscape areas, or be on sidewalks or walkways.
3. Screening. All materials stored outside shall not be stacked to exceed the height of the screening wall or fence. All storage, equipment, and activities related to outdoor storage shall be completely surrounded on all sides by shielding fencing and/or walls.
4. Additional Screening Elements. When adjacent to the MR District, equipment and supplies related to building material storage yards, contractor's storage yards, lumberyards, manufacturing yards, and auto service and repair shall be entirely inside an enclosed building or buildings, unless the premises where such yards are located are entirely enclosed by fences or walls, as described below:
 - a. In addition to fencing/wall standards above, all screening fences/walls along a street frontage or adjacent to the MR District shall employ a minimum of one (1) of the following screening techniques to be used to further shield outdoor storage areas:
 - i. Planting with sufficient vines or climbing ivy of an acceptable density to ensure complete view-obstructing screening within two (2) years of planting.
 - ii. Combination of landscaped berm and solid masonry block wall meeting height requirements. Trees of the evergreen variety or other year-round, leaf-bearing type shall be planted and shall exceed the minimum height.
 - iii. Combination of trees and shrubs of the evergreen variety, or other similar year-round, leaf-bearing type, with proper planting spacing to encroach over the fence.

Such plants shall be of such variety and shall be clustered so as to allow only minimal gaps between foliage of mature trees and shrubs within one (1) year after planting.
 - iv. Evergreen shrubs or other similar year-round, leaf-bearing shrub, appropriately planted to form a solid hedge with a minimum of eight (8) feet in height within one (1) year after planting.

4.2011 Townhouse

4.2011.A Consecutive Attached Units

Townhouses shall be arranged in a maximum span of 200 linear feet.

4.2011.B **Zero-Foot Setback**

Townhouses shall have a zero-foot setback from interior side lot lines shared by the same contiguous structure of the townhouses.

4.2012 Multiplex

4.2012.A **Unit Entries**

There shall be a maximum of two individual unit entries on any facade.

4.2012.B **Unit Arrangement**

Units may have either private or shared access and may be arranged in a variety of configurations, including back-to-back, side-to-side, or over-under.

4.2012.C **Building Design**

The building shall be designed in a manner so as to appear as a large single-family dwelling.

4.2013 Apartment / Condominium

Units shall be located above the first floor of a vertical mixed-use building.

4.2014 Fraternal Organization

A Fraternal Organization shall require a Conditional Use Permit within 200 feet of a MR district, otherwise the development shall be permitted by right

4.2015 Animal Service

An Animal Service establishment shall require a Conditional Use Permit within 400 feet of a MR district, otherwise the development shall be permitted by right.

4.2016 Assembly and Entertainment

An Assembly and Entertainment establishment shall require a Conditional Use Permit within 200 feet of a MR district, otherwise the development shall be permitted by right.

4.2017 Office

An Office shall have a maximum gross floor area of 3,000 square feet.

4.2018 Retail Sales and Service

A Retail Sales and Service establishment shall have a maximum gross floor area of 3,000 square feet.

4.2019 Fuel Station or Vehicle Repair

A Fuel Station or Vehicle Repair establishment shall require a Conditional Use Permit within 200 feet of a MR and SLR district, otherwise the development shall be permitted by right.

4.2020 Short-Term Lodging

Short-term lodging service where property owners rent out their dwelling units on a month-to-month or less arrangement is permitted. All other lodging is prohibited. All forms of lodging are prohibited in the RP-O District.

Commentary: This short-term lodging provision is specifically for Air B&B's in single family structures.

4.300 New and Unlisted Uses

4.300.A Use Categories

Each of the use categories and specific uses listed in Table 4-1, *Use Table*, are defined in Section 15.200, *Definitions*. The City Planner may authorize a use that is not listed if the proposed use fits within a defined use category or is functionally the same as a permitted, limited, or conditional use.

4.300.B If Not Authorized Then Prohibited

If the City Planner determines that a proposed use does not fit within a given use category and is not functionally the same as a permitted, limited, or conditional use, then the use is a prohibited use.

4.300.C Decision Criteria

In making such determinations, the City Planner may consider but not be limited to the following criteria:

4.300.D The actual or projected characteristics of the activity in relation to those of the use type;

4.300.E The amount of site area or floor space and equipment devoted to the activity;

1. Vehicle parking demand;
2. Average daily and peak hour trip generation (people, personal vehicles, and delivery vehicles);
3. Types of vehicles used and their parking requirements;
4. Building impervious surface coverage;
5. Regulated air or water emissions;
6. Noise, lighting, dust, and odors;
7. Solid waste generation;
8. The number of employees on a typical shift;
9. Use and storage of hazardous materials;
10. Character of associated buildings and structures;
11. How the use is advertised;
12. Nature and impacts of operation; and/or
13. Hours of operation.

ARTICLE 5 LOT AND SETBACK REGULATIONS

Contents:

5.100 Lot Design, Arrangement and Layout Generally

5.200 Residential Lot Size and Building Setback Regulations

5.300 Nonresidential and Mixed-Use Lot Size and Building Setback Regulations

5.400 Agriculture Tracts

5.500 Residential Lots

5.600 Nonresidential Lots

5.700 Flag Lots

5.800 Measurements

5.900 Access to Lots

5.100 LOT DESIGN, ARRANGEMENT AND LAYOUT GENERALLY

All lots to be created must comply with the following regulations:

- 5.101 Each lot must have sufficient size and shape to allow the construction of a residential or nonresidential building (as designated by the plat or zoning district map) that complies with all applicable lot and setback regulations and with all applicable development, building, housing, and health codes.
- 5.102 Each lot must have sufficient size and shape to accommodate easements for all public and private utilities.
- 5.103 Lots must be designed with side lot lines at right angles or radial to any adjacent street right-of-way line.
- 5.104 Minimum lot dimensions, building setback lines, and lot areas must conform to applicable zoning district requirements.
- 5.105 Depth and width of lots reserved or laid out for nonresidential use must be adequate to provide for the off-street service and parking facilities required by the type of use and development proposed.

5.200 Residential Lot Size and Building Setback Regulations

5.201 Generally

Table 5-1 establishes the dimensional standards for the residential zoning districts, which are depicted in Figure 5-1. Except as provided in Sec. 5.800, no lot shall be reduced in size so that its area, width, setback requirements, gross density, or other requirements of Table 5-1 are not maintained.

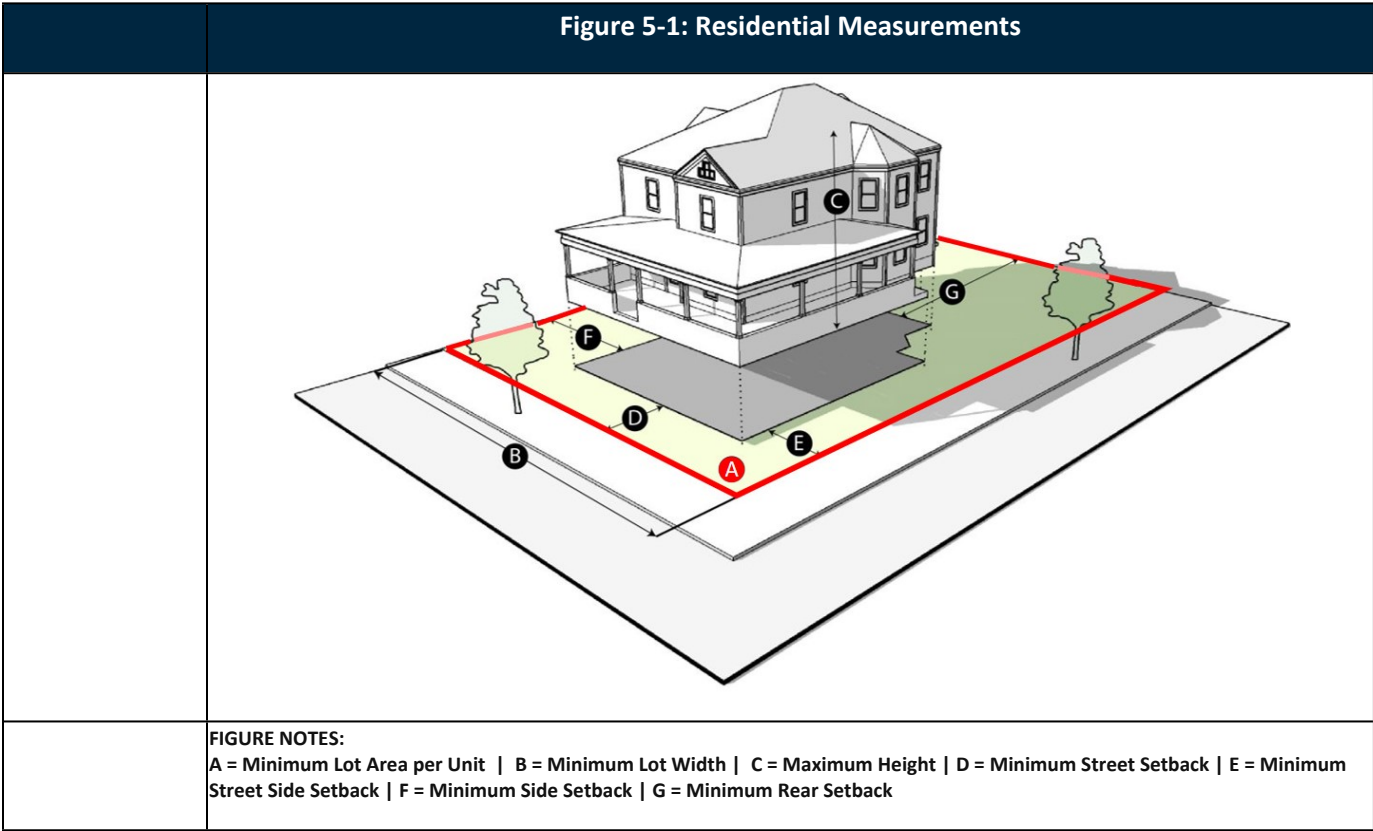
5.202 Setbacks Related to Driveways and Garages

A minimum setback of 20 feet shall apply where a driveway provides access on a residential property from a street, other than an alley. This maintains an adequately sized parking space on the driveway between the structure and the street and helps to avoid encroachment into public sidewalks, despite lower minimum setback standards in Table 5-1 for the remainder of the building.

5.203 Measurements Reference

Refer to Sec. 5.800 for explanations of, and special provisions related to, the measurements and standards in Table 5-1.

	Table 5-1: Residential Lot and Building Setback Regulations⁵				
	Medium Density Residential (MR)				High Density Residential (HR)
See Fig 5.1 for Measurement Rules	Low Density Residential	Detached House / Patio Home	Two-Unit	Town House	Apartment/Condo
Minimum Lot Size (Sq. Ft.)					
	Conv / Infill	Conv / Infill	Conv / Infill	Conv / Infill	Conventional / Infill
Lot Area (A)	26,136	6,000/4,000	6,000/4,000	2,400/2,000	7,500
Lot Area per Unit	26,136	6,000/4,000	3,000/2,000 ⁴	2,400/2,000 ⁴	1,500 ⁴
Lot Width (B) ¹	100	50/40	50/40	45/30	75
Max Height (C)	35	35	35	45	--
Minimum Building Setbacks (feet)					
Street (D) ²	25	25/20	25/20	25/20	25
Street Side (E) ²	20	15/15	15/15	15/15	20
Side (F)	10	10/5	10/5 ³	10/5 ³	10
Rear (G)	10	10	10	10	10
¹ The width must be at least 33% of the lot's depth, but not more than 2 times the lot's depth. ² The sight triangle requirements of §10.407.D do apply. ³ Applies only to end units. No setback required between units with attached/abutting walls. ⁴ 1 Unit = three (3) bedrooms or less. ⁵ Refer to Section 3.500, Simple Living Residential District					



Commentary: For Two-Unit and Apartment/Condo Residential Developments with more than three bedrooms per dwelling unit, required Lot Area per Unit shall increase by 33% for each additional bedroom in each dwelling unit.

5.204 Development Types

5.204.A. Conventional

1. Description. The conventional development type, as depicted in Figure 5-2, is a pattern that allows primarily residential uses and that provides the majority of residential property owners with private open space on their own property. A conventional development type consists of varying housing types depending on the zoning district and minimum lot size is a primary factor in the character-built environment of the development.
2. Standards. All the requirements of this Article shall apply to conventional development types unless otherwise specified.

Figure 5-2: Conventional Development Type

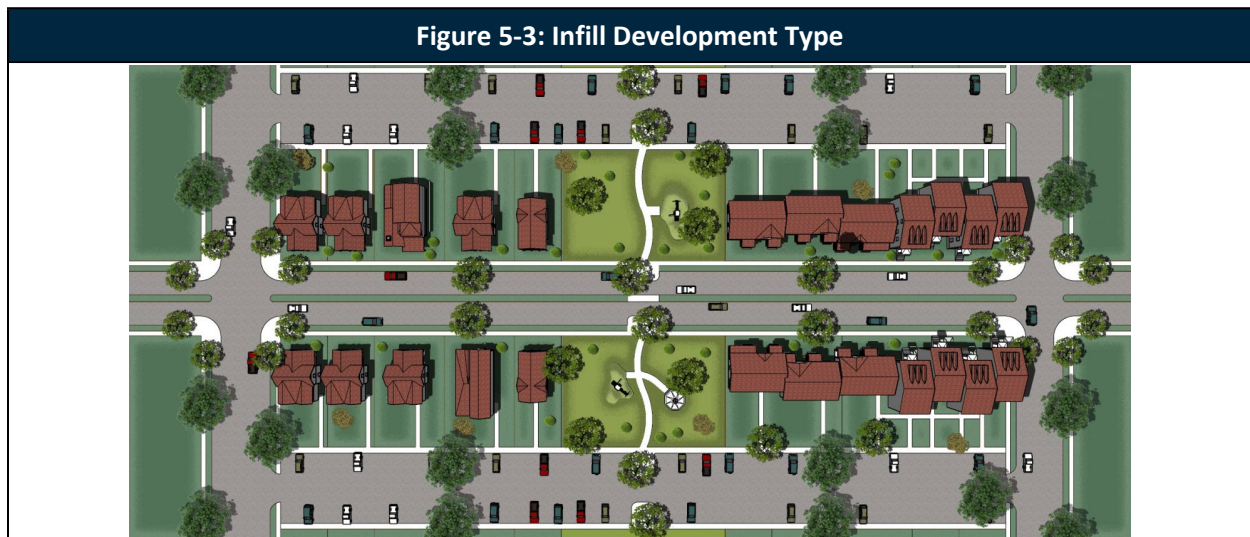


5.204.B. **Infill**

1. Eligibility for Infill. An infill development type may be located on any parcel:
 - a. Vacant or Unoccupied. That is surrounded by existing developed properties and has been vacant or unoccupied for more than one year;
 - b. Utility Easements. Where adjacent properties abutting at least 50 percent of the non-street perimeter of the subject property are utility easements that create a substantial break in development or redevelopment potential;
 - c. Environmental Constraints. Where adjacent properties abutting at least 50 percent of the non-street perimeter of the subject property are encumbered by environmentally sensitive or constrained areas such as floodplains; or
 - d. Existing Development. Where adjacent properties abutting at least 50 percent of the non-street perimeter of the subject property are developed with single-family dwellings of higher density or intensity uses.
2. Site Area. The minimum site area for an infill development is 20,000 square feet.
3. Appearance. Infill development shall be constructed to be generally compatible in appearance with other existing structures on adjacent properties. This provision shall be satisfied by constructing the proposed

building(s) so that at least three of the following features are substantially similar to the majority of other buildings in the context:

- a. Roof pitch and overhang;
 - b. Shape, size, and alignment of windows and doors;
 - c. Front porches or porticos;
 - d. Exterior building color; or
 - e. Location and style of garage or carport.
4. **Alternative Standards.** In place of the standards in this Section and other standards of this UDO, the applicant may utilize the following alternative standards.
- a. **Lot Area and Width.** The minimum lot area and width may be that of the smallest and narrowest lot on the block face on which the property is located.
 - b. **Maximum Building Height.** The maximum building height may be that of the tallest building on the block face on which the property is located, plus 15 percent of the height.
 - c. **Buffering.** Where a buffer is required between zoning districts, the buffer width and planting materials may be reduced by 50 percent.
 - d. **Front Setback.** The street setback of the building may be that of the average of the entire block face, if such average results in a smaller street setback than required in Table 5-1.



5.300 Nonresidential and Mixed Use Lot Size and Building Setback Regulations

5.301 Generally

Table 5-2 establishes the dimensional standards for the nonresidential and mixed use zoning districts, which are depicted in Figure 5-4 and Figure 5-5.

5.302 Setbacks Related to Driveways and Garages

A minimum setback of 20 feet shall apply where a driveway provides access on a residential property from a street, other than an alley. This maintains an adequately sized parking space on the driveway between the structure and the street and helps to avoid encroachment into public sidewalks, despite lower minimum setback standards in Table 5-2 for the remainder of the building. In the MU zoning district, no garage entry shall extend toward the street beyond the front facade of the habitable space of the structure.

5.303 Measurements Reference

Refer to Section 5.800 for explanations of, and special provisions related to, the measurements and standards in Table 5-2.

Table 5-2: Nonresidential and Mixed Use District Lot and Building Standards										
Zoning District	Landscaping Percentage	Minimum Lot Area (SF) (A)	Minimum Lot Width (Feet) (B)	Minimum Setbacks (Feet)				Minimum Frontage Build-Out (%) (G)	Maximum	
				Street (C)	Street Side (D)	Side ¹ (E)	Rear ¹ (F)		Street Setback (Feet) ² (H)	Height (Feet) (I)
IN	5%	7,500	75	25	20	10/50	10/20	--	--	--
MU ³	10%	--	--	5	5	10/10	10/10	75	--	65
PI	10%	7,500	75	25	20	10/20	10/20	--	--	65

1. First number applies if adjacent to apartments, nonresidential, or mixed use / second number applies if adjacent to residential (excluding apartments)
2. Applies to street setback and Street Side setback
3. Refer to Section 2.400, *Supplemental District Regulations*, for additional standards specific to the MU district
-- = No minimum or maximum

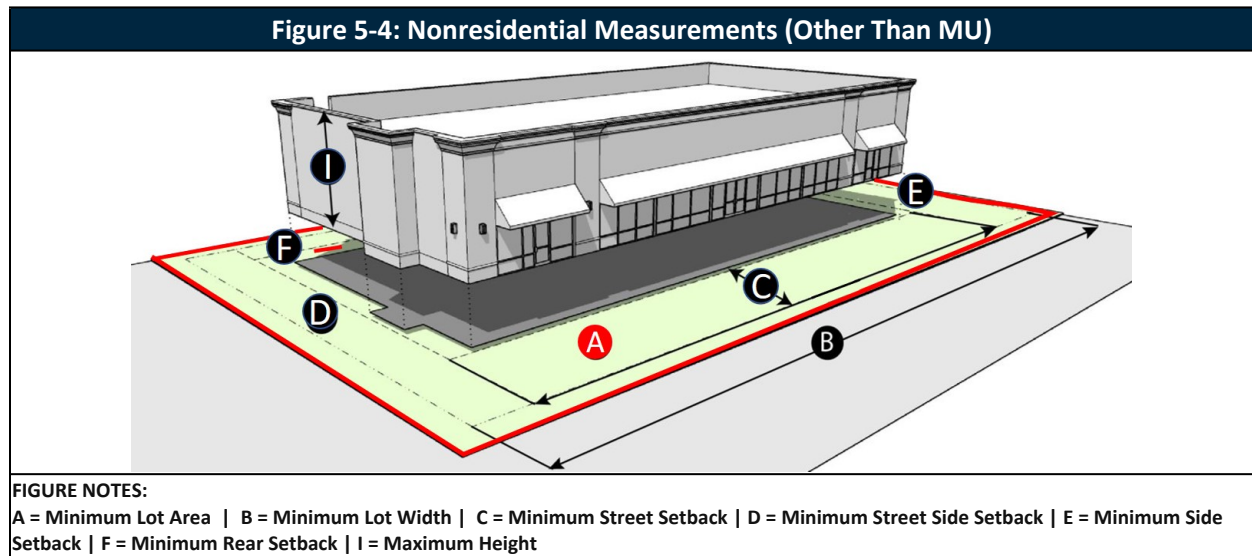


Figure 5-5: Nonresidential Measurements (MU)

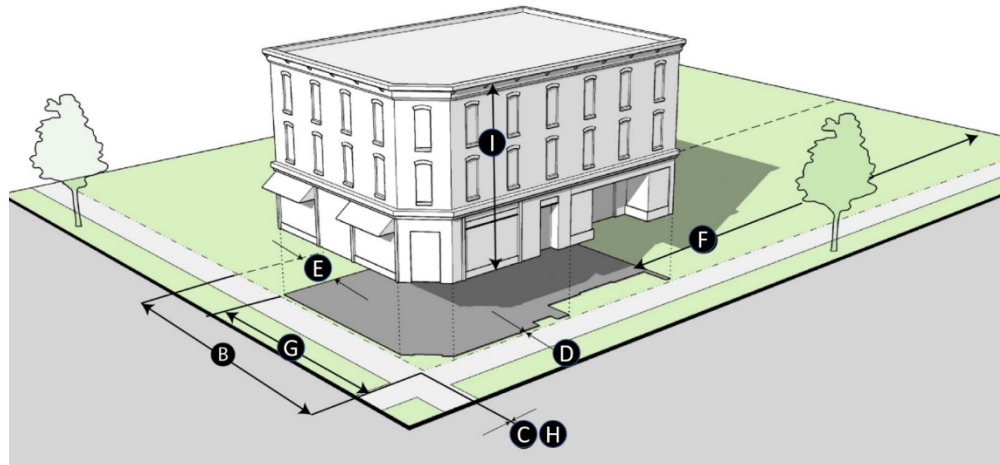


FIGURE NOTES:

B = Minimum Lot Width | C = Minimum Street Setback | D = Minimum Street Side Setback | E = Minimum Side Setback | F = Minimum Rear Setback | G = Minimum Frontage Build-Out | H = Maximum Street Setback

5.400 Agriculture Tracts

Agricultural tracts created by land division within the City or ETJ of the City must be laid out and arranged in a way that allows the opening of future streets and resubdivisions.

5.500 Residential Lots

5.501 Apartment / Condo

Apartment or condo lots in the HR district are subject to compliance with the lot and building setback regulations of Table 5-1. Except as otherwise expressly stated in this Development Code, apartment /condo lots that comply with the minimum lot area per unit requirements of Table 5-1 may be occupied by more than one principal residential building.

5.502 Patio Home

- 5.502.A. A patio home is a detached house that is placed against one of the interior side lot lines rather than centered on the lot, with setbacks on each side. Patio home lots are subject to compliance with the patio home lot and building setback regulations of Table 5-1. In addition, patio home lots are subject to the following regulations:
- 5.502.B. A patio home development must consist of at least 3 contiguous lots with frontage on the same street.
- 5.502.C. The interior side setback on one side of the lot containing a patio home may be reduced to as little as zero. The zero- or reduced setback side of a patio home may not abut a street and may not abut a lot that is not part of the patio home development. On the “non-zero” side, a setback must be provided in accordance with the minimum side setback requirement of Table 5-1.
- 5.502.D. Eaves on the side of a patio home with a reduced setback may not project over the property line.

- 5.502.E. When the patio home's exterior wall or eaves are set back less than 2 feet from the abutting property line, a perpetual maintenance easement at least 5 feet in width must be provided on the lot abutting the zero-lot line property line, which, with the exception of walls and/or fences, must be kept clear of structures. The easement must be shown on the plat and incorporated into each deed transferring title to the property. This provision is intended to ensure the ability to conduct maintenance on the patio home.
- 5.502.F. Windows, doors, or other openings that allow for visibility into the side yard of the lot abutting the reduced or zero setback side of the patio home are prohibited. Windows that do not allow visibility into the side yard of the parcel abutting the zero or reduced setback side, such as clerestory windows or translucent windows, are allowed, subject to compliance with the building code.
- 5.502.G. Individual utility connections must be provided to each patio house dwelling unit.
- 5.502.H. All utilities must be placed underground.

5.503 **Townhouse**

- 5.503.A. Townhouses are subject to compliance with the townhouse lot and building setback regulations of [Table 5-1](#). In addition, townhouse lots are subject to all of the following regulations.
- 5.503.B. Individual utility connections must be provided to each townhouse dwelling unit.
- 5.503.C. All utilities must be placed underground.
- 5.503.D. A single building may not contain more than 12 townhouse units.
- 5.503.E. Each townhouse building or series of townhouses must be separated by a minimum distance of 20 feet.

5.504 **Two-Unit House**

Two-unit houses are subject to compliance with the two-unit house lot and building setback regulations of [Table 5-1](#).

5.505 **[Reserved]**

5.506 **Manufactured Homes**

Manufactured home lots are to be located within a manufactured Home Park/Subdivision or as a replacement on a lot that previously contained a manufactured home and are subject to compliance with the manufactured home lot building setback regulations of [Table 2-4](#). Only manufactured homes can be placed on lots developed to manufactured home lot standards. See also the mobile home and manufactured housing regulations of [§ 2.406](#) and [4.203](#).

5.600 Nonresidential Lots

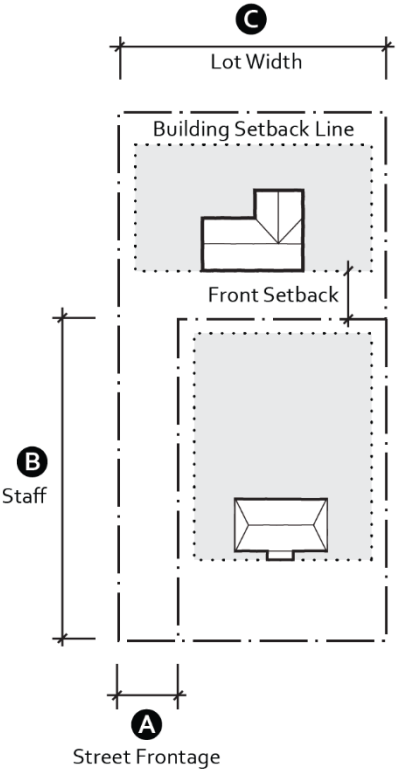
Commercial, office, industrial, public, civic and institutional and other nonresidential uses are subject to compliance with the nonresidential lot and building setback regulations of [Table 5-2](#).

5.700 Flag Lots

Flag lot configurations are allowed for lots in the MR, HR, IN, and PI districts. Flag lots must comply with the minimum lot area, lot area per unit, lot width, and building setback regulations of [Table 5-1](#), [Table 5-2](#) and the additional flag lot regulations of [Table 5-3](#).

Table 5-3: Flag Lots			
	See Figure 5-1	MR, HR District	IN, and PI Districts
A	Minimum Street Frontage (feet)	25	50
B	Maximum Length of Staff (feet) ¹	200	100
C	Minimum Lot Width (feet)	As required by Table 5-1 and 5-2	
¹ The staff or “panhandle” portion of a flag lot must be restricted solely for access to the developable portion of the lot (the flag). Such restrictions must be shown on the face of the plat.			

Figure 5-6: Flag Lot Measurements



5.800 Measurements

5.801 Lot Area

Lot area is measured as the total ground-level surface area contained within the property boundaries of a lot.

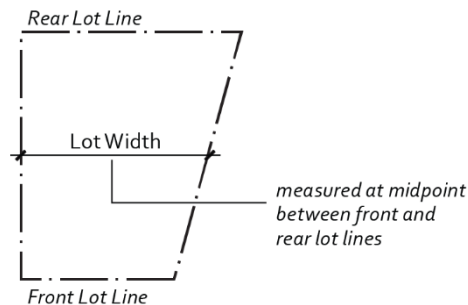
5.802 **Lot Area per Dwelling Unit**

Lot area per dwelling unit is a measure of residential density. It governs the amount of lot area required for each dwelling unit on the subject lot. To determine the number of dwelling units allowed on a lot, divide the lot area of the subject lot by the minimum lot-area-per-unit requirement of [Table 5-1](#), and round any fractional result down to a whole number. If, for example, a minimum lot-area-per-unit requirement of 1,750 feet is applied to a 10,000 square foot lot, a maximum of 5 units would be allowed on that lot (5.71 rounded down to 5).

5.803 **Lot Width**

Lot width is measured as the horizontal distance between the side lot lines of a lot measured at the midpoint between the front and rear lot lines.

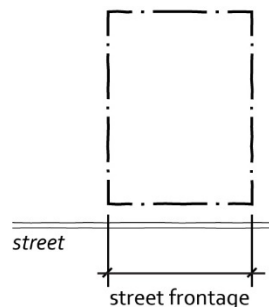
Figure 5-7: Lot Width Measurement



5.804 **Street Frontage**

Street frontage is measured between side lot lines of a lot along the lot line that abuts the street. See Figure 5-8. On lots that abut the bulb of a cul-de-sac or similarly curved street, frontage may be measured along the actual building setback line.

Figure 5-8: Street Frontage Measurement



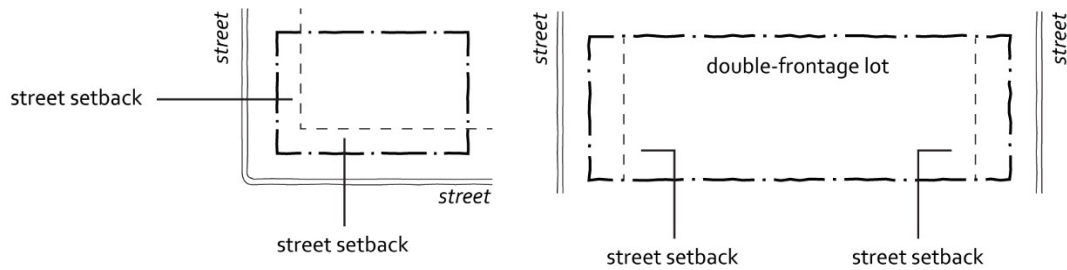
5.805 **Setbacks**

5.805.A. **Measurement**

Setbacks are measured from the referenced lot line to the closest point of the building or structure.

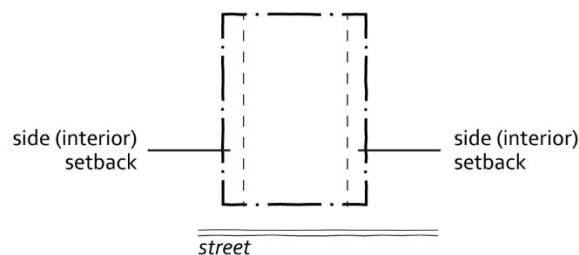
1. Street setbacks are measured from all lot lines that abut a street. See Figure 5-9. Street setbacks shall comply with Table 2-4 for SLR Districts and Table 5-1 for Residential Uses and Table 5-2 for all others.

Figure 5-9: Street Setback Measurement



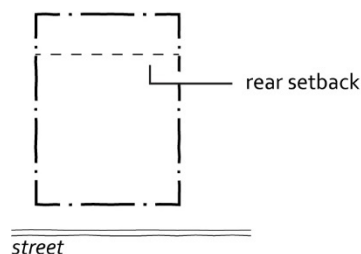
2. Side (interior) setbacks are measured from all side lot lines that do not abut a street. See Figure 5-10. Interior side setbacks do not apply to attached or abutting walls in a townhouse or two-unit project.

Figure 5-10: Side (interior) Setback Measurement



3. Rear setbacks are measured from the rear lot line. See Figure 5-11.

Figure 5-11: Rear Setback Measurement



5.805.B. Allowed Setback Encroachments

Required setbacks must be unobstructed and unoccupied from the ground to the sky except that the following are exempt from setback requirements, as indicated:

1. Eave and roof extensions may encroach into any required setback for a distance of up to 24 inches.

2. Ordinary projections of windowsills, belt courses, cornices, and other architectural features may encroach into any required setback for a distance not to exceed 12 inches.
3. Driveways, walks, steps for negotiating ground slopes, retaining walls, hedges and natural growth, fences, paved patios and other paved structures used ornamentally, for gardening, or for private recreation purposes may encroach into any required setback. Such features are, however, subject to the intersection sight distance requirements of §10.407.D.
4. Open porches, exterior steps to building entrances, and open fire escapes may encroach into required setbacks, provided that such structures or features are open on at least 3 sides and set back at least 10 feet from street property lines and 5 feet from all interior property lines.

5.806 Minimum Frontage Build-Out

In Table 5.2, a minimum frontage build-out applies to the MU districts. The minimum frontage build-out is measured as the percentage of the building wall adjacent to the street that is required to be located between the minimum and maximum street setback. See Figure 5-12, below. For example, in Figure 5-12, the percentage of the building width (B) that lies within the area between the minimum and maximum street setbacks (A) is approximately 50 percent, compared to the overall width of the building (C).

Figure 5-12: Minimum Frontage Build-Out

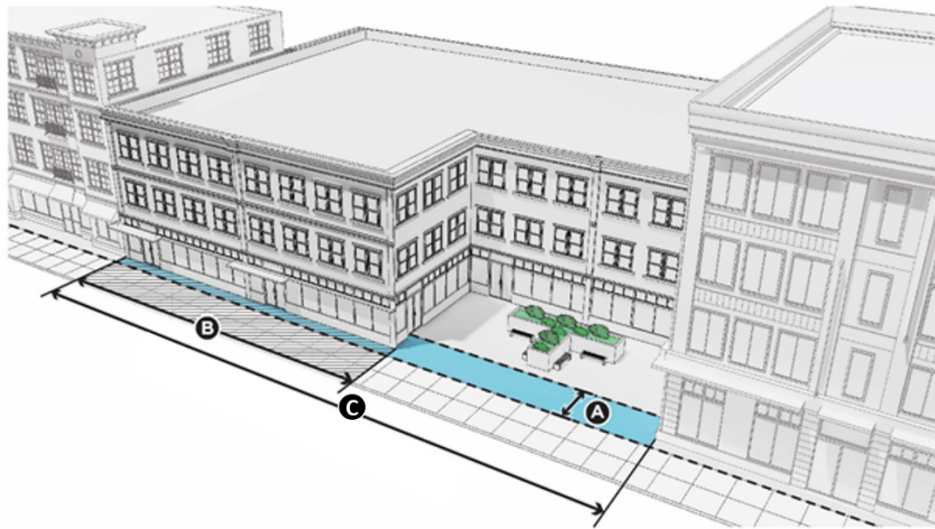


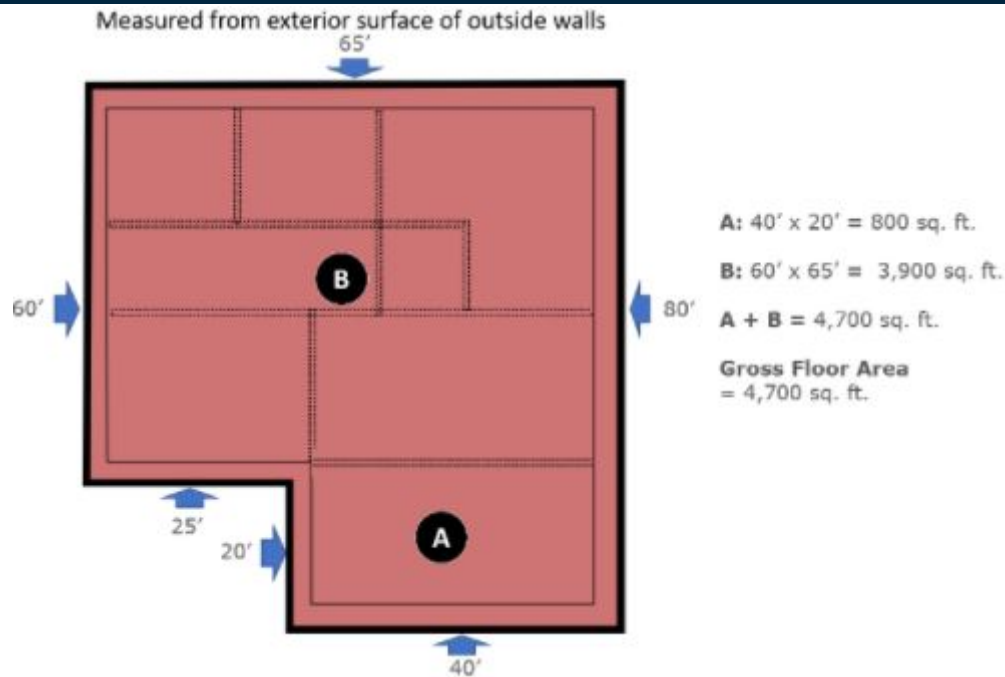
FIGURE NOTES:

A = Area between the minimum and maximum street setbacks | B = Width of building wall that lies between the minimum and maximum setbacks | C = Entire width of the building

5.807 Gross Floor Area

The total area of all the floors of a building, including intermediately floored tiers, mezzanines, etc., as measured from the exterior surfaces of the outside walls of the building. See Figure 5-13 below.

Figure 5-13: Gross Floor Area



5.900 Access to Lots

Perpetual legal access to lots must come from an established public street or by a perpetual access easement or right-of-way adequate to serve the subject lot. Lots designated for uses allowed/defined in Table 4-1 under the Residential Subcategory, Household Living are permitted to have access from an established public street only, with the exception that lots with no more than three (3) household dwelling units may have access from a perpetual access easement. When permitted, each perpetual access easement or right-of-way must allow construction and perpetual maintenance of a driveway across the property and allow vehicular travel on the driveway. Perpetual access easements must be of record and filed in the office of the Walker County clerk.

Commentary: Whenever developments with more than one lot have access from a perpetual access easement, pedestrian access is required to be provided adjacent to the access easement.

ARTICLE 6 PARKING AND DRIVEWAY ACCESS

Contents:

- 6.100 General
- 6.200 Minimum Parking Ratios
- 6.300 Calculation of Required Parking
- 6.400 Parking Exemptions and Reductions
- 6.500 Use of Parking Areas
- 6.600 Location
- 6.700 Design
- 6.800 Pedestrian Circulation
- 6.900 Accessible Parking for People with Disabilities
- 6.1000 Drive-through Facilities
- 6.1100 Driveways
- 6.1200 Loading

6.100 GENERAL

6.101 Purpose

The regulations of this article are intended to help ensure off-street motor vehicle parking facilities are provided in rough proportion to the generalized demands of different land uses. By requiring parking, it is the intent of this article to help avoid the negative impacts associated with spillover parking into adjacent areas, while at the same time avoiding the negative environmental and visual impacts that can result from unnecessarily large parking and vehicular use areas.

6.102 Applicability

6.102.A General

Unless otherwise expressly stated, the regulations of this article apply in all zoning districts.

6.102.B New Uses and Development

Unless otherwise expressly stated, the parking regulations of this article apply to all new buildings constructed and all new uses established.

6.102.C Enlargements and Expansions

1. Unless otherwise expressly stated, the parking regulations of this article apply whenever an existing building or use is enlarged or expanded to include additional dwelling units, floor area, seating capacity, employees, or other units of measurement used for establishing off-street parking requirements.
2. In the case of enlargements or expansions that trigger requirements for additional parking, additional spaces are required only to serve the enlarged or expanded area, not the entire building or use. There is no requirement to address a lawful, existing parking deficit.

6.102.D Change of Use

When the use or occupancy of property changes, additional off-street parking and loading facilities must be provided to serve the new use or occupancy only when the number of parking or loading spaces required for the new use or occupancy exceeds the number of spaces required for the use that most recently occupied the building, based on the standards of this Development Code. Credit is given to the most recent lawful use of the property for the number of parking spaces that would be required under this Development Code, regardless of whether such spaces are actually provided. A new use is not required to address a lawful, existing parking deficit.

6.102.E **Existing**

Existing off-street parking and loading areas may not be eliminated, reduced or modified below the minimum requirements established in this article.

6.200 MINIMUM PARKING RATIOS

Except as otherwise expressly stated, off-street motor vehicle parking spaces must be provided in accordance with Table 6-1.

Table 6-1: Minimum Motor Vehicle Parking Ratios	
USE CATEGORY	Minimum Motor Vehicle Parking Requirement
Subcategory Specific Use	
RESIDENTIAL	
Household Living	
Apartment/condo	1.0 spaces per bedroom
Purpose-Built Shared Housing	Refer to Purpose-Built Shared Housing Design Criteria
All other household living	2 spaces per dwelling unit, with 3 bedrooms or less, plus 1 space for each additional bedroom for dwelling units with more than 3 bedrooms.
Group Living	1 space per 2 beds
PUBLIC, CIVIC AND INSTITUTIONAL	
Aircraft Landing Area	Established in accordance with Sec. 6.307
College or University	Established in accordance with Sec. 6.307
Community Center	1 space per 300 square feet
Governmental Facility	Established in accordance with Sec. 6.307
Fraternal Organization	1 space per 200 square feet
Hospital	1 space per 2 beds
Library	1 space per 300 square feet
Museum or Cultural Facility	1 space per 300 square feet
Natural Resource Preservation	Established in accordance with Sec. 6.307
Parks and Recreation	Established in accordance with Sec. 6.307
Religious Assembly	0.25 spaces per seat in main assembly area
Safety Service	Established in accordance with Sec. 6.307
School	
Elementary and Junior High	2 spaces per classroom

Table 6-1: Minimum Motor Vehicle Parking Ratios	
USE CATEGORY	Minimum Motor Vehicle Parking Requirement
Subcategory Specific Use	
Senior High	10 spaces per classroom
Utilities and Public Service Facility	
Minor	None
Major	Established in accordance with Sec. 6.307
Wireless Communications	
Freestanding tower	None
Building or tower-mounted antenna	None
COMMERCIAL	
Animal Service	1 space per 250 square feet
Assembly and Entertainment	1 space per 4 seats
Commercial Service	
Personal Service	1 space per 250 square feet
All other commercial service uses	1 space per 300 square feet
Day Care	1 space per employee + 1 drop-off/pick-up space per 1,000 square feet, with no more than 10 spaces required
Eating Establishment	1 space per 150 square feet
Financial Service	1 space per 250 square feet
Funeral or Mortuary Service	1 space per 4 seats
Lodging	
Recreational Vehicle Park	1 space per camping or RV space
All other Lodging Uses	1 space per room
Mobile Food Vendor	3 spaces per vendor plus required parking for all uses occurring on site plus one space per each employee on site
Mobile Food Vendor Court	2.5 spaces per vendor plus required parking for all uses/activities occurring on site (including entertainment) plus one space per each employee on site
Office	
Medical	1 space per 250 square feet
All other office uses	1 space per 300 square feet
Retail Sales	1 space per 250 square feet
Self-service Storage Facility	1 space per 10 storage spaces
Trade School	1 space per 300 square feet
Vehicle Sales and Service	2 spaces per fuel pump + 4 spaces per service bay
INDUSTRIAL	
Mining/Extraction	1 space per employee
Recycling Facility	
Recyclable Material Drop-off Facility	3 spaces

Table 6-1: Minimum Motor Vehicle Parking Ratios	
USE CATEGORY	Minimum Motor Vehicle Parking Requirement
Subcategory Specific Use	
Recyclable Material Processing Facility	1 space per 1,000 square feet
Wholesale, Distribution & Storage	
Wholesale, Distribution and Storage (Indoor)	1 space per 1,000 square feet
All Other Wholesale, Distribution and Storage	1 space per 1,000 square feet
All Other Industrial Uses	1 space per 1,000 square feet
AGRICULTURE	
Farming/General Agriculture	None
Community Garden	None

6.300 CALCULATION OF REQUIRED PARKING

The following rules apply when calculating the required number of off-street parking spaces:

6.301 Multiple Uses

Unless otherwise expressly allowed in accordance with the shared parking regulations of Sec. 6.402, lots containing more than one principal use must provide parking in an amount equal to the total of the requirements for all principal uses on the lot.

6.302 Fractions

When measurements of the number of required spaces result in a fractional number, any fraction of less than one-half (0.5) is rounded down to the next lower whole number, and any fraction of one-half (0.5) or more is rounded up to the next higher whole number.

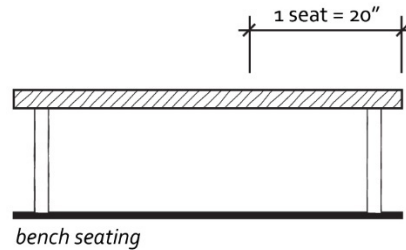
6.303 Area Measurements

Unless otherwise expressly stated, all area-based (square footage) parking standards must be computed based on the sum of the gross horizontal areas of a building devoted to a use requiring off-street parking. The following areas are not counted as floor area for the purpose of calculating off-street parking and loading requirements: floor space devoted primarily to the housing of mechanical or electrical equipment, elevator shafts, stairwells, storage (except as otherwise noted), commercial kitchen areas, ramps, aisles, and maneuvering space devoted to off-street parking or loading facilities, or basement floor space unless the basement area is devoted to merchandising activities, the production or processing of goods, business or professional offices or residential dwelling units.

6.304 Bench Seating

Each 20 inches of seating area in bleachers, pews or similar bench-seating arrangement counts as one seat for the purpose of calculating seating-based parking requirements. See Figure 6-1.

Figure 6-1: Bench Seating Measurement



6.305 Occupancy- or Capacity-based Standards

For the purpose of computing parking requirements based on employees, students, members, residents or occupants, calculations must be based on occupancy standards established by the building code.

6.306 Unlisted Uses

Upon receiving a development application for a use not specifically listed in an off-street parking schedule, the Building Official is authorized to apply the off-street parking ratio specified for the listed use that is deemed most similar to the proposed use or establish a minimum off-street parking requirement for the proposed use in accordance with § 6.307.

6.307 Establishment of Other Parking Ratios

The Building Official is authorized to establish required minimum off-street parking ratios for unlisted uses and in those instances where authority to establish a requirement is expressly granted. Such ratios may be established on the basis of a similar use/parking determination (as described in Sec. 6.306), on parking data provided by the applicant or information otherwise available to the Building Official. Parking data and studies must include estimates of parking demand based on reliable data collected from comparable uses or on external data from credible research organizations (e.g., Institute of Transportation Engineers (ITE) or American Planning Association [APA]). Comparability will be determined by density, scale, bulk, area, type of activity and location. Parking studies must document the source of all data used to develop recommended requirements.

6.400 PARKING EXEMPTIONS AND REDUCTIONS

6.401 Downtown District

Off-street parking is not required for buildings that were in existence in the D zoning district on or before January 1, 1978. After January 1, 1978, new buildings and building expansions in the D district must provide off-street parking as required by Sec. 6.200 unless the minimum number of off-street parking spaces required to serve the new building or building expansion is 10 or fewer spaces, in which case no off-street parking is required.

6.402 Shared Parking

6.402.A Purpose

Sharing parking among different users can result in overall reductions in the amount of motor vehicle parking required. Shared parking is encouraged as a means of conserving scarce land resources, reducing stormwater runoff, reducing the heat island effect caused by large paved areas and improving community appearance.

6.402.B **Applicability**

Shared parking facilities are allowed for mixed-use projects and for multiple uses with different periods of peak parking demand, subject to approval by the Building Official. Required residential parking and accessible parking spaces (for persons with disabilities) may not be shared and must be located on site.

6.402.C **Methodology**

The number of parking spaces required under a shared parking arrangement must be determined in accordance with the following:

1. Multiply the minimum parking required for each individual use, as set forth in [Table 6-1](#) by the percentage identified for each of the 6 designated time periods in Table 6-2.
2. Add the resulting sums for each of the 6 columns.
3. The minimum shared parking requirement is the highest sum among the 6 columns resulting from the above calculations.
4. Select the time period with the highest total parking requirement and use that total as the shared parking requirement.

Table 6-2: Shared Parking Calculations						
Land Use	Weekday			Weekend		
	Midnight–7:00 a.m.	7:00 a.m. – 6:00 p.m.	6 p.m. – Midnight	Midnight–7:00 a.m.	7:00 a.m.– 6:00 p.m.	6 p.m. – Midnight
Office and Industrial	5%	100%	10%	0%	60%	5%
Lodging	100%	60%	90%	100%	65%	80%
Eating and Drinking	50%	70%	100%	45%	70%	100%
Religious Assembly	0%	10%	30%	0%	100%	30%
Assembly & Entertain.	10%	50%	100%	5%	80%	100%
Retail & Comm. Service	5%	70%	90%	0%	100%	60%

6.402.D **Other uses**

If one or more of the land uses proposing to make use of shared parking arrangement do not conform to the land use classifications in Table 6-2, as determined by the Building Official, then the applicant must submit sufficient data to indicate the principal operating hours of the uses. Based upon this information, the Building Official is authorized to determine the appropriate shared parking requirement, if any, for such uses.

6.402.E **Alternative Methodology**

As an alternative to the shared parking methodology established in §6.402.C, the Building Official is authorized to approve shared parking calculations based on the latest edition of the Urban Land Institute's or the Institute of Transportation Engineer's shared parking model or based on studies prepared by professional transportation Planner or traffic engineer. The shared parking analysis must demonstrate that the peak parking demands of the subject uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses.

6.402.F **Location**

Shared parking may be located on-site or off-site. Off-site parking is subject to the regulations of Sec. 6.602.

6.402.G **Shared Parking Agreement**

The owners of uses proposing to make use of shared parking areas to satisfy minimum parking requirements must submit a shared parking agreement, in a form approved by the City Attorney, guaranteeing the long-term availability of the shared parking, commensurate with the use served by the parking. Shared parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. If an off-site parking agreement lapses or is no longer valid, then parking must be provided as otherwise required by this article. Shared parking agreements must be recorded in the Walker County's clerk's office.

6.403 **Motorcycle Parking**

In parking lots containing over 20 motor vehicle parking spaces, motorcycle or scooter parking may be substituted for up to 5 automobile parking spaces or 5% of required motor vehicle parking, whichever is less. For every 4 motorcycle or scooter parking spaces provided, the motor vehicle parking requirement is reduced by one space. Each motorcycle and scooter space must have minimum dimensions of 4 feet by 8 feet.

6.500 USE OF PARKING AREAS

6.501 Required off-street parking facilities may be used only for the temporary parking of licensed passenger motor vehicles by residents, tenants, patrons, employees, or guests of the principal use. Off-street parking spaces required by this Development Code must be maintained for the life of the principal use.

6.502 Off-street parking facilities may not be used for the parking of vehicles for the purpose of displaying the same for sale unless the principal use of the property on which the parking facility is located is the business of selling or leasing used or new vehicles. This provision is not intended to prohibit an owner or occupant of residential dwelling unit from selling a personal vehicle.

6.503 No vehicle repair or service of any kind shall be permitted in conjunction with off-street parking facilities in a residential district, except for minor repairs or service on vehicles owned by an occupant or resident of the premises.

6.600 LOCATION

6.601 General

Except as otherwise expressly stated in this Development Code, required off-street parking spaces must be located on the same lot and under the same control as the building or use they are required to serve.

6.602 Off-Site Parking

6.602.A When Allowed

All or a portion of required off-street parking for nonresidential use may be provided off-site, in accordance with the regulations of this section.

1. Required accessible parking spaces and parking required for residential uses may not be located off site.
2. No more than 50% percent of the off-street parking spaces required for theaters, bowling alleys, dance halls, nightclubs, restaurants, or similar uses may be located off site.
3. No more than 80% of the off-street parking spaces required for a church, school auditorium or similar use may be located off-site.

6.602.B Location

Off-site parking areas must be located within a 500-foot radius of the use served by such parking, measured between the main entrance of the use to be served and the outer perimeter of the furthest parking space within the off-site parking lot. Off-site parking lots are allowed only in districts that permit the principal use to be served by the off-site parking spaces.

6.602.C Design

Off-site parking areas must comply with all applicable parking area design and landscape regulations of this Development Code.

6.602.D Control of Off-Site Parking Area

The off-site parking area may be under separate ownership from the use to be served by the parking only if an agreement is provided, in a form approved by the City Attorney, guaranteeing the long-term availability of the parking, commensurate with the use served by the parking. Off-site parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. If an off-site parking agreement lapses or is no longer valid, then parking must be provided as otherwise required by this article. Off-site parking agreements must be recorded in the Walker County's clerk's office.

6.700 DESIGN

6.701 Surfacing

All required outdoor parking spaces must be properly designed and improved with a compacted stone base and surfaced with asphalt, concrete, or other comparable all-weather, dust-free material approved by the City Planner.

6.702 Wheel Stops

In all parking lots containing 5 or more parking spaces, wheel stops must be installed where necessary to prohibit vehicle overhang onto adjacent pedestrian ways or landscape areas.

6.703 Driveway **Access**

See Sec. 6.1100.

6.704 **Landscaping**

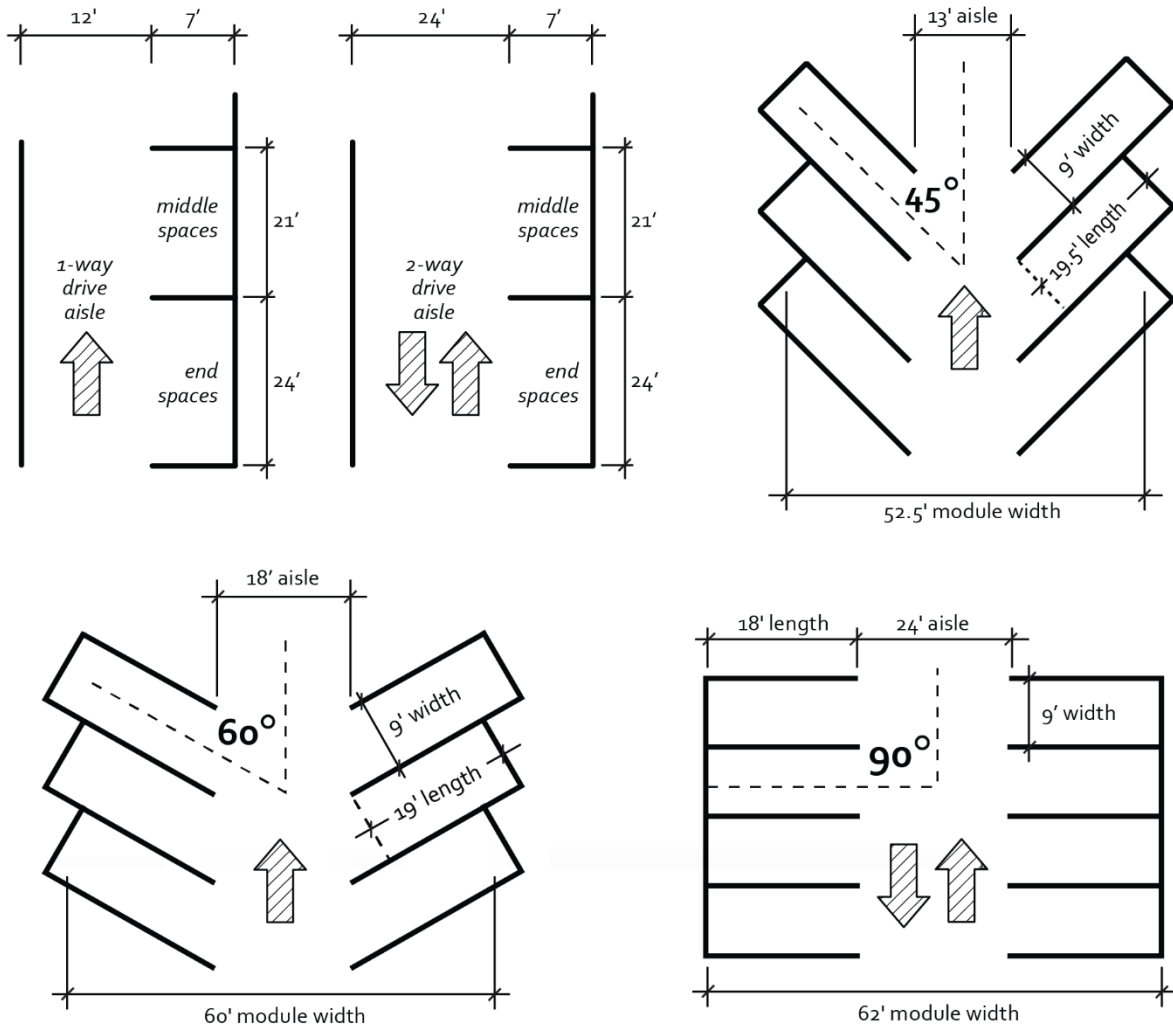
See Article 7.

6.705 **Stall Sizes and Parking Lot Geometrics**

Off-street parking areas must be designed to allow all vehicle maneuvers such as backing, parking and vehicle turning to take place on the lot. The dimensions of parking stalls and drive aisles must comply with the regulations of Table 6-3. Accessible parking spaces (for people with disabilities) are subject to the regulations of Sec. 6.900.

Table 6-3: Parking Area Dimensions				
	Angle of Paring			
	0° (Parallel)	45°	60°	90°
Stall Width (feet)	7	9	9	9
Stall Length (feet)	21 (middle), 24 (ends)	19.5	19	18
Aisle Width (feet)	12 (one-way), 24 (two-way)	13	18	24
Module Width (feet)	NA	52.5	60	62
Note: Dimensions are measured from the centerline of the stripe delineating the space.				

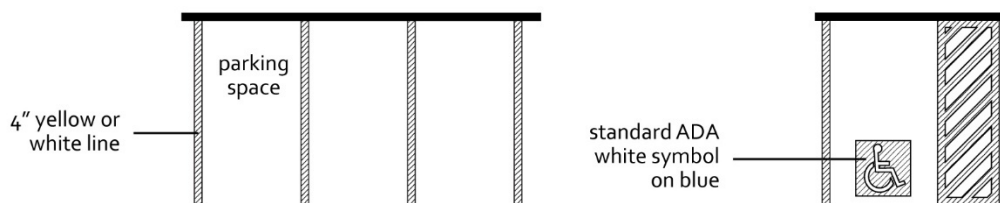
Figure 6-2: Parking Area Layout/Dimensions



6.706 **Striping**

In all parking lots containing 5 or more parking spaces, striping consisting of parallel lines, 4 inches in width must be provided for each parking space. Striping must be yellow or white. Accessible parking spaces must be painted in accordance with the [Texas Accessibility Standards](#). See Figure 6-3.

Figure 6-3: Parking Lot Markings



6.707 **Fire Lane Markings**

Fire lanes must be marked in accordance with the fire code.

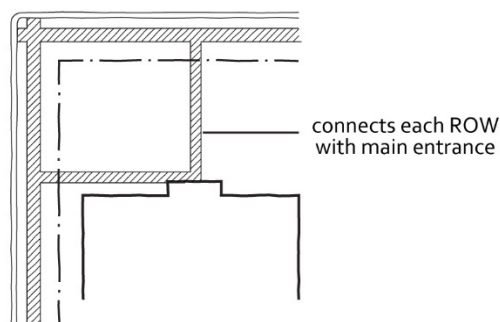
6.800 PEDESTRIAN CIRCULATION

An on-site circulation system for pedestrian and non-motorized travel must be provided in accordance with the requirements of this section. These pedestrian circulation requirements do not apply to lots occupied by detached houses, two-unit houses or attached houses.

6.801 Connection to the Street

The on-site pedestrian circulation system must connect all adjacent public rights-of-way to the main building entrance. The connection must follow a direct route and not involve significant out-of-direction travel for system users. See Figure 6-4.

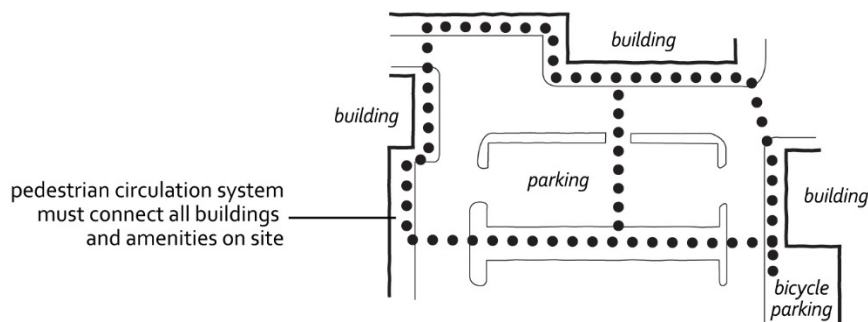
Figure 6-4: Connecting Building Entrances to Street



6.802 Internal Connections

The on-site pedestrian circulation system must connect all buildings on the site and provide connections to other areas of the site likely to be used by pedestrians and non-motorized travel, such as parking areas, bicycle parking, recreation areas, plazas and similar amenity features. See Figure 6-5.

Figure 6-5: Internal Site Connections



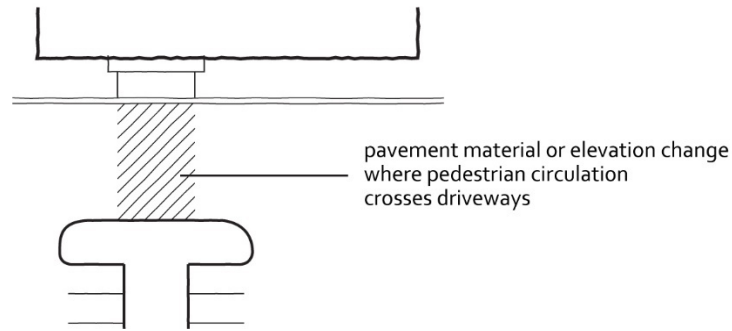
6.803 Design

Required on-site pedestrian circulation facilities must be designed and constructed in accordance with the following requirements:

- 6.803.A The on-site pedestrian circulation system must be hard-surfaced, with a dust-free material and be at least 5 feet in width.
- 6.803.B When the on-site pedestrian circulation system crosses driveways, parking areas or loading areas, it must be clearly differentiated through the use of

elevation changes, a different paving material or other equally effective methods. Striping does not meet this requirement. See Figure 6-6.

Figure 6-6: Driveway Crossing



- 6.803.C When the on-site pedestrian circulation system is parallel and adjacent to a motor vehicle travel lane, it must be a raised path at least 6 inches above the vehicle travel lane surface or be separated from the vehicle travel lane by a raised curb, bollards, landscaping or another physical barrier. If a raised path is used, the ends of the raised portions must be equipped with accessible curb ramps.
- 6.803.D The on-site pedestrian circulation system must be illuminated to ensure that it can be used safely at night by employees, residents, and customers. Lighting must be at a height appropriate for a pedestrian pathway system.

6.900 ACCESSIBLE PARKING FOR PEOPLE WITH DISABILITIES

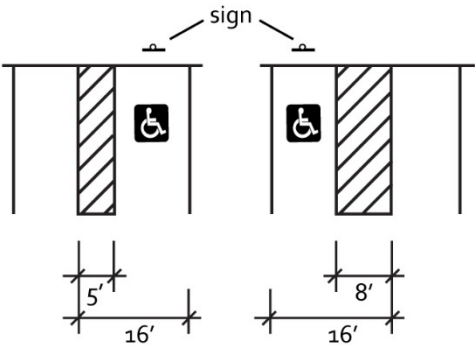
- 6.901 The number, location and design of accessible parking spaces for people with disabilities must be provided in accordance with this section and the [Texas Accessibility Standards](#).
- 6.902 Accessible spaces must be provided in accordance with Table 6-4.

Table 6-4: Minimum Accessible Parking Space Ratios	
Total Off-Street Parking Spaces Provided	Accessible Parking Spaces Required
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
over 1,000	20 plus 1 for each 100 over 1,000

- 6.903 Accessible parking spaces count towards the total number of parking spaces required.
- 6.904 Each accessible parking space, except on-street spaces, must be at least 16 feet in width, with either an 8-foot or 5-foot wide diagonally striped access aisle. The access aisle may be

located on either side of the vehicle portion of the accessible space. Abutting accessible parking spaces may not share a common access aisle. See Figure 6-7.

Figure 6-7: Accessible Parking Spaces



- 6.905 Accessible parking spaces and accessible passenger loading zones that serve a particular building must be the spaces or zones located closest to the nearest accessible entrance on an accessible route. In separate parking structures or lots that do not serve a particular building, parking spaces for disabled persons must be located on the shortest possible circulation route to an accessible pedestrian entrance of the parking facility.
- 6.906 The regulations of this section apply to required spaces and to spaces that are voluntarily designated for accessible parking.

6.1000 DRIVE-THROUGH FACILITIES

6.1001 Purpose

These regulations of this section are intended to help ensure that

- 6.1001.A There is adequate on-site maneuvering and circulation area for vehicles and pedestrians;
- 6.1001.B Vehicles awaiting service do not impede traffic on abutting streets; and
- 6.1001.C Impacts on surrounding uses are minimized.

6.1002 Applicability

The regulations apply to new developments, the addition of drive-through facilities to existing developments and the relocation of existing drive-through facilities.

6.1003 Stacking Spaces Required

Stacking lanes must be provided in accordance with the minimum requirements of Table 6-5.

Table 6-5: Stacking Space Requirements	
Use	Minimum Number of Stacking Spaces Required
Bank/financial institution	4 spaces per drive-through lane
Car wash	2 spaces per approach lane, plus 2 drying spaces at end of bay
Vehicle repair/maintenance	2 per service bay
Gasoline pump	2 spaces per pump per side
Restaurant	6 total spaces, with at least 3 spaces between order and pick-up station
Other	3 spaces per lane, ordering station or machine

6.1004 **Stacking Lane Dimensions, Design and Layout**

6.1001.A Stacking lanes must be designed so that they do not interfere with parking movements or safe pedestrian circulation. Stacking lanes must have a minimum width of 9 feet.

6.1001.B All stacking lanes must be clearly identified, through such means as striping, landscaping, pavement design, curbing and/or signs.

6.1005 **Setbacks**

Stacking lanes must be set back at least 50 feet from any abutting RU, LR, and MR districts.

6.1006 **Noise**

Sound attenuation walls, landscaping or other mitigation measures must be provided to ensure that drive-through facilities will not have adverse noise-related impacts on nearby residential uses.

6.1100 DRIVEWAYS

6.1101 **Applicability**

All new, expanded, upgraded and reconstructed driveways are subject to the regulations of this section

6.1102 **Street Access**

Driveways are allowed to take access only to streets where full street improvements exist and are maintained as public streets by the City, provided that low-volume (residential) driveways may take access to public lanes, alleys or other accepted public access facilities in existence before June 10, 1986.

6.1103 **Permits Required**

No driveway may be constructed, expanded, upgraded or reconstructed until a driveway permit is obtained from the Building Official.

6.1104 **Driveway Location**

The location of driveways is based on many factors, including the location of individual property lines and available street frontage, requirements of internal site design, the number of vehicles expected to use the driveways, and traffic safety. Generally, the farther from an intersection that a driveway can be located, the less it will affect traffic safety, through traffic and the less delay it will cause to vehicles using the driveway.

6.1104.A All driveways must be located so as not to interfere with pedestrian crosswalks and to safely accommodate non-motorized traffic.

6.1104.B Low-volume (residential) driveway approaches must be located entirely within the frontage of the lot and set back at least 3 feet from any side property line, except as allowed by §6.1105.B.

6.1104.C High-volume driveway approaches must be located entirely within the frontage of the lot and set back at least 10 feet from any side property line. This location restriction does not apply to joint-access driveways governed by a permanent joint-access agreement among the respective property owners either through platting or a mutual access easement.

6.1104.D The location of other driveways on the opposite side of the street must be taken into consideration when locating a proposed driveway. Whenever possible, driveways on opposite sides of the street must be aligned to reduce adverse effects on through traffic and to optimize efficiencies of the driveway.

Driveways directly opposite each other are preferable to staggered driveways. Where it is not possible to place driveways directly opposite each other, a driveway must be placed so that adequate left-turn storage capacity is provided ahead of each driveway to avoid the overlap of left-turn movements.

- 6.1104.E Driveways must be set back at least 3 feet from any obstruction, such as a street light or utility pole, fire hydrant, traffic signal controller, telephone junction box, etc

6.1105 **Number of Driveways per Lot**

- 6.1105.A The maximum number of driveways per lot may not exceed the limits established in Table 6-6, except as stated in §6.1105.B.

Table 6-6: Maximum Number of Driveways per Lot ¹		
Street Type	Street Frontage (feet)	Permitted Driveways
Local	< 100	1
	101–200	2
	Over 200	1 per additional 100 feet
Collector	< 100	1
	100–250	2
	Over 250	1 per additional 200 feet
Arterial	< 100	1
	100–300	2
	Over 300	1 per additional 300 feet

¹ Exception: Residential circle drives are considered one driveway.

- 6.1105.B When the owners of abutting lots agree to permanently combine driveway access points, the total street frontage required will be reduced by 15% for each lot. In addition, if the agreement also includes a shared parking agreement, the required number of parking spaces may be reduced by 15% for each development.

6.1106 **Driveway Design and Construction**

6.1106.A **Width**

Driveway entrance widths must be designed and constructed to accommodate all vehicle types that will be entering the lot, including delivery vehicles. Minimum and maximum driveways widths are established in Table 6-7.

Table 6-7: Driveway Widths				
	Low-Volume Driveways	High-Volume Driveways		
		1-way Entrance	1-way Exit	2-way entrance/exit
Minimum Width (feet)	12	20	20	25
Maximum Width (feet)	24	24	24	38

Figure 6-8: Low-volume Driveway Width

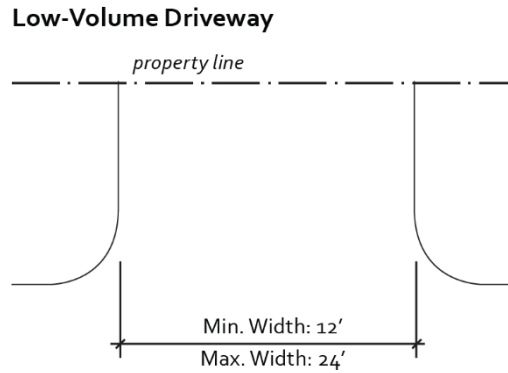
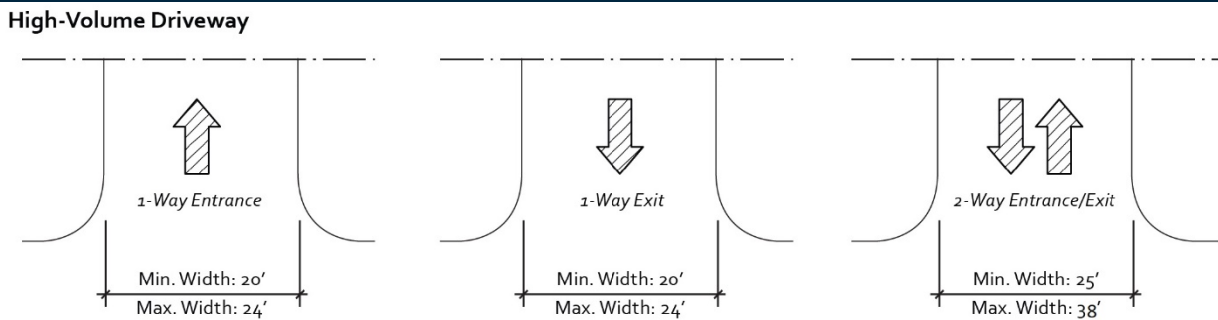


Figure 6-9: High-volume Driveway Width

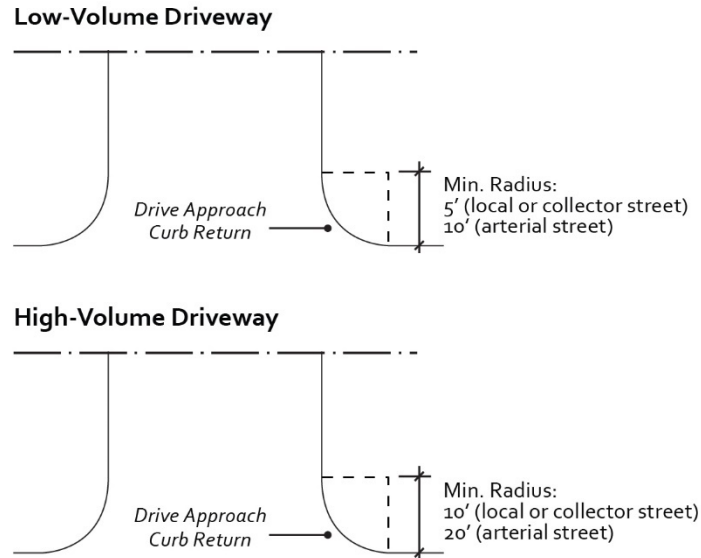


6.1106.B Curb Return Radii

Driveway curb return radii must be designed and constructed according to the type of driveway and the classification of street, as established in Table 6-8.

Table 6-8: Driveway Curb Return Radii		
Street Classification	Low-Volume Driveway (feet)	High-Volume Driveway (feet)
Local	5	10
Collector	5	10
Arterial	10	20

Figure 6-10: Driveway Curb Returns



6.1106.C Deceleration Lanes

Tapered or channelized deceleration lanes for vehicles turning right into high-volume or intersection type driveways may be required on arterial streets. Where such lanes are deemed necessary by the City Engineer, additional right-of-way may also be required.

6.1106.D One-Way Driveways Encouraged

The use of one-way driveways, supported by an appropriate internal circulation system, is encouraged so that entrances and exits can be separate driveways. This will promote smoother traffic flow into and out of the driveways and reduce traffic congestion in through lanes on the street.

6.1106.E Special Designs

When deemed necessary for the safe and efficient movement of traffic, the City Engineer is authorized to require that special design techniques be employed to restrict or limit turning movements into or out of a driveway.

Figure 6-11: Right-in, Right-out Driveway Design

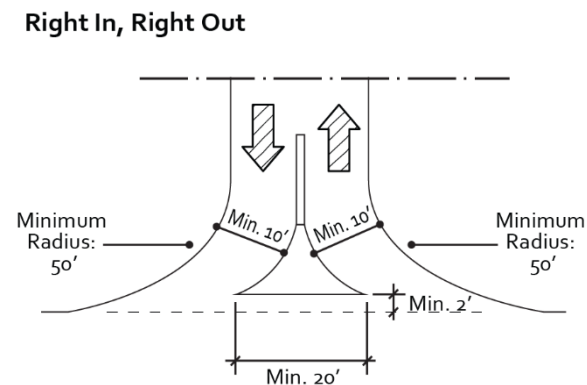


Figure 6-12: Right-in, Right-out, Left-in Driveway Design

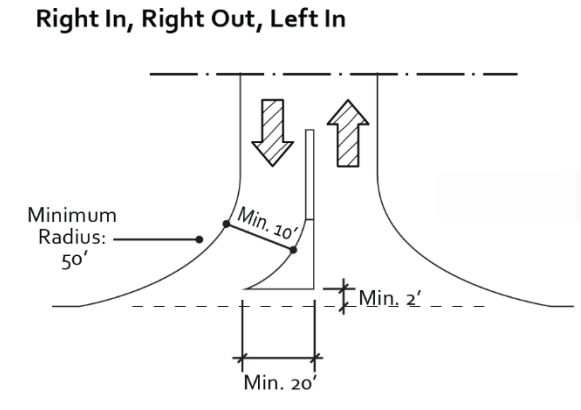
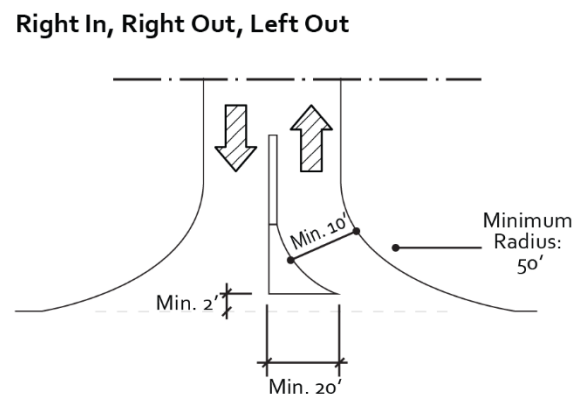


Figure 6-13: Right-in, Right-out, Left-out Driveway Design



6.1106.F Fueling Stations

Sites that include fuel pumps parallel to the street are subject to the following additional regulations:

1. A minimum corner clearance of 35 feet is required, as measured from the point of intersecting right-of-way lines to the point of tangency of the curb return radii leading to the driveway approach. The point of tangency of the curblane corner radius and that of the curb return radius of the driveway approach is not compounded.
2. The spacing between driveway approaches within the same property lines must be at least 25 feet of tangent curb length.
3. A distance between the fuel pump, island and the right-of-way or property line must be at least 25 feet.

6.1107 Spacing of High-Volume Driveways

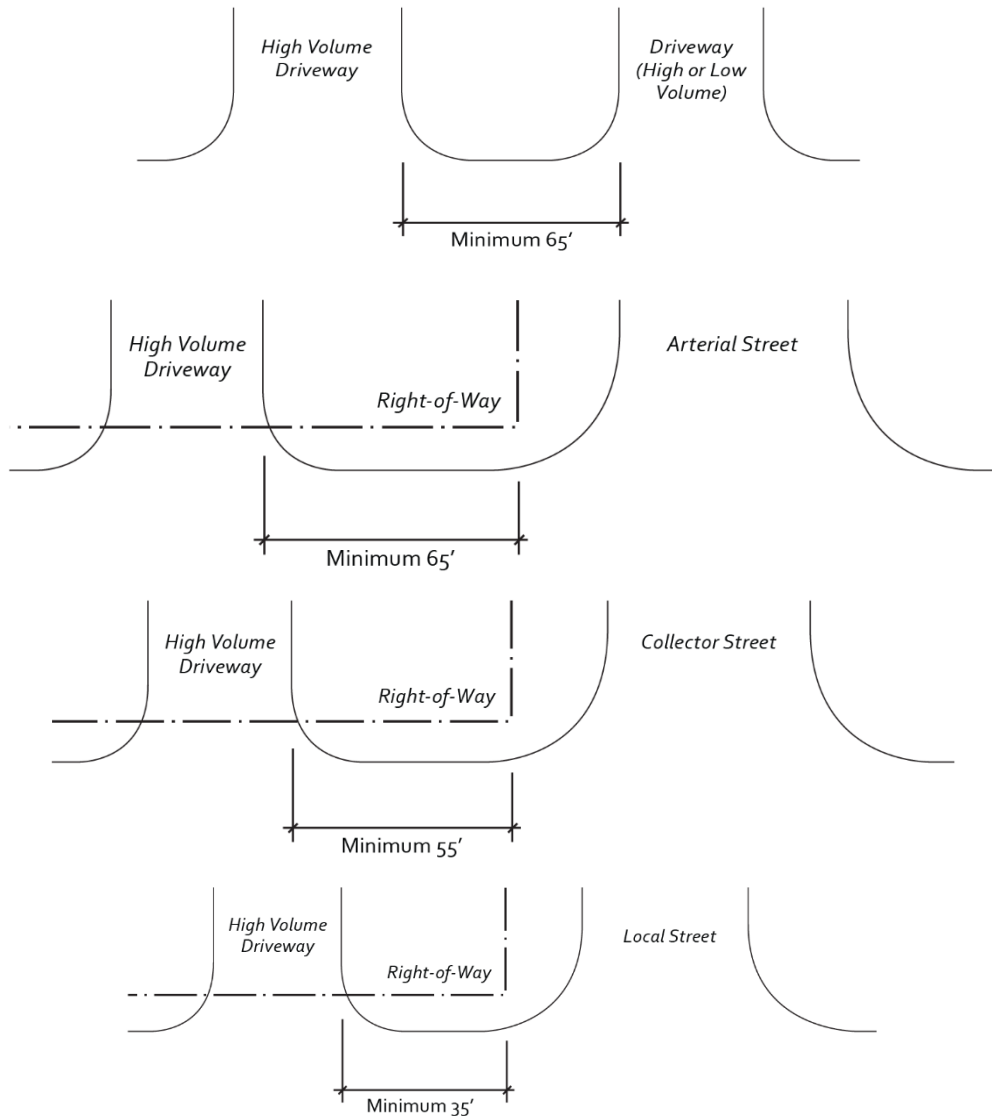
6.1107.A High-volume driveways must be separated from other (high-volume and low-volume) driveways by a minimum distance of 20 feet.

6.1107.B High-volume driveways must be separated from intersecting street rights-of-way in accordance with the following minimum requirements:

1. Driveway spacing from intersecting arterial street ROW: 65 feet
2. Driveway spacing from intersecting collector street ROW: 55 feet

3. Driveway spacing from intersecting local street ROW: 35 feet

Figure 6-14: Required Spacing of High-volume Driveways



6.1108 Sight Distance Requirements

Driveways must comply with the intersection sight distance requirements of §10.407.D.

6.1109 Additional Safety-related Access Restrictions

The City Engineer is authorized to restrict or prohibit access to public streets when any of the conditions described below compromise the safety or mobility of motorized or nonmotorized travelers.

6.1109.A Backing Maneuvers

Access may be denied for parking or loading areas that require backing maneuvers in a public street right-of-way except for detached houses or two-unit houses on local streets.

6.1109.B Signalized Intersections

Access drives within the area of intersection of public streets where traffic signals are installed, or are anticipated to be installed in the future are prohibited.

6.1109.C **Provision of Access**

If a lot has frontage on more than one street, access will be allowed only on those street frontages where driveway regulations can be met. If a lot cannot be served by any access point meeting these regulations, the City Engineer is authorized to designate an allowed access based on traffic safety, operational needs and conformance to as many of the applicable driveway requirements as possible.

6.1109.D **State Highway Access**

Driveway openings on to state highways require approval of the Texas Department of Transportation.

6.1110 **Driveway Construction**

The portion of the driveway approach within the street right-of-way must be paved with concrete or asphalt, as follows:

6.1110.A **Apartment/Condo, Commercial, or Industrial**

All pavement must be concrete.

6.1110.B **Residential (other than Apartment/Condo)**

All driveway pavement abutting curb and gutter streets must be concrete. Driveway pavement abutting on non-curb and guttered streets may be concrete or asphalt or may be addressed as follows:

6.1110.C Property owners developing apartment/condo, commercial or industrial driveways located on non-curbed and guttered streets are responsible for all culvert installations.

6.1110.D Residential driveways taking access to non-curbed and guttered streets within the City limits will be provided culverts by the City. The City will charge the property owner its actual material and installation costs.

6.1111 **Maintenance of Driveway Approaches**

For driveway approaches and associated appurtenances used for ingress and/or egress to the property abutting, it is the duty of the subject property owner to maintain the driveway approach and associated appurtenances in accordance with City standards and specifications.

6.1200 LOADING

Any use that regularly receives or distributes materials or merchandise by truck must provide off-street loading spaces in accordance with the regulations of this section.

6.1201 **Minimum Ratios**

Off-street loading spaces must be provided in accordance with Table 6-9.

Table 6-9: Off-street Loading Requirements	
Use Type	Minimum Loading Spaces Required
Public, Civic, Institutional, Commercial and Industrial	
Under 25,000 square feet	None
25,000–49,999 square feet	1 space
50,000+	1 space per 50,000 square

6.1202 Design and Location

- 6.1202.A Off-street loading spaces must be at least 12 feet in width and 35 feet in length unless off-street loading will involve the use of vehicles in excess of 35 feet in length, in which case the minimum size of a loading space is 12 feet by 55 feet. All loading spaces must have a minimum vertical clearance of 14 feet.
- 6.1202.B All loading spaces must include sufficient maneuvering space to prevent interference with pedestrian or vehicular circulation on the subject site and on public streets and sidewalks, as determined by the City Engineer.
- 6.1202.C All loading spaces must be located on the subject lot, provided that the City Planner is authorized to approve central off-street loading spaces for a group of contiguous lots as a substitute for loading berths on individual lots if the following conditions are met:
1. Each lot served must have direct access to the central loading area without at-grade crossings streets or alleys; and
 2. No lot served may be more than 500 feet from the central loading area.
- 6.1202.D All loading spaces for semi-tractor trailer combinations must be set back at least 50 feet from all residential districts. Loading spaces may be located within 50 feet of a residential district if completely enclosed by a solid wall at least 6 feet in height.
- 6.1202.E All off-street loading areas must be properly designed and improved with a compacted stone base and an all-weather, dust-free surface, generally asphalt or concrete.
- 6.1202.F Plans for the location, design and construction of all loading areas are subject to approval by the City Planner.
- 6.1202.G Loading spaces may not be used to satisfy off-street parking requirements or for the conduct of vehicle repair or service work of any kind.

ARTICLE 7 LANDSCAPING AND BUFFERS

Contents:

7.100 General

7.200 Minimum Landscaping

7.300 Distribution of Required Landscaping

7.400 Credits and Incentives

7.500 Buffers

7.600 Garbage and Recycling Dumpsters

7.700 Landscape Planting Areas and Maintenance Requirements

7.800 Trees in Public Rights-of-way

7.900 Tree Preservation

7.1000 Inspections, Permits, and Fees

7.1100 Regulations and Restrictions

7.1200 Development Standards

7.1300 Enforcement for Violations

7.100 GENERAL

7.101 Purpose

The landscaping and buffer regulations of this article establish minimum requirements for landscaping and screening. The regulations are intended to advance the general purposes of this Development Code and to help:

- 7.101.A Maintain and enhance the City's appearance;
- 7.101.B Mitigate possible adverse impacts of higher intensity land uses that are established near lower intensity land uses;
- 7.101.C Reduce the impacts of noise and glare.
- 7.101.D Maintain and improve air quality;
- 7.101.E Protect water quality and reduce the negative impacts of stormwater runoff by reducing impervious surface area and providing vegetated areas that filter and retain greater amounts of stormwater on site;
- 7.101.F Moderate heat by providing shade;
- 7.101.G Ensure wise use of water resources; and
- 7.101.H Encourage preservation of existing trees and landscaping.

7.102 General Exemption

The following are exempt from the landscaping and screening regulations of this article:

- 7.102.A Agricultural uses;
- 7.102.B Public parks and open spaces;
- 7.102.C Detached houses and duplexes, except that the Residential Planting Requirements of Article 7.305 shall be provided for; and
- 7.102.D Lots within the Downtown (D) zoning district.

7.200 MINIMUM LANDSCAPING

7.201 New Buildings and Developments

Minimum landscaping requirements for new buildings and developments are as follows:

- 7.201.A In the MU zoning district, at least 10% percent of the total lot area must be devoted to landscape development.
- 7.201.B In the PI zoning districts, at least 10% of the total lot area must be devoted to landscape development.
- 7.201.C In the IN zoning district, at least 5% of the total lot area must be devoted to landscape development.
- 7.201.D In all other zoning districts, no landscape development must be provided.
- 7.201.E At least 18 diameter inches of canopy trees must be provided per acre of total lot area.

Commentary: The size of existing (planted) trees is measured as "diameter at breast height (DBH)". "Caliper" size is used to measure trees to be planted.

- 7.201.F Non-canopy trees and shrubs must be provided in at least 10% of the required landscape development.

7.202 Additions to Existing Buildings and Developments

- 7.202.A When an existing building or development is expanded to include additional floor area, landscaping must be provided in proportion to the amount of expansion, as follows:

$$\frac{\text{(gross floor area new)}}{\text{(gross floor area new + existing)}} \times \text{landscaping required for new buildings and developments per Sec. 7.201} = \text{landscaping required for expansion of existing building/development}$$

- 7.202.B Nothing in this article is to be construed as requiring an owner that expands an existing building to landscape more than 10% percent of the site.

7.300 DISTRIBUTION OF REQUIRED LANDSCAPING

Landscaping required under Sec. 7.200 must be distributed in accordance with the requirements of this section.

7.301 Adjacent to Building

- 7.301.A The minimum amount of landscape development that must be provided adjacent to buildings is calculated as follows:

$$\frac{\text{Building area (sq. ft.)}}{\text{Lot area (sq. ft.)}} \times 10\% \text{ of lot area} = \text{Minimum landscape development adjacent to building}$$

- 7.301.B Landscaping required adjacent to buildings must be located between the street-facing building façade and the abutting street right-of-way and within 50 feet of the street-facing building façade.

7.302 Parking Lots (Perimeter and Interior)

The minimum amount of landscape development that must be provided within (interior) and around (perimeter) off-street parking lot is calculated as follows:

$$\frac{\text{Parking lot area (sq. ft.)}}{\text{Lot area (sq. ft.)}} \times 20\% \text{ of lot area} = \text{Minimum required landscape development interior to parking area}$$

7.303 **Other Areas**

After satisfying the minimum requirements for areas adjacent to buildings and within and around parking lots, the remaining landscaping requirements must be dispersed in remaining areas of development.

7.304 **Waivers for Tree Preservation**

In order to preserve existing trees, the City Planner is authorized to waive the landscape development distribution requirements for up to 50% of the canopy trees required by §7.201.B, provided that the planting and tree protection areas comply with Sec. 7.402.

7.305 **Residential Planting Requirements**

The minimum planting requirement for new single-family dwellings, Duplexes and Townhouses is two (2) Protected Trees per residential unit, one of which must be located in the front setback of the lot.

7.400 CREDITS AND INCENTIVES

7.401 **Landscape Development within Setbacks**

Landscape development provided within street setback areas are given double credit towards meeting the minimum landscaping requirements of Sec. 7.200.

7.402 **Preservation of Existing Trees**

The City Planner is authorized to reduce the minimum landscaping requirements of Sec. 7.200 to 7.5% in accordance with the following tree preservation and credit provisions:

7.402.A Existing trees are given credit against minimum landscaping requirements, as follows:

1. For preservation of existing trees with a diameter at breast height of 12 inches or more, each diameter inch of preserved tree may be credited as 20 square feet of landscaped development.
2. For preservation of existing trees with a diameter at breast height of more than 3 inches but less than 12 inches, each diameter inch of preserved tree may be credited as 10 square feet of landscaped development.
3. Trees with a diameter at breast height of 3 inches or less may be counted towards satisfying tree planting requirements but are not given additional credit towards satisfying landscaped development requirements.

7.402.B The tree preservation credits of this section are in addition to the planting area in which the tree is contained, provided that:

1. No tree may be given credit unless it is in a planting area whose least dimension is the radius of the crown spread of the tree measured from the trunk center, unless a landscape architect or arborist certifies in writing that the proposed planting area is sufficient to ensure the tree's long-term health.

2. Any tree credits given must be revoked and disallowed if, during development and construction, the owner, contractor or any of their agents or employees, place solvent, materials, construction machinery, or temporary soil deposits within 6 feet, or the radius of the subject tree's crown spread, whichever is greater.

7.403 **Landscaping in Lieu of Off-Street Parking**

- 7.402.A The City Planner is authorized to reduce minimum off-street parking requirements by up to 10% or 1 space, whichever is greater, in order to accommodate minimum parking lot landscaping requirements.
- 7.402.B The City Planner is also authorized to reduce minimum off-street parking requirements by up to 10% or 1 space, whichever is greater, for developments that exceed minimum landscaping requirements, provided that at least one additional 3-inch caliper tree is provided for every parking space eliminated.

7.500 BUFFERS

7.501 **Purpose**

Buffers are intended to mitigate the possible adverse effects (e.g., noise, lighting, and other site-related and operational impacts) that can occur when higher intensity development occurs abutting low-density, detached house residential areas.

7.502 **Applicability**

- 7.502.A Buffers are required when any nonresidential development occurs on parcels that abut RU, LR, and MR zoning districts or lots occupied by detached houses.
- 7.502.B Buffers are required when any apartment/condo or group living use is developed on lots that abut a RU, LR, and MR district or a lot occupied by detached houses.
- 7.502.C The buffer requirements of this section are triggered when new development occurs or when existing uses or buildings are expanded by more than 10% of their existing gross floor area.

7.503 **Standards**

7.503.A **Location**

Removal of existing vegetative buffers adjacent to lots occupied by detached homes is prohibited. A minimum of ten feet (10') of existing vegetative buffer must be retained.

Buffers must be provided along the entire property line that abuts the RU, LR, and MR district or lot occupied by a detached house. Buffers may not be located on any existing, dedicated, or reserved public or private street or right-of-way.

7.503.B **Options**

Either of the following options may be used to satisfy the buffer requirements of this section:

1. **Landscape Buffer**

Provide a landscape development area at least 8 feet in width with at least 3 evergreen shrubs per 10 linear feet of buffer area, plus at least one tree per 30 linear feet of buffer area. Required shrubs must be at least 18 inches in height upon planting and at least 4 feet in height at maturity. Required trees must be at least 10 feet in height at maturity.

2. **Fence or Wall**

Provide a 6-foot solid wall or fence along the property line and at least one tree per 30 linear feet of fence or wall. Required trees and landscaping must be placed inside the fence or wall.

7.504 Use of Buffers

- 7.504.A Required buffers may be used for nonmotorized trails and passive recreation uses, provided that:
1. No plant material is eliminated.
 2. The total width of the buffer is maintained.
 3. All other regulations of the Code are met.
- 7.504.B With written permission of the City, a required buffer may include a stormwater detention area.
- 7.504.C Buffers may not be used for any of the following: playfields, stables, swimming pools, tennis courts, or similar active recreation uses.

7.600 GARBAGE AND RECYCLING DUMPSTERS

Garbage and recycling dumpsters must be placed on concrete pads and be screened from view of streets and all abutting parcels with a solid fence or wall at least 6 feet in height. Dumpster locations and designs must comply with all applicable Solid Waste Services Division requirements and be indicated on required site plans.

7.700 LANDSCAPE PLANTING AREAS AND MAINTENANCE REQUIREMENTS

The planting area and maintenance requirements of this section apply to all required buffers and landscape areas.

- 7.701 Required trees must be located in a planting area sufficient for growth, maintenance and irrigation.
- 7.702 All trees within or near parking areas and driveways must be protected from damage by vehicles by a curb, wheel stop or other City-approved barrier.
- 7.703 Required landscaping must be irrigated by an irrigation or sprinkler system or be located within 150 feet of a hose connection.
- 7.704 The developer must maintain and protect landscaped areas and must replace any diseased, dying or dead landscaping within 45 days after receiving notification from the City. Extensions of this replacement period may be allowed based upon seasonal considerations. Replacement plantings must equal or exceed the size and quality of plantings being replaced.

7.800 TREES IN PUBLIC RIGHTS-OF-WAY

A person commits an offense if he removes or destroys a tree in the street right-of-way or in any public place without first obtaining a permit from the City Manager.

7.900 TREE PRESERVATION

7.901 Purpose

The purpose of this section is to establish rules and regulations governing the protection of trees within the City of Huntsville, to encourage the protection of native, healthy and desirable trees and to provide for the replacement and replanting of trees that are removed from developed or undeveloped property, or are necessarily removed during construction, development, or redevelopment. This Tree Preservation Criteria may be used as credit to comply with the Landscaping and Buffer requirements of Article 7.100

7.902 **Applicability**

The terms and provisions of this section shall apply to real property as follows:

- 7.902.A All real property upon which any designated protected tree is located.
- 7.902.B All vacant and undeveloped property.
- 7.902.C All property to be redeveloped, including additions and alterations.
- 7.902.D The yard areas of all developed property, excluding owner-occupied single-family residential property; rental properties are not excluded and are specifically subject to the provisions of this section.
- 7.902.E All easements and rights-of-way except those included in a plat approved by the City Planning Commission shall meet the terms and provisions of this section. Protected trees located within platted rights-of-way, easements and buildable areas need not be included in calculated replacement plans.
- 7.902.F City of Huntsville Officials may require the removal of nuisance trees that can have an adverse effect on other trees or structures, either on public or private properties, by requiring their removal.

7.1000 INSPECTIONS, PERMITS, AND FEES

7.1001 **Tree Removal Permit Required**

A tree removal permit shall be required when protected trees are to be removed from a site. No person, directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging, any protected tree situated on property described above without first obtaining a tree removal permit from the city.

7.1002 **Protected Tree Removal Permit**

Permits for removal or replacement of protected trees covered herein shall be obtained by making application on a form prescribed by the city and submitted to the Development Services Department. The application shall be accompanied by a Tree Survey/Inventory showing the exact location, caliper size, height, and common name of all protected trees to be removed excluding those in the buildable area. The application shall also be accompanied by a written document indicating the reasons for removal or replacement of protected trees and two copies of a Tree Survey/Inventory plan drawn to the largest practicable scale indicating the following:

1. Location of all existing or proposed structures, improvements such as streets, alleyways, etc. and site uses, properly dimensioned and referenced to property lines, setback and yard requirements and special relationships.
2. Date, scale, north point, and vicinity map.
3. Location of existing and proposed public utility easements, public access easements and drainage easements on the lot.
4. Location and dimensions of visibility triangles on the lot.

5. Location of all protected trees on the site to remain that are three-inch caliper or greater when measured at a point 4½ feet above the ground level. Protected trees to remain shall be designated by a circle.
 6. Location of all protected trees on the site to be removed that are three-inch caliper or greater when measured at point 4½ feet above the ground level. Protected trees to be removed shall be designated by a triangle.
 7. Tree information required above shall be summarized in legend form on the plan and shall include the reason for the proposed removal.
 8. Protected tree replacement plan: The plan shall exhibit the location of protected trees proposed to be replaced and include a legend indicating the species, caliper size and height of proposed tree replacement. Replacement trees shall be designated by a square
- 7.1003 **Tree protection plan:** The plan shall describe how existing healthy protected trees proposed to be retained will be protected from damage during construction.
- 7.1004 **Application review:** Upon receipt of a complete application, Development Services staff shall review the applications for compliance with this section; said review may include a field inspection of the site, and the application may be referred to such departments as deemed appropriate for review and recommendations. Following the review and inspection, the permit applications will be approved, disapproved, or approved with conditions by Development Services staff as appropriate.

7.1100 REGULATIONS AND RESTRICTIONS

7.1101 Protected Tree Removal

No protected tree or trees shall be removed prior to issuance of a tree removal permit unless one of the following conditions exist:

1. The protected tree is located in a public utility easement, public access easement or public street right-of-way as recorded on a plat initially approved by the Planning Commission.

In the event that certain protected trees outside the above areas or protected trees located partially outside the easement are requested to be removed to allow the operation of equipment, the applicant shall submit a site plan which indicates the exact operation area needed.

2. The protected tree is diseased, injured, in danger of falling, interferes with utility service, creates unsafe vision clearance, or conflicts with other ordinances or regulations, the protected tree may be removed with the approval of the director of development services.
3. Except for the above, under no circumstances shall there be clear cutting of protected trees on a property prior to the issuance of a tree removal permit.
4. The Director of Development Services may approve the removal of protected trees that interfere with the construction of a building and/or the drainage of a lot.
5. The Director of Development Services may approve of the removal of a protected tree or trees located within a drainage easement if the removal is determined to be necessary to ensure the proper construction or maintenance of said drainage easement.
6. The following species of trees are exempt from the protection and preservation requirements stated within this ordinance and are considered

invasive species. Invasive trees shall not be planted nor counted towards any tree caliper credit.

- Tree of Heaven
- Mimosa, Silk Tree
- Paper Mulberry
- Chinese Parasol Tree
- Large Leaf Privets
- Chinaberry 1
- Chinese Pistache 1
- Chinese Tallow

This list may not be all inclusive and is subject to change and will be periodically reviewed and updated if necessary, by the Planning Commission.

7. If under brushing is essential in order to conduct survey work necessary to produce a Survey/Inventory plan, the applicant shall request approval from the Director of Development Services prior to any under brushing activities taking place.

- 7.1102 Upon issuance of a tree removal permit: a developer shall be allowed to remove protected trees located on the buildable area of the property as identified on the approved tree survey/inventory.
- 7.1103 Protected tree replacement requirements. In the event that it is necessary to remove protected tree(s) outside the buildable area, the developer, as a condition of issuance of a protected tree removal permit, may be required to replace the protected tree(s) being removed with comparable trees somewhere within the development. Trees removed from the Buildable Area are not required to be replaced
- 7.1104 Replacement tree specifications: A sufficient number of trees shall be planted to equal, in caliper, the ratio of diameter of the trees removed. Said replacement trees shall be a minimum of two inches caliper and six (6) feet in height when planted and shall be selected from the list of approved replacement trees maintained by the Development Services Department.
- 7.1105 In order to maximize the preservation of existing trees, surveyed trees in good health that have a caliper of at least six (6) inches measured four feet – six inches (4'-6") from the ground may provide credit towards the replacement requirements. Each existing tree preserved between six inches (6") and twelve inches (12") in diameter measured four feet – six inches (4'-6") from the ground may receive replacement credits for two (2) replacement trees. Each existing tree preserved greater than twelve (12") inches in diameter measured four feet – six inches (4'-6") from the ground may receive credit for three (3) replacement trees.
- 7.1106 Protected trees that are removed without a permit shall be replaced at an equivalent caliper inch equaling 100 percent of those protected trees removed from the site as estimated by the Director of Development Services.
- 7.1107 No replacement tree may be planted within a visibility triangle, a watercourse, utility easement or an existing or proposed street or alley.
- 7.1108 A replacement tree must have a minimum caliper of at least two inches when measured at 4 to 6 inches above ground level.

- 7.1109 A replacement tree that dies must be replaced by another replacement tree that complies with the tree removal permit.
- 7.1110 Tree reforestation fund: In situations in which it is not feasible to place the replacement trees on either the subject site or an alternate site, the applicant, upon approval of the Director of Development Services, may make a payment into the tree reforestation fund. The fund amount shall be equivalent to 100 percent of the tree ratio replacement cost. For those protected trees removed without a permit, the fund amount shall be the equivalent of 100 percent of the cost to replace the same caliper of trees removed without a permit. The funds shall be used only for purchasing and planting trees on public property. The amount of payment that is required for each replacement tree should be calculated based on the average cost of a quality tree added to the average cost of planting a tree. No certificates of occupancy shall be issued for the site until the required payment has been made to the tree reforestation fund.

7.1200 DEVELOPMENT STANDARDS

7.1201 Tree Protection.

- 7.1201.A During any construction or land development, the developer shall clearly mark all protected trees to be maintained and may be required to erect and maintain protective barriers around all such trees or groups of trees. The developer shall not allow the movement of equipment or the storage of equipment, materials, and debris or fill to be placed within the drip line of any protected tree.
- 7.1201.B During the construction stage of development, the developer shall not allow the cleaning of equipment or material under the canopy of any protected tree or trees to remain. Neither shall the developer allow the disposal of any waste material such as, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., under the canopy of any protected tree or trees.
- 7.1201.C No attachment or wires of any kind, other than those of a protective nature, shall be attached to any protected tree.
- 7.1201.D Exceptions.
1. In the event that any tree shall be determined to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety, and require immediate removal without delay, authorization may be given by the Director of Development Services and the tree may then be removed without obtaining a written permit as herein required.
 2. During the period of an emergency such as a tornado, storm, flood, the requirements of this section may be waived as may be deemed necessary by Director of Development Services.
 3. Utility companies franchised by the City may remove trees which endanger public safety and welfare by interfering with utility service.
 4. Properties that retain Walker County Appraisal District agricultural, timber or wildlife exemptions are excluded from the provisions of this section.
 5. The provisions of this section shall not apply to any development that has received a building permit approval prior to the effective date of this ordinance.

7.1300 ENFORCEMENT FOR VIOLATIONS

- 7.1301 The City Arborist, Building Official or an authorized representative of the City shall have the authority to place a Stop Work Order on any activity involving the removal of Protected Tree(s) or that may otherwise endanger trees contrary to the provisions of this Subsection. The Director of Development Services may deny all Permits and Certificates of Occupancy for any site which is not in compliance with this Subsection.
- 7.1302 It shall be a violation of this article for any person to intentionally or knowingly remove or destroy or allow the removal or destruction of a protected or Historic tree(s) located on any property to which this article applies, or for any person to knowingly or intentionally perform any regulated activity in manner that does not conform to the requirements of this article. Any act or omission contrary to the requirements or directives of this article, or any breach of any duty imposed by this article shall constitute a violation hereof.
- 7.1303 Any person, firm, company or corporation violating any provision of this article shall, upon conviction be subject to a minimum fine of \$200.00 per violation. Each and every tree removed in violation of this article will be considered a separate violation. Additionally, each and every day until the illegally removed tree has been replaced or otherwise mitigated may be considered a separate violation.
- 7.1304 Protected Tree Species
- Live Oak
 - Pecan Tree
 - Smooth Hackberry
 - American Elm
 - Water Oak
 - Redbud
 - Loblolly Pine
 - Crepe Myrtle
 - Catalpa
 - Post Oak
 - Bois d’Arc
 - Southern Red Oak
 - Black Hickory
 - Cherry Laurel
 - Winged Elm
 - Sycamore Tree
 - Box Elder
 - Southern Magnolia
 - Cottonwood
 - Mimosa
 - Chinaberry

This list may not be all inclusive and is subject to change and will be periodically reviewed and updated if necessary, by the Planning Commission.

ARTICLE 8 SIGNS

Contents:

- 8.100 General
- 8.200 Prohibited Signs
- 8.300 Exempt Signs
- 8.400 Signs in the Right-of-Way
- 8.500 On-Premise Signs
- 8.600 Dynamic Displays
- 8.700 Off-Premise Signs
- 8.800 Administration and Enforcement
- 8.900 Nonconforming Signs
- 8.1000 Sign Maintenance, Abandonment and Removal
- 8.1100 Measurements

8.100 GENERAL

8.101 Purpose

The sign regulations of this article seek to balance the public interest in promoting a safe, well-maintained, and attractive City with the interests of businesses, organizations, and individuals who rely on signs as a means to identify and advertise products, services, and ideas. The regulations have the following specific objectives:

- 8.101.A To encourage the effective use of signs as a means of identification and communication for businesses, organizations and individuals in the City;
- 8.101.B To provide a means of way-finding in the community, thus reducing traffic confusion and congestion;
- 8.101.C To ensure maintenance of signs;
- 8.101.D To prohibit signs of such excessive size and number that they obscure one another to the detriment of the economic and social well-being of the City;
- 8.101.E To protect the safety and welfare of the public by minimizing sign-related hazards to pedestrian and vehicular traffic;
- 8.101.F To promote the reasonable, orderly and effective display of signs by minimizing visual clutter; and
- 8.101.G To minimize the possible adverse effects of signs on nearby public and private property, in particular on residential uses and districts.

8.102 Scope and Applicability

All signs are subject to the regulations of this article and all other provisions of this Development Code unless otherwise expressly stated. It is unlawful for any person to construct, maintain, display or alter or cause to be constructed, maintained, displayed or altered, any sign within the City, except in conformance with this Development Code.

8.103 Substitution of Messages

The sign regulations of this article are not intended to favor commercial speech over constitutionally protected political or noncommercial speech. Any sign allowed under this article may contain, in lieu of any other message or copy, any lawful noncommercial message as long as the sign complies with all regulations governing sign size, height and location and with all other applicable requirements of this Development Code.

8.104 Compliance with Other Codes and Regulations

In addition to the sign regulations of this article, all signs must comply with the building code and all other applicable regulations.

8.200 PROHIBITED SIGNS

The following signs and sign characteristics are prohibited except as otherwise expressly stated:

- 8.201 Signs for which no required permit has been issued;
- 8.202 Signs that obstruct any fire escape, required exit, window or door opening used as a means of egress;
- 8.203 Signs that interfere with an opening required for ventilation;
- 8.204 Signs that obstruct, impair, obscure, interfere with the view of, or that may be confused with, any authorized traffic control sign, signal, or device;
- 8.205 Signs that violate the intersection sight visibility regulations of §10.407.D;
- 8.206 Signs located in, or that project into, the right-of-way or planned right-of-way of a public street, except as expressly allowed by Sec. 8.400 (this prohibition does not apply to public safety (e.g., “stop,” yield,” “school zone”) signs placed by or by order of an authorized governmental agency);
- 8.207 Strobe lights; beacons; flashing, moving, blinking, or chasing lights; or other effects that create the appearance of movement or shape changes;
- 8.208 Signs affixed by any means to a tree, utility pole or traffic control device;
- 8.209 Sign displays with a brightness of such intensity or brilliance that they impair the vision or endanger the safety and welfare of any pedestrian, cyclist, or person operating a motor vehicle;
- 8.210 Signs attached to or painted on an inoperable or unlicensed vehicle (motorized or non-motorized) visible from the right-of-way;
- 8.211 Signs attached to or painted on a licensed motor vehicle if the sign: (1) directs attention to a business, service, commodity, or activity offered or sold on the premises and (2) if the vehicle is parked closer to the street than the nearest building wall (does not apply to vehicles parked for the purpose of immediate loading and unloading);
- 8.212 Roof signs; and
- 8.213 Portable signs, whether existing or new.

8.300 EXEMPT SIGNS

The following signs are exempt signs, which means that they are not counted as signs for purposes of determining the number of signs or amount of signage on a lot. These exempt signs do not require a sign permit unless they are illuminated, in which case they do require a sign permit and review for compliance with applicable codes.

8.301 Directional Signs

- 8.301.A One directional sign may be installed at each vehicle entrance and exit. Such signs may be illuminated, but they may not exceed 4 square feet in area or 5

feet in height. Commercial messages may not comprise more than 50% of the area of a directional sign.

- 8.301.B Off-street parking areas with a capacity of more than 4 vehicles may display signs that do not exceed 12 square feet in area or 10 feet in height. Such signs are allowed for the purposes of informing patrons and visitors about parking rates and rules, the location of stairways and elevators, pedestrian routes, restrooms, and other on-site facilities. Such signs may not be illuminated and may not contain any commercial message.

8.302 Menu Board Signs

Menu board signs that are accessory to allowed drive-through uses are permitted in addition to other allowed signs, as follows:

8.302.A Number and Dimensions

One primary menu board not to exceed 36 square feet in area or 8 feet in height is allowed per order station up to a maximum of 2 primary menu boards. One secondary menu board not to exceed 15 square feet in area or 6 feet in height is allowed.

8.302.B Residential Separation

Menu board signs must be set back at least 50 feet from RU, LR, and MR districts.

8.302.C Visibility

Menu board signs are intended to convey information to motorists within the boundaries of the development and therefore may not be located or oriented to be visible from off site.

8.303 Newspaper Vending Boxes

Vending boxes offering newspapers, brochures or other printed material (whether for sale or free) are not regulated as signs. Such boxes may be placed on sidewalks, provided they do not impede motorized or nonmotorized traffic.

8.304 Temporary Signs

8.304.A Real Estate Signs

One "For Sale," "For Rent" or similar real estate sign is allowed per street frontage. Such signs are limited to a maximum of 32 square feet in area and 16 feet in height except in RU, LR, and MR districts, where they are limited to 8 square feet in area and 8 feet in height.

8.304.B Construction Signs

Up to 3 construction signs are allowed per street frontage during the time that construction or development activity is occurring on the subject lot. Such signs may not exceed 32 square feet in area or 16 feet in height. Construction signs must be removed within 2 weeks of completion of the construction or development.

8.304.C Campaign Signs

Temporary campaign signs are allowed only on private property and only with the consent of the subject property owner. In RU, LR, and MR districts campaign signs may not exceed 8 square feet in area.

8.304.D Nameplates

Nameplates attached to the wall of a building are exempt signs, provided they do not exceed 4 square feet in area.

8.304.E **Window Signs**

Window signs are exempt signs, provided they do not cover more than 50% of the area of the window to which they are affixed.

8.305 **Other Exempt Signs**

The following additional signs are exempt signs:

- 8.305.A Signs established by, or by order or authorization of, any governmental agency;
- 8.305.B Flags, emblems or insignia of any nation or political subdivision;
- 8.305.C Commemorative wall plaques and memorial wall signs;
- 8.305.D Signs that are not legible from any public right-of-way or from beyond the boundaries of the lot or parcel;
- 8.305.E Signs within completely enclosed buildings and that are located more than 12 inches from any window;
- 8.305.F Holiday displays containing no commercial message;
- 8.305.G Labels and notices on accessory equipment or structures, provided the label or notice does not exceeding 15 square inches in area;
- 8.305.H Address and street number signs;
- 8.305.I Signs within a stadium or ball field designed to be viewed solely by spectators within facility;
- 8.305.J “No trespassing,” “no dumping” and similar warning/security signs that do not to exceed 8 square feet in area; and
- 8.305.K Non-illuminated awnings with no more than 6 square feet of sign (copy) area on the border of the awning.

8.400 SIGNS IN THE RIGHT-OF-WAY

8.401 **General Prohibition**

With the exception of signs lawfully permitted or erected before June 16, 1981 or as otherwise expressly stated in this article, signs are prohibited on a public street, public sidewalk, public right-of-way, public curb or other public property without the express consent of the City Council.

8.402 **Nonprofit Temporary Signs in the Public Right-of-Way**

The City Planner is authorized to allow nonprofits to place temporary signs in public rights-of-way when all of the conditions of this subsection are met.

8.402.A **Permit Required**

Any person or entity desiring to place a temporary sign in the public right-of-way must obtain a permit to do so from the City Planner.

8.402.B **Size, Type and Number**

1. A temporary sign placed in the public right-of-way must be freestanding and may not exceed 6 square feet in area.
2. No more than 2 signs may be permitted per intersection, and no more than one sign is allowed per block.
3. A maximum of 50 signs may be located within the right-of-way within the City limits at any one time.

8.402.C **Duration and Location**

1. A temporary sign may be placed in the right-of-way for a period of up to 21 days with a limit of 4 permits per year (per individual or organization) with a minimum of 30 days between permit periods. Removal of the temporary signs must be accomplished by the responsible person, as noted on the permit, before the 22nd day from the date the permit was issued.
2. Temporary signs are not allowed on IH-45 or State Highway 19 rights of way.

8.403 **Removal of Signs in the Public Right-of-Way**

The City Council authorizes the seizure and removal of any unlawful sign found within a public right-of-way. The Building Official, street department employees, and police department employees are authorized to impound any unlawful signs found on a public right-of-way and to store them for up to 30 days, except that any developer, political, real estate, garage sale or other similar stake-type signs constructed of cloth, wood, paper or similar lightweight materials may be disposed of immediately.

8.500 ON-PREMISE SIGNS

8.501 **Applicability**

The regulations of this section govern non-exempt on-premise signs directing attention to a business, commodity service, or entertainment conducted, sold, or offered upon the premises where such sign is located or to which it is affixed.

8.502 **Residential Districts and Residential Uses in All Districts**

8.502.A **Applicability**

The regulations of this subsection apply to on-premise signs accessory to residential uses in all zoning districts and to all nonresidential uses in residential districts. These are in addition to any exempt signs allowed pursuant to Sec. 8.300.

8.502.B **Development, Neighborhood and Subdivision Identification Signs**

1. Residential developments, neighborhoods and subdivisions, including manufactured housing parks, are allowed a single freestanding sign at each street entrance to the development, neighborhood or subdivision.
2. Residential development, neighborhood and subdivision identification signs must be monument signs. They may not exceed 32 square feet in area or 0.20 square feet of sign area per linear foot of street frontage, whichever is greater, but in no case may the sign exceed 150 square feet in area. The maximum sign area calculation must be based on the street frontage to which the sign is oriented.

8.502.C **Nonresidential Uses**

The following regulations apply to all principal nonresidential uses in residential districts.

1. **Wall Signs**

Nonresidential uses in residential districts are allowed a maximum of one wall sign per public building entrance. Such signs may not exceed 32 square feet in area.

2. **Freestanding Signs**

Nonresidential uses in residential districts are allowed a maximum of one freestanding sign per street frontage. Allowed freestanding signs are subject to a maximum height limit of 20 feet and may not exceed 32 square feet in area or 0.20 square feet of sign area per linear foot of street frontage, whichever is greater, but in no case may the sign exceed 150 square feet in area. The maximum sign area calculation must be based on the street frontage to which the sign is oriented.

8.503 **Signs in Nonresidential and Mixed Use Districts**

8.503.A **Applicability**

The regulations of this subsection apply to on-premise signs accessory to nonresidential uses in all nonresidential and mixed use districts. These are in addition to any exempt signs allowed pursuant to Sec. 8.300.

8.503.B **Historic Preservation Compatibility Review in Downtown District**

All signs constructed in the Downtown (D) district shall be administratively reviewed for compatibility with the goals of the Historic Preservation Commission, namely to protect and enhance Huntsville's attractiveness to visitors and the support and stimulus to the economy thereby provided.

8.503.C **Signs Allowed**

1. **Wall Signs**

Wall signs are allowed in all D, nonresidential, mixed use, and PD districts. Wall signs may not exceed an aggregate area of more than 3 square feet per linear foot of building wall to which they are attached. Wall signs are not counted against a lot's allowed sign budget, pursuant to §8.503.D.

2. **Projecting Signs**

a. Projecting signs are allowed in all D, nonresidential, mixed use, and PD districts. Projecting signs are counted against a lot's allowed sign budget, pursuant to §8.503.D.

b. Projecting signs may not exceed 20 feet in height or the height of the principal building on the lot, whichever is less.

3. **Freestanding Signs**

a. Freestanding signs are allowed in all D, nonresidential, mixed use, and PD districts. Freestanding signs are counted against a lot's allowed sign budget, pursuant to §8.503.D.

b. Freestanding signs may not exceed 20 feet in height and the maximum height of a freestanding sign within 100 feet of Highway 19 is 30 feet.

c. Freestanding signs on lots with frontage on Veterans Memorial Parkway, must be monument-style signs that have their sign base directly on the ground or no more than 12 inches above the ground directly beneath the sign.

(1) Required monument signs must be constructed of brick, wood, stone, or metal and have a base that is at least 80% of the width of the top of the sign structure.

(2) In the Veterans Memorial Parkway Overlay, required monument signs may not exceed 6 feet in overall height above grade, as measured from the base of the sign.

- (3) In the I-45 Overlay, required monument signs may not exceed 35 feet in overall height above grade, as measured from the base of the sign.
- (4) The ground area surrounding the base of all required monument signs must be landscaped. The landscape area must be at least as large as the sign area and include shrubs, perennial and/or annual flowers, ornamental grasses, and/or vegetative ground cover.

8.503.D **Sign Budget**

1. **Applicability**

The sign budget provisions of this subsection govern the maximum aggregate number and combined area of all projecting and freestanding signs allowed on a lot in D, the nonresidential, and PD districts, except as otherwise expressly stated.

2. **Maximum Number**

The maximum aggregate number of all projecting and freestanding signs on a lot may not exceed 1 per 100 feet of street frontage or fraction thereof.

3. **Maximum Area**

- a. The maximum aggregate sign area of all projecting and freestanding signs allowed on a lot may not exceed 2 square feet per linear feet of street frontage. A freestanding sign on a lot occupied by a shopping center or office building with 3 or more tenants is allowed a maximum sign area of 3 square feet per linear feet of street frontage if there is only one freestanding sign on the subject lot.
- b. In addition to the maximum aggregate sign area limits, no individual projecting or freestanding sign may exceed 300 square feet in area outside of the I-45 Overlay and 200 square feet in the I-45 Overlay.
- c. In the Medium Density Residential District, wall signs are prohibited.

8.600 DYNAMIC DISPLAYS

The regulations of this section apply to dynamic displays on all signs.

8.601 **Where Allowed**

Dynamic displays are prohibited in D and residential districts. They are allowed in other zoning districts, subject to the dynamic display regulations of this section.

8.602 **Maximum Dynamic Display Area**

The dynamic display portion of any sign may not exceed 75 square feet or the total allowed area of the subject sign, whichever is less, except that the maximum dynamic display area for signs located within 150' of Interstate 45 is 150 square feet. Only one contiguous dynamic display is allowed on a sign face.

8.603 **Orientation**

Dynamic displays must be oriented away from residential districts and residential uses.

8.604 **General Regulations**

The general regulations of this subsection (§ 8.604) apply to all dynamic displays.

- 8.604.A Dynamic displays must be equipped with a default mechanism that freezes the display in one position or presents a static or blank display if a malfunction occurs.

- 8.604.B Dynamic displays may not have a brightness of such intensity or brilliance that they impair the vision or endanger the safety and welfare of any pedestrian, cyclist, or person operating a motor vehicle.
- 8.604.C Dynamic displays must be equipped with a light detector/photocell that automatically adjusts the display's brightness according to natural ambient light conditions or that can be adjusted to comply with the requirements of § 8.604.D.
- 8.604.D The maximum brightness level of a dynamic display shall be measured with an illuminance meter set to measure footcandles accurate to at least two decimals. Illuminance shall be measured with the dynamic display off, and again with the sign displaying a white image for a full color-capable sign, or a solid message for a single-color sign. All measurements shall be taken perpendicular to the face of the sign at the distance as calculated using the following formula:

Measurement Distance = *square root* of the *Area of Sign Sq. Ft. x 100*

The difference between the off and solid-message measurements using the calculated measuring criteria shall not exceed 0.3 footcandles.

1. If the measurement is more than the maximum allowed, the brightness level is in violation of this Development Code and must be adjusted downward. Failure to make such adjustments may result in other available enforcement actions to be taken by the City.

- 8.605 Regulations governing dynamic displays are subject to ongoing monitoring and future modification in the exercise of the City's police powers. No vested right is ever created in an existing dynamic display. If regulations governing operational aspects of dynamic displays (e.g., dwell time, transitions, illumination/brightness, etc.) are modified by the City, sign owners and operators are required to bring dynamic display advertising signs into compliance with all applicable dynamic display regulations.
- 8.606 Flight trespass or spillover from any dynamic display may not cause the light level along any residential district property line, as measured at a height of 60 inches above grade in a plane at any angle of inclination, to exceed 0.1 footcandles above ambient light levels at the subject property line.

8.700 OFF-PREMISE SIGNS

Off-premise signs may not be installed or enlarged after the effective date specified in Sec. 1.300 at any location in the City of Huntsville and Extraterritorial Jurisdiction (ETJ) of the City. Off-premise signs lawfully established before the effective date specified in Sec. 1.300 are deemed nonconforming signs and may continue to exist in their current location in accordance with the regulations of §8.900.

8.800 ADMINISTRATION AND ENFORCEMENT

- 8.801 Sign **Permits**
- 8.801.A All freestanding signs and illuminated signs require review, approval and issuance of a sign permit, unless otherwise expressly stated.
- 8.801.B Any person proposing to erect any sign requiring a sign permit must submit a sign permit application to the City Planner. Application for such permit must be accompanied by detailed plans, including scaled drawings of the proposed

sign, a site plan and other information deemed necessary by the City Planner to determine compliance with applicable regulations.

8.801.C Sign permit fees must be paid prior to the issuance of a sign permit.

8.801.D If the work associated with a sign permit has not been completed within one year of the date of the issuance of the permit, such permit will lapse and become null and void.

8.802 Enforcement

The enforcement provisions of [Article 14](#) apply to signs.

8.900 NONCONFORMING SIGNS

8.901 A nonconforming sign is a sign that was lawfully established but no longer complies with the sign regulations of this Development Code. Any nonconforming sign in lawful existence on the effective date specified in Sec. 1.300 or any sign that becomes nonconforming upon adoption of any amendment to this Development Code may be continued in accordance with the regulations of this article unless otherwise expressly stated. Such nonconforming signs must be maintained in good repair and visual appearance.

8.902 A nonconforming sign and any sign structure must be removed or otherwise modified to comply with the sign regulations of this article if it is damaged or destroyed and the extent of damage or destruction is more than 60% of the cost of erecting a new equivalent sign in the same location, as evidenced by a certified cost estimate from a bona fide sign company.

8.1000 SIGN MAINTENANCE, ABANDONMENT AND REMOVAL

8.1001 Sign Maintenance

All signs (including nonconforming signs) must be maintained in safe, presentable, and good structural material condition at all times, including the replacement of defective parts, painting, repainting, cleaning, and other acts required for sound maintenance and appearance of the sign. Any sign that is deemed by the City to be in violation of these maintenance provisions or other applicable regulations of this ordinance may be ordered to be removed by the property/sign owner after notice has been given.

8.1002 Obsolete or Abandoned Signs

In conformance with Section 216.003(e) of the *Texas Local Government Code*, signs and sign structures must be removed within one year of the date the business, person, or activity that the sign or sign structure identifies or advertises ceases to operate on the premises on which the sign or sign structure is located. If the premises containing the sign or sign structure is leased, removal is required within 2 years of the date the most recent tenant ceases to operate on the premises.

8.1003 Responsibility for Removal

When removal of a sign is required, both the owner of the property on which the sign is located and the owner of the sign, if different, are jointly and severally responsible for removal.

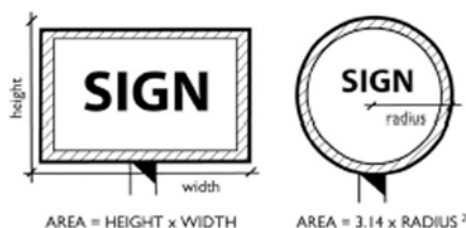
8.1100 MEASUREMENTS

8.1101 Sign Area

8.1101.A Signs Enclosed in Frames or Cabinets

The area of a sign enclosed in a frame or cabinet is determined based on the outer dimensions of the frame or cabinet surrounding the sign face (see Figure 8-1).

Figure 8-1: Sign Area Measurement (Signs in Cabinets or Frames)



8.1101.B Channel (individual) Letter Signs

1. The area of a sign comprised of individual letters or elements attached to a building wall is determined by calculating the area of the smallest geometric figure (e.g. square, rectangle, circle, polygon, etc.) that can be drawn around the letters and/or elements (see Figure 8-2).
2. Signs consisting of individual letters and/or elements will be measured as one sign when the distance between the letters and/or elements is less than the largest dimension of the largest sign letter (see Figure 8-3).

Figure 8-2: Sign Area Measurement (Individual Letter Signs)

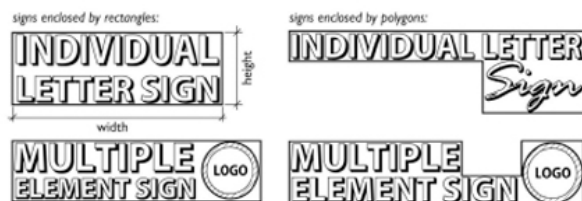
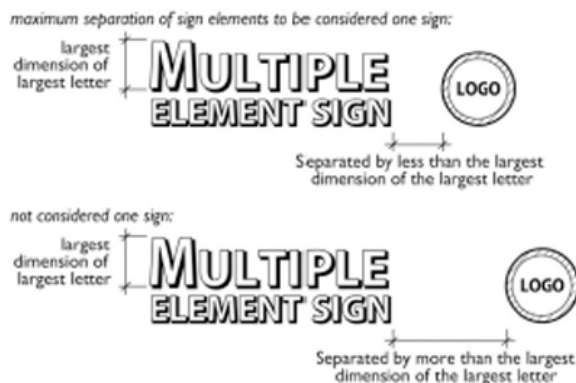


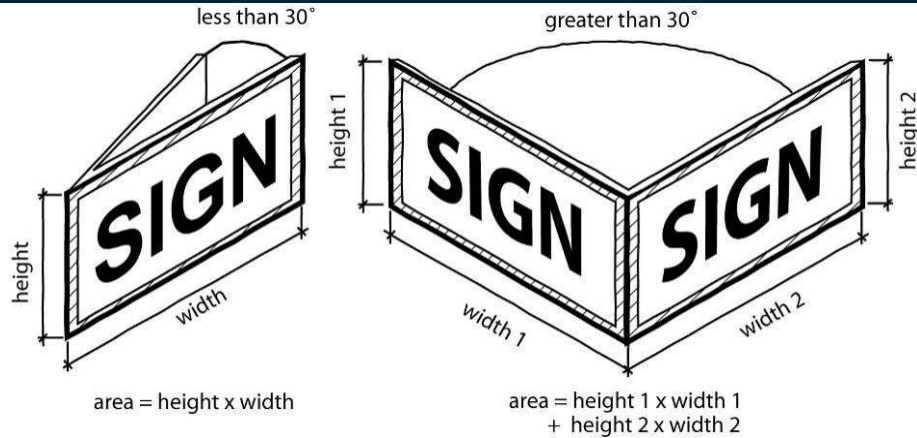
Figure 8-3: Sign Area Measurement (Single vs. Multiple Signs)



8.1101.C Multi-Sided Signs

Unless otherwise expressly stated, when the sign faces of a multi-sided sign are parallel or within 30 degrees of parallel, only one side is counted for those purpose of determining the area and number of signs. If the sign faces are not parallel or within 30 degrees of parallel, all sign faces are counted (see Figure 8-4).

Figure 8-4: Multi-Sided Signs



8.1102 Sign Height

Sign height is measured from the average ground elevation beneath the sign to the highest point of the sign face.

8.1103 Setback, Spacing and Separation Distances

8.1103.A Required setback, spacing and separation distances between signs must be measured in a straight line from the nearest points on the respective sign structures.

8.1103.B Required separation distances between signs and zoning districts, areas or lots must be measured in a straight line from the nearest point on the sign structure to the nearest point of the subject district, area or lot.

ARTICLE 9 FLOOD PROTECTION

Contents:

9.100 General

9.200 Special Flood Hazard Areas

9.300 General Standards for Flood Hazard Reduction

9.400 Specific Standards

9.500 Recreational Vehicles

9.600 Subdivision Standards in Flood Hazard Areas

9.700 Areas of Shallow Flooding (AO/AH Zones)

9.800 Floodways

9.900 Appeals

9.1000 Variances

9.100 GENERAL

9.101 Statutory Authority

The Legislature of the State of Texas has, in the Flood Control Insurance Act, Texas Water Code, Section 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses.

9.102 Purpose

The flood protection regulations of this article are adopted to protect 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:

9.102.A Protect human life and health;

9.102.B Minimize expenditure of public money for costly flood control projects;

9.102.C Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

9.102.D Minimize prolonged business interruptions;

9.102.E Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

9.102.F 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; and

9.102.G Ensure that potential buyers are notified that property is in a flood area.

9.103 Warning and Disclaimer of Liability

The degree of flood protection required by the flood protection regulations of this article 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 Development Code 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 Development Code does not create liability on the part of the City or any official or employee of the City for any flood damages that result from reliance on these regulations of any administrative decision lawfully made pursuant to these regulations.

9.104 Floodplain Administrator

9.104.A Designation

The City Council appoints the City Engineer as the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) on floodplain management.

9.104.B Duties and Responsibilities of the Floodplain Administrator

The duties and responsibilities of the floodplain administrator include, but are not limited to, the following:

1. Maintaining and holding open for public inspection all records concerning the provisions of this section;
2. Reviewing permit applications to determine whether proposed building sites, including the placement of manufactured homes, will be reasonably safe from flooding;
3. Reviewing, approving or denying all applications for development permits required by adoption of this section;
4. Reviewing 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. Determining the flood hazard boundary line where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears a conflict between a mapped boundary and actual field conditions). In such cases the floodplain administrator will make the necessary interpretation;
6. Notifying, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Water Development Board (TWDB), before any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA;
7. Assuring that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;
8. Obtaining, reviewing and using any base flood elevation data and floodway data available from a federal, state or other source, to administer the provisions of the section when base flood elevation data has not been provided according to Sec. 9.200 and
9. Prohibiting new construction, substantial improvements, or other development (including fill) within Zones A1-30 and AE on the City's FIRM, when a regulatory floodway has not been designated, unless the developer shows 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 1 foot at any point within the community.

9.200 SPECIAL FLOOD HAZARD AREAS

Special flood hazard areas are subject to inundation by the base flood (1-percent-annual-chance, previously known as 100-year flood) in the City as identified in a scientific and engineering report entitled, "The Flood Insurance Study for the Walker County and Incorporated Areas" date effective August 16, 2011 and any revisions thereto issued with accompanying Flood Insurance Rate Maps by the Department of Homeland Security's Federal Emergency Management Agency (FEMA).

- 9.201 The Base Flood Elevation (BFE) is the elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year, also referred to as the "base flood."
- 9.202 The City Council adopts the Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) dated August 16, 2011 issued for the City by FEMA effective August 16, 2011 and any revisions thereto. The City Engineer is responsible for maintaining copies of the FIS and FIRM.
- 9.203 A person commits an offense if the person makes any change to improved or unimproved real estate (including but not limited to buildings, structures, dredging, filling, grading, paving or excavation) within the floodplain without a development permit from the City.
- 9.204 If a developer proposes to develop land located in an area not surveyed for Flood Hazard according to the FIRM, then the developer must employ an engineer to determine the flood hazard for the proposed development.

9.300 GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION

The following provisions apply to all new construction and substantial improvements in special flood hazard areas:

- 9.301 All new construction or substantial improvements must be designed (or modified) to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- 9.302 All new construction and substantial improvements must be constructed using methods and practices that minimize flood damage.
- 9.303 All new construction and substantial improvements must be constructed with materials and equipment resistant to flood damage.
- 9.304 Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities must be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- 9.305 All new and replacement water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the system.
- 9.306 New and replacement sanitary sewage systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- 9.307 New or replacement on-site waste disposal systems must be located and designed to avoid impairment to them or contamination from them during flooding.

9.400 SPECIFIC STANDARDS

The following provisions apply in all areas of special flood hazard where base flood elevation data has been provided as set forth in Sec. 9.201; §9.104.B9; and Sec. 9.604.

- 9.401 Residential **Construction**

A registered professional engineer, architect or land surveyor must submit to the City Engineer a signed certification, using the latest edition of the elevation certificate form published by FEMA, that new construction and substantial improvement of any residential structure will have the lowest floor (including basement) elevated to at least 2 feet above the base flood elevation before the City Engineer or Building Official issues a permit for construction or improvement.

9.402 **Nonresidential Construction**

9.402.A **Minimum Building Elevation**

New construction and substantial improvements of any commercial, industrial or other nonresidential structure must either have the lowest floor (including basement) elevated to at least 2 feet above the base flood level or, with attendant utility and sanitary facilities, be designed so that all portions of the structure below a point 2 feet above the base flood elevation are 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.

9.402.B **Certification Required**

1. An architect or registered professional engineer must develop and/or review structural design, specifications, and plans for the construction, and must certify that the design and methods of construction are in accordance with accepted standards of practice, as outlined in these regulations. A record of such certification, which includes the specific elevation (in relation to vertical datum used in the Flood Insurance Rate Maps) to which such structures are floodproofed, must be maintained by the City as part of the permanent development permit file.
2. Submittal of the latest edition of the elevation certificate form published by FEMA is also required. This certificate must be duly certified by a registered professional engineer, architect or registered land surveyor.

9.403 **Enclosures**

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are subject to flooding, must 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 an architect or registered professional engineer or meet or exceed the following minimum criteria:

- 9.403.A A minimum of 2 openings having a total net area of not less than one square inch for every one square foot of enclosed area subject to flooding must be provided;
- 9.403.B The bottom of all openings must be no higher than one foot above grade; and
- 9.403.C Openings may be equipped with screens, louvers, valves, or other coverings or devices if they allow the automatic entry and exit of floodwaters.

9.404 **Manufactured Homes**

- 9.404.A All manufactured homes to be placed within Zone A on the Flood Hazard Boundary Map (FHBM) or FIRM, must be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. The floor elevation of the manufactured home must be at least 2 feet above the base flood elevation. Submittal of the latest edition of the elevation certificate form published by FEMA is also required.

This certificate must be duly certified by a registered professional engineer, architect or registered land surveyor.

- 9.404.B Methods of anchoring may include 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.
- 9.404.C All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE on the City'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, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least 2 feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- 9.404.D Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the City's FIRM that are not subject to the provisions of Sec. 9.600 must be elevated so that either:
1. The lowest floor of the manufactured home is at least 2 feet above base flood elevation; or
 2. 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.

9.500 RECREATIONAL VEHICLES

Recreational vehicles placed on sites within Zones A1-30, AH, and AE must either:

- 9.501.A Be on the site for less than 180 consecutive days and be fully licensed and ready for highway use, as evidenced being on its wheels or jacking system, being attached to the site only by quick disconnect type utilities and security devices, and having no permanently attached additions; or
- 9.501.B Comply with the elevation and anchoring requirements for manufactured homes as set forth Sec. 9.404 and obtain a permit from the floodplain administrator.

9.600 SUBDIVISION STANDARDS IN FLOOD HAZARD AREAS

- 9.601 All subdivision proposals including mobile home/manufactured housing parks and subdivisions are subject to the flood protection regulations of this article.
- 9.602 The developer of subdivisions including manufactured home parks and subdivisions must obtain a floodplain development permit before final platting.
- 9.603 A developer must generate flood elevation data for subdivision proposals and other proposed development, including the placement of mobile home/manufactured housing parks and subdivisions greater than 50 lots or 5 acres.
- 9.604 All subdivision proposals including mobile home/manufactured housing parks and subdivisions must have adequate drainage provided to reduce exposure to flood hazards.

- 9.605 All subdivision proposals including mobile home/manufactured housing parks and subdivisions must have public utilities and facilities (sewer, gas, electrical and water systems) located and constructed to minimize or eliminate flood damage.

9.700 AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Located within the areas of special flood hazard are areas designated as areas of shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may or may not be evident. Such flooding is characterized by ponding or sheet flow. The following regulations apply in such areas.

- 9.701 All new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the City's FIRM (at least 2 feet if no depth number is specified).
- 9.702 All new construction and substantial improvements of nonresidential structures:
- 9.702.A Must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the City's FIRM (at least 2 feet if no depth number is specified), or;
- 9.702.B Together with attendant utility and sanitary facilities be designed so that all portions of such facilities below a point 2 feet above the base flood elevation are 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.
- 9.703 A registered professional engineer or architect must submit to the City Engineer a certification that will become part of the permanent development permit file stating that the standards of this article are satisfied.
- 9.704 Within Zones AH or AO, the developer must provide adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

9.800 FLOODWAYS

Floodways are located within areas of special flood hazard established in Sec. 9.200. The floodway is an extremely hazardous area due to the velocity of flood waters that carry debris, potential projectiles and high erosion potential. The following regulations apply in such areas:

- 9.801 Encroachments are prohibited, including fill, new construction, substantial improvements and other development unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachments will not result in any increase in flood levels within the City during the occurrence of the base flood discharge.
- 9.802 Where Sec. 9.801 is satisfied, all new construction and substantial improvements must comply with all applicable flood hazard reduction provisions of Sec. 9.300 and Sec. 9.400.

9.900 APPEALS

Decisions of the City Engineer may be appealed in accordance with Sec. 12.1000. The City Engineer must maintain a record of all actions involving an appeal and report to FEMA upon request.

9.1000 VARIANCES

9.1001 Authorized

The Board of Adjustment is authorized to grant variances to the flood protection regulations of this article, subject to compliance with all applicable regulations of this section.

9.1002 Applicability

Variances may be issued for:

9.1002.A The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum relief necessary to preserve the historic character and design of the structure;

9.1002.B New construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below a point 2 feet above the base flood level. As the lot size increases beyond one-half acre, the justification required for issuing a variance to the flood protection regulations increases.

9.1003 Prohibited Variances

The Board of Adjustment may not issue a variance within any designated floodway if any increase in flood levels during the base flood discharge would result.

9.1004 Procedures

The variance procedures of Sec. 12.900 must be followed for flood protection variances.

9.1005 Variance Prerequisites

Prerequisites for granting variances are:

9.1005.A The Board of Adjustment may approve a variance only upon a determination that the variance is the minimum relief necessary, considering the flood hazard, to afford relief.

9.1005.B The Board of Adjustment may approve a variance only upon:

1. The applicant showing a good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, creating nuisances, causing fraud on or victimization of the public, or conflict with existing local laws or ordinances.

9.1005.C The Board of Adjustment must give any applicant to whom it grants a variance written notice that the structure will be permitted to be built with the lowest floor elevation below a point at least 2 feet above 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. This notice must be filed in the deed records affecting the property.

9.1005.D The Board of Adjustment may approve a variance for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use if 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 10 INFRASTRUCTURE AND PUBLIC IMPROVEMENTS

Contents:

- 10.100 General
- 10.200 Infrastructure and Improvements Required
- 10.300 Financial Guarantees
- 10.400 Streets
- 10.500 Sidewalks
- 10.600 Water
- 10.700 Wastewater
- 10.800 Drainage and Stormwater Management
- 10.900 Parks and Open Space
- 10.1000 Street Lights
- 10.1100 Traffic Control Signs and Street Signs
- 10.1200 Street Names
- 10.1300 Utilities
- 10.1400 Easements
- 10.1500 Surveying and Monumentation
- 10.1600 Maintenance of Infrastructure and Improvements

10.100 GENERAL

10.101 Purpose and Intent

The regulations of this article establish standards governing the development of property within the jurisdiction of the City of Huntsville. These standards are intended to:

- 10.101.A Provide for the protection of the public health, safety and welfare;
- 10.101.B Promote the orderly growth and development of the City and its extraterritorial jurisdiction; and
- 10.101.C Ensure the timely and coordinated provision of required transportation improvements, utilities and other facilities and services to new subdivisions and developments.

10.102 Standards, Specifications and Design Criteria

The City's *Standards, Specifications and Design Criteria* are hereby incorporated by reference as if fully set forth in this Development Code. All infrastructure and improvements constructed or modified must comply with applicable *Standards, Specifications and Design Criteria*.

10.200 INFRASTRUCTURE AND IMPROVEMENTS REQUIRED

- 10.201 Developers are responsible for the construction and installation of the following infrastructure and public improvements, in accordance with the standards of this Development Code.

- 10.201.A Survey monuments;

- 10.201.B Streets within the development and improvements to existing streets that border the development that are required for safe and adequate access to the development;
 - 10.201.C Sidewalks;
 - 10.201.D Water supply and wastewater systems;
 - 10.201.E Surface drainage and storm sewers;
 - 10.201.F Stormwater management facilities;
 - 10.201.G Utilities;
 - 10.201.H Traffic control signs and street signs;
 - 10.201.I Street lights; and
 - 10.201.J Any other on- or off-site infrastructure or public improvements required by this Development Code.
- 10.202 If a developer files a final plat for only a portion of the subdivision for which a preliminary plan was approved, the improvements required to be constructed, installed, and maintained in accordance with that final plat are those improvements that the Planning Commission deems necessary to serve the lots shown on the proposed final plat.
- 10.203 All improvements must be designed and installed to provide for a logical inter-connected system of infrastructure and to create continuity of improvements for the development of adjacent properties.
- 10.204 During the course of installation and construction of required infrastructure and improvements, the City Engineer must make periodic inspections of the work to ensure that all improvements comply with all City requirements.
- 10.205 Upon completion of installation and construction of all required improvements, the development may seek acceptance of public improvements by the City by submitting the required number of record plans. In addition, the developer must provide a statement signed by a registered professional engineer that all required improvements have been installed and constructed in accordance with the submitted as-built plans.

10.300 FINANCIAL GUARANTEES

The City is authorized to require financial guarantees to ensure that developers install any improvements allowed to be temporarily deferred and to ensure that improvements are installed in a workmanlike manner, free from defects. Guarantees must be provided in a form approved by the City Attorney. The value of such financial guarantees must be based on an estimate of the actual cost to construct all required infrastructure and public improvements, as determined by the developer's engineer and approved by the City Engineer. Assurances may take the form of performance and payment bonds, cash deposits, certificates of deposit in the name of the City, irrevocable letters of credit or other forms approved by the City Attorney.

10.400 STREETS

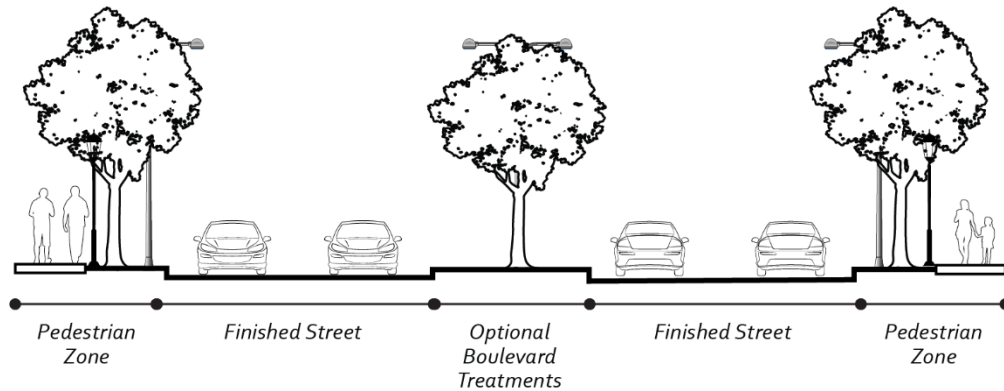
10.401 General Principles

Streets within developments must conform to the arrangement, width and location indicated on the transportation plan and the Comprehensive Plan. In addition, the street system must be laid out and designed with due regard for topography and drainage and to:

- 10.401.A Create an integrated system of lots, streets, and infrastructure that provides for efficient movement by all lawful modes of transportation, both within the development and to and from adjacent development;

- 10.401.B Provide for the efficient movement of through traffic by providing an interconnected network of streets in order to avoid isolation of development areas and over-reliance on major roads; and
- 10.401.C Be uncomplicated, so that emergency services, public services, and visitors can find their way to their intended destinations.
- 10.401.D The developer shall provide a street system within the development with at least one point of access to a public street adjacent to the development; provided, however, that developments that are designed to contain one hundred and fifty (150) dwelling units or more shall provide at least two points of access to adjacent public streets.
- 10.402 **Rights-of-Way & Street Construction**
- 10.402.A Streets must have a right-of-way width that will safely accommodate the transportation (vehicular, pedestrian and bicycle) improvements and street cross-sections needed to provide appropriate, safe and adequate access to the subject development, in accordance with the City's *Standards, Specifications and Design Criteria*.
- 10.402.B When a proposed development has frontage on an existing constructed public street, right-of-way must be dedicated and improved to meet the requirements of this Development Code. For existing constructed streets on which a proposed development has frontage, the applicant must:
1. Dedicate a minimum of 50% of the required right-of-way width as measured from the centerline of the existing street right-of-way;
 2. Install all required sidewalks; and
 3. Provide a minimum of 50% of the street cross-section required in Sec. [10.403](#), full depth to the current construction standards, and install it to the right-of-way centerline.
- 10.402.C Right-of-way dedication and street required widening of existing constructed streets, to the current construction standards, must extend for the full length of road frontage of the property under development and must conform to the standards of this Development Code.
- Commentary:** *City Planner may exempt minor plats and previously platted lots from the requirement of Section 10.402.B(1) and (3).*
- 10.403 **Street Cross-sections**
- 10.403.A **General**
- Street cross-sections are comprised of the following 3 major components: (1) finished street; (2) pedestrian zone; and (3) optional boulevard treatment. Varying the design of these components allows for implementation of a context-sensitive street network and enables transportation designs that better relate to differences in environmental conditions and land use/development patterns.

Figure 10-1: Street Cross-Section Example



1. Finished Street

The finished street component of a street cross-section is the portion of the right-of-way made up of the paved street from curb to curb, or edge to edge where curb and gutter is not provided. The finished street includes the following elements:

- a. Vehicle travel lanes;
- b. On-street parking, where applicable;
- c. Turn lanes, where necessary;
- d. On-street bicycle facilities, where applicable; and
- e. Finished street edge must include curb and gutter. Swale/ditch, shoulder are prohibited unless approved by the Planning Commission or Board of Adjustments)

2. Pedestrian Zone

The pedestrian zone component of a street cross-section is the portion of the right-of-way that primarily accommodates pedestrian movement and buffers pedestrians and adjacent land uses from moving vehicles on the finished street. The pedestrian zone includes the following elements:

- a. Pedestrian or multi-use facility (e.g., sidewalk, trail or multi-use path), providing dedicated areas for pedestrian and nonmotorized travel along streets;
- b. Amenity/buffer area (e.g., tree lawn, vegetated natural buffer, expanded sidewalk), providing separation of non-motorized users from moving vehicle lanes and providing a landscape or streetscape amenity; and
- c. Off-street bicycle facilities (optional), providing dedicated or shared off-street bicycle facilities along bike routes in areas where on-street facilities would be inappropriate or impractical.

3. Boulevard Treatment

The boulevard treatment is an optional component of a street cross-section that includes a landscaped median as the focal point of the street, and may include additional design elements such as frontage access lanes, buffer strips and parking.

10.403.B Design and Construction

Streets must be designed and constructed in accordance with the regulations of Table 10-1 and the City's *Standards, Specifications and Design Criteria*.

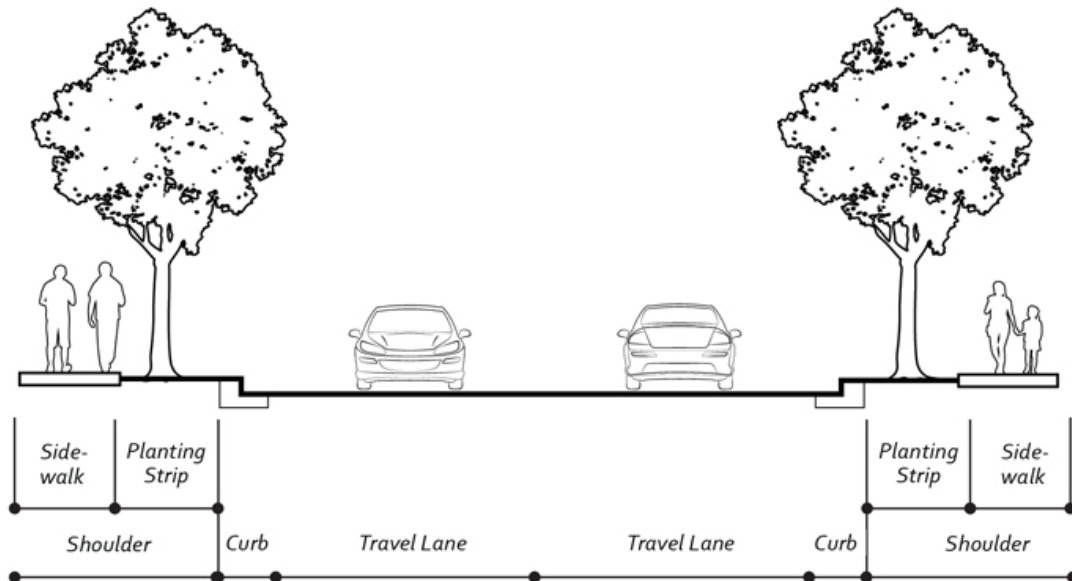
Table 10-1: Street Cross-Sections				
Street Classification	Travel Lanes	Volume per Day	Minimum Right-of-Way Width (feet)	Minimum Pavement Width[1] (feet)
Arterial				
Primary, A-1	5	10,000+	120	90
Secondary, A-2	5	5,000+	90	61
Collector				
Standard, C-1	2	5,000 - 10,000	70	41
Local				
Local, L-1	2	>1,000	50	32
Low-Volume, L2	2	<1,000	50	28
Low-Volume, L3 [2]	2	<1,000	60	28 [3]

[1] Back of curb to back of curb or edge to edge. Reduced pavement widths may be approved by the City. In such cases, increased driveway and intersection radii may be required by the City to accommodate large vehicle turning movements.

[2] Local, Low-Volume, L₃ Street Cross-Section is allowed only in low-density residential subdivisions. (See Table 5-1: Lot and Building Setback Regulations for Low Density Residential lot size.)

[3] Minimum Pavement Width may be reduced to 24', (2-12' travel lanes) for low density subdivisions with lots sizes of 2 acres or greater.

Figure 10-2: Typical Local Street Cross-Section



10.404 Connections to Abutting Property

10.404.A A network of interconnected streets is intended to:

1. Provide safe, convenient, and efficient means of access to lots;

2. Promote orderly development patterns;
 3. Facilitate the effective and efficient provision of emergency and public services; and
 4. Avoid degradation of traffic carrying capacity on the major street network.
- 10.404.B Streets in new developments must connect with public streets in adjacent subdivisions and provide for future extension of streets into adjacent areas that are likely to be developed in the future. Waivers to street connection requirements may be approved in accordance with Sec. 12.711 if topography, sensitive natural resources or other physical constraints make such connections undesirable or impractical.
- 10.404.C Streets proposed for future extension (“stub streets”) must be terminated with temporary turnarounds when the stub street extends 150 feet or more from the nearest intersecting street right-of-way or when more than two lots will have access solely from the stub street. Stub streets are subject to the maximum cul-de-sac length standard of Sec. 10.406. The Planning Commission is authorized to waive requirements for temporary turnarounds for nonresidential developments if they determine that adequate alternatives are available for vehicles to turn around.
- 10.404.D Temporary turnarounds must be constructed in accordance with the City’s *Standards, Specifications and Design Criteria*.
- 10.404.E The developer must post a sign at the terminus of all stub streets indicating that the stub street is intended to be opened to through traffic when the adjacent property is developed. The sign must state “FUTURE THROUGH STREET. TO BE CONNECTED WHEN ABUTTING PROPERTY DEVELOPS.” The City will provide specifications for required signs.
- 10.405 **Blocks**
- 10.405.A The length, width and shape of blocks must be suited for the planned use of the land, and need for convenient access, control and safety of street traffic and the limitations and opportunities relating to the terrain and natural environment.
- 10.405.B Blocks may not exceed 600 feet in length in residential subdivisions with a gross density of 4 or more dwelling units per acre. In nonresidential subdivisions and lower density residential subdivisions, blocks may not exceed 1,200 feet in length. The Planning Commission is authorized to allow longer block lengths if topography, sensitive natural resources or other physical constraints make shorter block lengths undesirable or impractical. In such cases, the Planning Commission is authorized to require the provision of emergency vehicle access routes, pedestrian connections (easements), crosswalks and other pedestrian access features that provide safe and adequate vehicle access and pedestrian connections to schools, playgrounds, shopping areas, transportation and other community facilities in the area.
- 10.406 **Cul-de-Sacs**
- 10.406.A Cul-de-sacs streets may not exceed 600 feet in length unless otherwise expressly approved by the Planning Commission. In no event may a cul-de-sac street be approved that exceeds 1,000 feet in length or that serves more than 15 dwelling units. The length of a cul-de-sac street is measured from the center point of its turnaround, along the centerline of its right-of-way to the nearest edge of the right-of-way of the nearest intersecting street.
- 10.406.B Turnarounds at the end of cul-de-sac streets must be constructed in accordance with the City’s *Standards, Specifications and Design Criteria*.

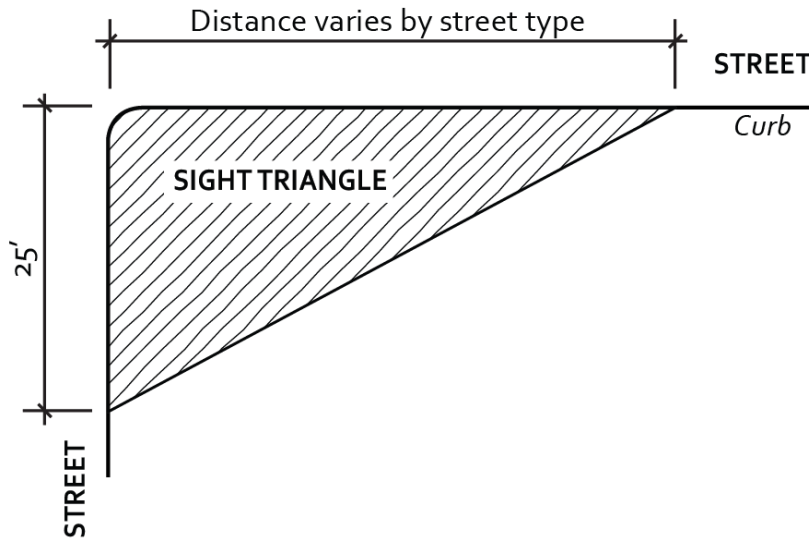
- 10.406.C If a cul-de-sac is longer than 600 feet, the Planning Commission is authorized to require the provision of a pedestrian access easement to provide safe and convenient pedestrian access between the terminus of the cul-de-sac and any adjacent areas. Such pedestrian access easements must have a minimum width of 12 feet.
- 10.407 **Intersections**
- 10.407.A **General**
- Streets must intersect each other at right angles unless otherwise dictated by pedestrian and vehicle safety, topography or other factors of environmentally sensitive site design.
- 10.407.B **Radii**
- Intersection radii must comply with the City's *Standards, Specifications and Design Criteria*, provided that the City Engineer is authorized to require a greater or reduced radius when anticipated traffic or roadway and intersection improvements warrant.
- 10.407.C **Off-sets**
- Where it is necessary to stagger or offset street intersections, the streets must offset by at least 200 feet (centerline to centerline).
- 10.407.D **Intersection Sight Triangles**
1. Sight triangles are required in order to help ensure an adequate area of clear vision for motorists at street intersections. If a sight triangle area as described in this section is required for adequate safety and public protection, it may be obtained by the City. If the sight triangle area cannot be established when justified, traffic control or warning devices may be installed.
 2. The triangular area shall be formed by a point on each street right-of-way line located the minimum required distance from the intersection of the street right-of-way lines and connected to the intersection point of the 25-foot setback lines (see Figure 10-3). The minimum required distance is based on street classification, as shown in Table 10-2.

Table 10-2: Required Sight Triangle Distances	
Street Type	Minimum Distance from Intersection of Curb Lines (feet)
Local	50
Collector	75
Arterial	100

3. On any portion of a lot that lies within the required sight triangle area, nothing shall be erected, parked, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 3 feet and 8 feet above grade at the 2 street right-of-way lines.
4. Sight triangle requirements shall not apply to permanent structures, public utility poles, trees trimmed to the trunk at least 8' above the level of the intersection, supporting members of appurtenances to existing structures,

or official warning signs or signals, or places where the contour of the ground is such that there can be no cross-visibility at the intersection.

Figure 10-3: Intersection Sight Triangle



10.408 Grades

Street grades must provide safe and convenient traffic conditions while avoiding excessive grading and unnecessary removal of ground cover and tree growth. Street grades must comply with the City's *Standards, Specifications and Design Criteria*.

10.409 Vertical Curvature

All changes in street grade must be connected by vertical curves and be designed for safe stopping sight distances and safe sight distance at the entrance to subdivisions, in accordance with the City's *Standards, Specifications and Design Criteria*. The City Engineer is authorized to require that applicants submit a sight distance analysis at the time of preliminary subdivision plat review.

10.410 Horizontal Curvature

The required centerline radius of horizontal curves must be based on engineering considerations of topography, length of street, number of curves and other factors, as determined by the City Engineer. Horizontal curves on arterial streets must be designed in accordance with the City's *Standards, Specifications and Design Criteria*.

10.411 Alleys

Alleys and service lanes are permitted within new developments. Alleys, whether public or private, must comply with the City's *Standards, Specifications and Design Criteria*. Dead-end alleys are prohibited.

10.412 Reserve Strips

Reserve strips that separate developed or undeveloped land from necessary access to streets are prohibited except when such access is controlled by the City.

10.413 Private Streets

10.413.A When Allowed

Private streets are allowed only when approved by the City in planned developments or recreational vehicle parks.

10.413.B **Layout**

Private streets must be designed to:

1. Provide adequate vehicular access to all buildings and facilities within the boundaries of the development;
2. Provide safe and adequate traffic circulation and access to all lots and buildings by emergency personnel and equipment; and
3. Provide direct access to the existing public street system outside the subject tract's boundaries.

10.413.C **Access**

1. Private street systems within a development must have at least one point of access to a public street adjacent to the development, provided that developments containing more than 150 dwelling units must have at least 2 points of access to adjacent public streets.
2. Private streets may provide access only to land within the subject development. Private streets may not be extended into adjacent tracts under a different ownership or a different property owners association.

10.413.D **Intersections of Private and Public Streets**

1. Private streets may not be direct (straight line) projections of any public street. Private streets must offset a minimum distance of 200 feet center-line to center-line from any public street intersection.
2. Intersections of all private streets with public streets must be at right angles or with acute angle variations not to exceed 15 degrees.
3. Right angle intersections of private streets must have a 20-foot radii for the pavement edge at all corners. Acute angle intersections must have 25-foot radii for the pavement edge at the acute corner on both public and private streets.
4. Developers are responsible for designing and constructing that portion of a private street within a public street right-of-way in accordance with the driveway standards of Sec. [6.1100](#).

10.413.E **Design and Construction Standards**

1. **Design and Construction**

Private streets are subject to the same geometric design and construction standards as public streets.

2. **Pavement Width**

The minimum unobstructed pavement width of any private street must be at least 28 feet.

3. **Easement Width**

Private streets must be located within access easements of sufficient width to accommodate the private streets and related construction and maintenance activities.

10.413.F **Maintenance**

Maintenance of private streets and private street signs is the sole responsibility of property owners within the development, in accordance with Sec. [10.1600](#).

10.500 SIDEWALKS

10.501 When Required

10.501.A Arterial and Collector Streets

Sidewalks are required to be installed by the owner of the subject property whenever development occurs on a lot with frontage on an arterial street or on a collector street. Unless the subject property is within 100' of an existing sidewalk, sidewalks are not required to be constructed along existing non-curbed streets except as adjacent to the following roadways:

- Bearkat Boulevard, from Highway 19 to Bobby K Marks Drive;
- Martin Luther King Jr. Drive, from Essex Boulevard to FM 2821;
- Avenue M, from 8th Street to FM 247;
- University Avenue, from 7th Street to FM 247;
- FM 247, from Avenue M/University Avenue to FM 2821; and
- Montgomery Road, from IH 45 S to Veterans Memorial Parkway.

10.501.B Local Streets

Sidewalks are required to be installed by the owner of the subject property whenever development occurs on a lot with frontage on a local street, provided that sidewalks are not required for construction of a detached house or two-unit house unless one or more of the adjacent properties have an existing sidewalk. Sidewalks are not required to be constructed along existing non-curbed streets except as adjacent to the following roadways:

- Avenue M, from Josey Street to IH 45 S.

10.501.C Other Areas

The Planning Commission is authorized to require installation of sidewalks in other locations recommended by the City's adopted sidewalk master plan

10.501.D Low Density Residential Subdivisions

Alternate trail/sidewalk construction is allowed for subdivisions in the MR district. Developer is required to provide length of trails/sidewalks equivalent to twice the centerline length of roads within the boundary of the subdivision.

Commentary: *Sidewalks are not required whenever development occurs on a lot with frontage on the main travel lanes of an Expressway/Freeway. The construction of a sidewalk for a development with frontage along a curbed roadway owned and maintained by TxDOT, (Texas Department of Transportation), is not required if not approved for a permit by TxDOT.*

10.502 Location

10.502.A Required sidewalks must extend across the entire frontage of the subject lot, and along all frontages of corner or multi-frontage lots.

10.502.B Required sidewalks must be constructed within the street right-of-way or in an approved easement.

10.502.C Existing sidewalks may not be removed except for purposes of reconstruction or replacement.

10.503 Timing of Construction

Sidewalks must be constructed at the time of building permit and completed before a certificate of occupancy is issued. Developers must construct sidewalks in common areas and throughout the subdivision as part of the required subdivision improvements.

10.504 Design

10.504.A Width

Sidewalks must have a minimum width of 5 feet. The City Engineer is authorized to allow exceptions to this minimum width requirement in cases where inadequate space or other factors prevent installation of a full-width sidewalk. The City Engineer is also authorized to establish the minimum width of shared use paths and trails depending on expected use and traffic volumes.

10.504.B Materials and Construction

Sidewalks and trails must be designed and constructed in compliance with the City's *Standards, Specifications and Design Criteria*, the Americans with Disabilities Act (ADA) and other applicable standards and specifications.

Commentary: *Forest Service Trail Accessibility Guidelines (FSTAG) shall serve as the design and construction guideline for new trail construction for low density residential subdivisions. Trails should be maintained privately by a property owners association.*

10.600 WATER

10.601 City Water Service

10.601.A Except as otherwise expressly allowed under this section, developers are responsible for providing domestic water service from a public water system to properly serve each lot within a development and for ensuring that existing or new water system facilities meet required demand for domestic water use and fire protection at the required pressure.

10.601.B The water distribution system required under this section includes all pumping station facilities, elevated storage tanks, fire hydrants and other appurtenances required to adequately serve the area being developed.

10.601.C The required system improvements include the extension of (off-site) water mains to the development, the installation of water mains (including fire hydrants) to serve all lots within the development and the extension of water mains to the perimeter of the development (to allow for future system extensions into adjacent areas).

10.602 Alternative Water Supply

10.602.A The Planning Commission is authorized to allow the use of individual private wells or community water systems meeting the design requirements of the Texas Commission on Environmental Quality when the Planning Commission determines that connection to the City water system is not feasible.

10.602.B In approving alternative water supply systems, the Planning Commission is authorized to require the provision of permanent utility easements and temporary construction easements for the future extension City water system improvements.

10.603 Design and Construction

All water systems must be designed and constructed in accordance with the City's *Standards, Specifications and Design Criteria* and applicable design criteria of the Texas Commission on Environmental Quality (See [Title 30](#) of the *Texas Administrative Code*).

10.604 Irrigation Wells

Irrigation water supply wells are prohibited in the city limits.

10.700 WASTEWATER

10.701 City Wastewater Service

- 10.701.A Except as otherwise expressly allowed under this section, developers are responsible for providing City wastewater (sanitary sewer) service to properly serve each lot within a development and for ensuring that existing or new wastewater system facilities meet required demand for wastewater service.
- 10.701.B The wastewater collection system required under this section includes all lift stations, force mains and appurtenances required to adequately serve the area being developed.
- 10.701.C The required system improvements include the extension of (off-site) sewer mains to the development, the installation of sewer mains to serve all lots within the development and the extension of sewer mains to the perimeter of the development (to allow for future system extensions into adjacent areas).

10.702 Individual Service Connections

- 10.702.A The developer must install individual service connections ("taps") for each principal building in a development at the time of construction of required wastewater improvements. Buildings containing 2 or more dwelling units must have individual service connections for each dwelling unit, provided that buildings containing 3 or more dwelling units may provide a common connection system from the building.
- 10.702.B Each wastewater service connection may serve only one building; no sharing or common use of service connections is allowed by multiple buildings.

10.703 Alternative Facilities

- 10.703.A If the City wastewater system is not within a distance of 1,000 feet of the development, temporary alternative sewage treatment systems may be approved. Such systems must meet the design requirements of the Texas Commission on Environmental Quality.

Commentary: *Conventional septic systems as well as aerobic septic systems are allowed as alternative sewage treatment systems. All alternative systems must meet the design requirements of the Texas Commission on Environmental Quality.*

- 10.703.B When temporary alternative sewage treatment systems are to be used, permanent utility easements and temporary construction easements for the future extension of City wastewater system improvements must be provided. In addition, as determined to be applicable by the City Engineer, those parts of the future City wastewater system that will lie in streets must be designed and installed (and capped) before the street is paved.

10.704 Design and Construction

All wastewater systems must be designed and constructed in accordance with the City's *Standards, Specifications and Design Criteria* and applicable design criteria of the Texas Commission on Environmental Quality (See [Title 30](#) of the *Texas Administrative Code*).

10.800 DRAINAGE AND STORMWATER MANAGEMENT

Developers are responsible for designing and installing drainage and stormwater management facilities in accordance with the *Standards, Specifications and Design Criteria*.

10.900 PARKS AND OPEN SPACE

10.901 Land Dedication

The developer of residential lots must dedicate land for neighborhood parks, open spaces or recreation areas at locations designated in the Comprehensive Plan or other City-approved locations at a rate of one acre per 100 dwelling units or 10% of the development's land area (as shown on the preliminary plan), whichever is less. The developer may dedicate the area in stages if the development contains 2 or more phases. The developer shall identify the area marked on the final subdivision plat as "DEDICATED FOR NEIGHBORHOOD PARK, OPEN SPACE OR RECREATION AREA PURPOSES."

Commentary: *Park and open space areas identified on the Parks Master Plan are generally appropriate for dedication. Private park, recreation and open space areas should be shown on the plat and maintained privately by a property owners association.*

10.902 Quality of Park Site

Any land proposed to be dedicated must be a size, character and location suitable for a neighborhood park, open space or recreation area, as approved by the City.

10.903 Open Space

A maximum of 50% of the land dedication required in Sec. 10.901 may be open space. Such open space must conserve land or other natural resources or be used for historic or scenic preservation purposes and be privately owned and maintained by a property owners association. Areas dedicated for open space uses may include, but not be limited to, sites that:

- 10.903.A Present existing or potential hazards such as earth slippage or subsidence or other geological hazards;
- 10.903.B Are used for drainage purposes or that may be in danger of flooding from stormwater runoff;
- 10.903.C Preserve or protect scenic sites;
- 10.903.D Provide a buffer between incompatible land uses (only land areas provided in excess of the minimum land use buffer requirements of Sec. 7.500 may be credited); or
- 10.903.E Contain woodlands, wetlands or other natural resources.

10.904 Credit for Private Parks and Recreation Areas

The planning commission may allow private parks, open spaces and recreation areas to satisfy the land dedication requirements of Sec. 10.901, provided that:

- 10.904.A Setbacks and open spaces required by this Development Code are not credited toward meeting land dedication requirements;
- 10.904.B Private ownership and maintenance is adequately provided for by a property owners association or by other means approved by the City;
- 10.904.C The area is of a character and location suitable for safe and convenient use as a playground, playfield or other recreation amenity; and
- 10.904.D The area has direct access to a street to allow for maintenance by motorized equipment.

10.1000 STREET LIGHTS

The City Engineer is authorized to require the installation of street lights at the time of development. The location and type will be determined during the development review process based on City's *Standards, Specifications and Design Criteria* and guidelines established in the *American National Standard Practice for Roadway Lighting* (ANSI/IESNA RP-8-00).

Commentary: For low-density residential subdivisions street lights are only required at street intersections and at the end of cul-de-sacs or dead-end streets only. Refer to Table 5-1: Lot and Building Setback Regulations in Article 5 Lot and Setback Regulations for Low Density Residential Lot requirements.

10.1100 TRAFFIC CONTROL SIGNS AND STREET SIGNS

- 10.1101 All traffic control and street signs must be provided and installed by the developer.
- 10.1102 Traffic control signs must comply with the *Texas Manual on Uniform Traffic Control Devices*.
- 10.1103 Street signs must comply with the City's adopted *Standards, Specifications and Design Criteria*.

10.1200 STREET NAMES

10.1201 Public Streets

Public streets must comply with the following street name regulations:

- 10.1201.A If a new street is a direct or logical extension of an existing street, the existing street name must be used.
- 10.1201.B Names of new streets that are not extensions of existing streets may not duplicate any existing street name in the City or county.
- 10.1201.C Street name suffixes such as place, court, circle and loop must be used on streets that are cul-de-sac or loop streets.
- 10.1201.D Suffixes such as highway, freeway or expressway may be used only on designated highways or freeways falling under the jurisdiction of the Texas Department of Transportation.
- 10.1201.E Street name prefixes such as North, South, East and West may be used to clarify the general location of the street, provided that such prefixes must be consistent with the existing and established street naming and address numbering system of the general area in which the street is located.
- 10.1201.F Alphabetical and numerical street names may not be used for new streets unless the street is a direct extension of an existing street with that name.

10.1202 Private Streets

Private street names are subject to the same regulations that apply to public streets and the following additional regulations:

- 10.1202.A The developer must provide signs for all private streets; the signs must comply with the size, height and material standards of the City.
- 10.1202.B Private streets must be designated as "lanes" and the suffix "PRIVATE" must be an integral part of any private street sign (Example: SCENIC LANE (PRIVATE)).
- 10.1202.C Private street signs must be brown.
- 10.1202.D No private street name may be changed without approval of the City.
- 10.1202.E No private street sign may be installed without the approval of the City.

- 10.1202.F The City is authorized to remove, without notice, any private street sign that does not comply with the provisions of this section or that is installed within the right-of-way of a public street.

10.1300 UTILITIES

All new electric, telephone, gas distribution, cable television and similar utilities must be placed underground in accordance with the policies and specifications of the respective utility providers, except that the requirements for underground utilities do not apply in infill situations when property adjacent to the subject lot is served by above-ground utilities. The underground requirements also do not apply to the following:

- 10.1301 Temporary overhead utility lines used in connection with construction, but only during periods of construction;
- 10.1302 Service connections, meters, and similar equipment that are customarily attached to the outside wall of the premises they serve;
- 10.1303 Poles used exclusively for street lighting; and
- 10.1304 Electric distribution transformers, switch gear, meter pedestals, and telephone pedestals that are customarily installed above-ground.

10.1400 EASEMENTS

10.1401 General

- 10.1401.A Easements must be provided as necessary to accommodate utilities, drainage facilities (surface or subsurface), best management practices, pedestrian access, emergency vehicle access or other required improvements.
- 10.1401.B No structure, foundation, slab sign or other permanent improvement may be placed within any easement required under this Development Code without written permission from the City Engineer.

10.1402 Utility Easements

- 10.1402.A Utility easements must be provided in sufficient width and at such locations as required by the City or approved franchised utility provider.
- 10.1402.B The developer must place or construct all new utilities within required utility easements or street rights-of-way, as approved by the City franchised utility provider.
- 10.1402.C Utility easements are required adjacent to all streets and must be at least 10 feet in width along both sides of the street. Placement, arrangement and depth of utilities within such easements must be in accordance with the *Standards, Specifications and Design Criteria*.
- 10.1402.D Utility easements that are not adjacent to streets must be at least 20 feet in width for utility construction, service and maintenance.
- 10.1402.E With the approval of the City Engineer and the applicable public utility, utility easements may vary from these requirements.

10.1403 Drainage Easements

- 10.1403.A Easements for storm drainage facilities must be provided at locations containing existing or proposed open drainage channels and enclosed drainage systems. The required width of drainage easements must be based on a drainage study and drainage calculations or other criteria submitted by the developer and approved by the City Engineer.

- 10.1403.B Storm drainage easements with a minimum width of 20 feet must be provided for existing and proposed enclosed drainage systems. The City Engineer is authorized to require additional easement width if such additional width is necessary to accommodate the drainage system and provide ingress and egress for maintenance operations.
- 10.1403.C Storm drainage easements along existing or proposed open drainage channels must have a width that encompasses the required channel plus at least 20 feet on each side of the channel to provide ingress and egress of maintenance equipment; to provide clearance from fences and space for utility poles; to allow maintenance of the channel bank; and to provide adequate slopes necessary along the bank.

10.1500 SURVEYING AND MONUMENTATION

10.1501 General

Developers are responsible for having surveys conducted and survey monuments installed in accordance with all requirements and procedures established by the City Engineer and the [Professional and Technical Standards](#) of the Texas Board of Professional Land Surveying (Title 22, Part 29, Chapter 663B of the Texas Administrative Code).

10.1502 Metes and Bounds Description

All easements, rights-of-way and lands to be dedicated to the City, by deed or express grant, must be depicted on a survey plat and described by a metes and bounds description. Such descriptions must be tied to physical monuments of record related to the boundary of the affected area and referenced to the coordinate system described in Sec. 10.1503 unless otherwise approved by the City Engineer.

10.1503 Coordinate System

All surveys and plats must be referenced to the City of Huntsville Mapping Control Network. This network is referenced to the Texas Plane Coordinate System of 1983, Central Zone, as defined in V.T.C.A. Natural Resources Code § 21.076 unless otherwise approved by the City Engineer.

10.1504 Required Monuments

10.1504.A All property or boundary corners, angle points and points of curvature or tangency must be monumented or referenced by corner accessory monumentation carried out by a registered professional land surveyor.

10.1504.B All monuments must:

1. Be set at sufficient depth to retain a stable and distinctive location;
2. Be of a size and material, that in the surveyor's judgment, will best ensure that the monuments will withstand the deteriorating forces of nature;
3. Include a cap or marker identifying the responsible registrant, firm or associated employer;
4. Include a notation on the applicable plan or plat that the corner was either found or set and a description of its physical characteristics; and
5. Be left exposed for field inspection by the City.

10.1504.C The City Engineer may not accept new street construction or other public improvements until all required monuments and ties are provided.

10.1504.D Except as allowed by [§12.708.E](#), all required monuments must be in place before filing a final plat.

10.1600 MAINTENANCE OF INFRASTRUCTURE AND IMPROVEMENTS

10.1601 General

The developer is responsible for maintaining all required infrastructure and public improvements until final acceptance of such improvements by the City or until responsibility for maintenance is transferred by legal agreement to a property owner's association.

10.1602 Property Owners Association

10.1602.A Establishment

If a property owners association is assigned responsibility for the maintenance and control of streets, open space, recreational facilities, or any other common areas and facilities within a subdivision, that property owners association must have legal authority to maintain and exercise control over the common areas and facilities, including the power to compel contributions from residents or property owners to cover their proportionate share of the costs associated with the maintenance of the common areas and facilities.

10.1602.B Scope and Documentation

[Based on Development Code section: 505]

- 1 Instruments establishing a property owners association must be submitted before approval of a final plat.
- 2 The association instrument must address at least the following:
 - a. Specific identification of what is owned and by whom;
 - b. Establish a system of interlocking relationships binding each owner to all other owners for maintaining and preserving what is owned and used in common;
 - c. Create an administrative vehicle to manage those elements shared in common and to enforce standards;
 - d. Provide for the operation and financing of the association.
- 3 The City must review the proposed instruments to ensure that the property owners association has clear legal authority to maintain and exercise control over the common areas and facilities, including the power to compel contributions from residents and property owners to cover their proportionate share of the costs associated with the maintenance of the common areas and facilities.

ARTICLE 11 NONCONFORMITIES

Contents:

11.100 General

11.200 Nonconforming Lots

11.300 Nonconforming Uses

11.400 Nonconforming Structures

11.500 Nonconforming Signs

11.600 Nonconforming Development Features

11.700 Nonconforming Mobile Food Units and Mobile Food Vendor Parks

11.100 GENERAL

11.101 Description

Nonconformities, which are sometimes referred to as “legal nonconformities,” are lots, uses and structures that were lawfully established but—because of the adoption of new or amended regulations—no longer comply with one or more zoning district requirements. This article contains the regulations governing such situations.

11.102 Intent

Occasionally, lots, uses and structures that were lawfully established (i.e., in compliance with any and all regulations in effect at the time of their establishment) have been made nonconforming because of changes in Development Code requirements that apply to the subject property (e.g., through zoning district map amendments, amendments to the text of this Development Code or annexation) or because of other governmental action (e.g., through right-of-way acquisition). The regulations of this article are intended to clarify the effect of such nonconforming status and avoid confusion with “illegal” buildings and uses (those established in violation of applicable zoning district regulations). The regulations of this article are also intended to:

- 11.102.A Recognize the interests of landowners in continuing to use their property for uses and activities that were lawfully established;
- 11.102.B Promote maintenance, reuse and rehabilitation of existing buildings; and
- 11.102.C Place reasonable limits on nonconformities that have the potential to adversely affect surrounding properties.

11.103 Authority to Continue

Any nonconformity that existed on the effective date specified in Sec. 1.300, or any situation that becomes nonconforming upon adoption of any amendment to this Development Code, may be continued in accordance with the regulations of this article unless otherwise expressly stated.

11.104 Determination of Nonconformity Status

- 11.104.A The burden of proving that a nonconformity exists (as opposed to a violation of this Development Code) rests entirely with the subject owner.
- 11.104.B The City Planner is authorized to determine whether adequate proof of nonconforming status has been provided by the subject owner.
- 11.104.C Building permits, lawfully recorded plats, aerial photography and other official government records that indicate lawful establishment of the use, lot or

structure constitute conclusive evidence of nonconforming status. If such forms of conclusive evidence are not available, the applicant may submit and the City Planner may consider other forms of evidence to document nonconforming status. Examples of commonly available evidence include:

1. Professional registrations or business licenses;
2. Utility billing records;
3. Rent records;
4. Advertisements in dated publications;
5. Listings in telephone or business directories; and
6. Notarized affidavits affirming the date of lawful establishment of the use, lot or structure.

11.104.D The City Planner's decision on nonconforming status determinations may be appealed in accordance with Sec. [12.1000](#).

11.105 Repairs and Maintenance

11.105.A Nonconformities must be maintained to be safe and in good repair.

11.105.B Repairs and normal maintenance necessary to keep a nonconformity in sound condition are permitted unless the work increases the extent of the nonconformity or is otherwise expressly prohibited by this Development Code.

11.105.C Nothing in this article is intended to prevent nonconformities from being structurally strengthened or restored to a safe condition in accordance with an order from a duly authorized public official.

11.106 Change of Tenancy or Ownership

Nonconforming status runs with the land and is not affected by changes of tenancy, ownership, or management.

11.200 NONCONFORMING LOTS

11.201 Description

A nonconforming lot is a lawfully platted and recorded lot that does not comply with all applicable minimum lot area, lot width, lot frontage or lot depth regulations of the zoning district in which the lot is located.

11.202 Use of Nonconforming Lots

A nonconforming lot may be used as a building site and developed with a use allowed in the subject zoning district.

11.203 Lot and Building Regulations

11.203.A Development on nonconforming lots must comply with the lot and building regulations of the subject zoning district unless otherwise expressly stated.

11.203.B Nonconforming lots may not be adjusted in size or shape to create additional nonconformity or increase the degree of nonconformity for lot area, lot width, setbacks or other applicable lot and building regulations. Lot area, lot width, lot frontage, lot depth or other lot shape adjustments that do not increase the extent of nonconformity are allowed.

11.300 NONCONFORMING USES

11.301 Description

A nonconforming use is a land use that was lawfully established in accordance with any and all zoning district regulations in effect at the time of its establishment but that is no longer allowed by the use regulations of the zoning district in which the use is now located.

11.302 Change of Use

A nonconforming use may be changed to any other use that is allowed in the subject zoning district. Once changed to a conforming use, a nonconforming use may not be re-established.

11.303 Expansion of Use

11.303.A Except as otherwise expressly stated, a nonconforming use may be expanded into another part of the same building as that building existed on the date that the use became nonconforming, provided that the City Planner determines that such expansion:

1. Will not result in a violation of off-street parking or loading requirements; and
2. Will not result in the addition of floor area to the building to accommodate the use expansion that does not comply with setbacks.

11.303.B Nonconforming open-air uses may not be expanded beyond the area occupied when the open-air use became nonconforming.

11.304 Remodeling and Improvements

A building in which a nonconforming use is located may be remodeled or otherwise improved as long as the remodeling or improvements do not violate the other regulations of this article.

11.305 Moving

A nonconforming use may not be moved in whole or in part to another location unless allowed under this code at the new location.

11.306 Loss of Nonconforming Status

11.306.A Abandonment

1. Once a nonconforming use is abandoned, its nonconforming status is lost and any new, replacement use must comply with the regulations of the zoning district in which it is located.
2. A nonconforming use is presumed abandoned when the use is discontinued or ceases for a continuous period of 2 years or more.
3. The presumption of abandonment may be rebutted upon showing, to the satisfaction of the City Planner, that during such period the owner of the land or structure has been:
 - a. Maintaining the land and structure in accordance with all applicable City requirements and did not intend to discontinue the use;
 - b. Actively and continuously marketing the land or structure for sale or lease for that particular nonconforming use; or
 - c. Engaged in other activities that affirmatively prove there was no intent to abandon.
4. Periods of discontinued use caused by government action, accidental fire or natural disaster are not counted in calculating the length of discontinuance.

11.306.B Change to Conforming Use

If a nonconforming use is changed to a conforming use, no matter how short the period of time, all nonconforming use rights are lost and re-establishment of the nonconforming use is prohibited.

11.306.C **Damage or Destruction**

1. **Accidental Damage or Destruction**

When a building containing a nonconforming use is destroyed or damaged by acts of God or accidental fire, the building and the use may be restored or repaired, provided that no new nonconformities are created and that the existing extent of nonconformity is not increased. A building permit to reconstruct the destroyed or damaged structure must be obtained within 18 months of the date of occurrence of such damage.

2. **Intentional Destruction**

When a building containing a nonconforming use is demolished, damaged or destroyed by causes within the control of the owner and the extent of demolition, damage or destruction is more than 50% of the fair market value of the structure, as determined by the property owner's certified appraiser, the use may not be reestablished except in compliance with all regulations applicable to the zoning district in which it is located.

11.306.D **Accessory Uses**

No accessory use to a principal nonconforming use may continue after the principal nonconforming use has ceased.

11.400 NONCONFORMING STRUCTURES

11.401 **Description**

A nonconforming structure is any building or structure, other than a sign, that was lawfully established but no longer complies with the lot and building standards of the zoning district in which it is located. Signs are governed by the nonconforming sign provisions of Sec. 8.800.

11.401.A **Use**

A nonconforming structure may be used for any use allowed in the district in which the structure is located.

11.401.B **Alterations and Expansions**

Alterations, including enlargements and expansions, are permitted if the proposed alteration or expansion complies with all applicable lot and setback standards and does not increase the extent of the nonconformity. A building with a nonconforming front setback, for example, may be expanded to the rear as long as the rear expansion complies with applicable rear setback standards and all other applicable lot and building standards. On the other hand, a multi-unit residential building that is nonconforming with regard to density (i.e., contains more dwelling units than allowed by the underlying zoning district regulations) may not be expanded to add additional dwelling units.

11.402 **Moving**

A nonconforming structure may not be moved in whole or in part to another location unless the structure meets all the requirements of this Code.

11.403 Loss of Nonconforming Status

11.403.A Damage or Destruction

1. Accidental Damage or Destruction

When a nonconforming structure is destroyed or damaged by acts of God or accidental fire, the building and the use may be restored or repaired, provided that no new nonconformities are created and that the existing extent of nonconformity is not increased. A building permit to reconstruct the destroyed or damaged structure must be obtained within 18 months of the date of occurrence of such damage.

2. Intentional Damage or Destruction

When a nonconforming structure is demolished, damaged or destroyed by causes within the control of the owner and the extent of demolition, damage or destruction is more than 50% of the fair market value of the structure, as determined by the property owner's certified appraiser, the use may not be reestablished except in compliance with all regulations applicable to the zoning district in which it is located.

11.500 NONCONFORMING SIGNS

See the nonconforming sign provisions of Sec. 8.800.

11.600 NONCONFORMING DEVELOPMENT FEATURES

11.601 Description

A nonconforming development feature is any aspect of a development—other than a nonconforming lot, nonconforming use or nonconforming structure—that was lawfully established in accordance with zoning district regulations in effect at the time of its establishment but that no longer complies with one or more standards of this Development Code. Common examples are off-street parking or loading areas that contain fewer spaces than required by current standards or otherwise do not comply with applicable regulations and sites that do not comply with current landscaping and screening requirements.

11.602 General

Nonconforming development features may remain except as otherwise expressly stated in this Development Code, but the nature and extent of nonconforming site features may not be increased except as otherwise expressly stated in this Development Code.

11.700 Nonconforming Mobile Food Units and Mobile Food Vendor Parks

Nonconforming **Mobile Food Units and Mobile Food Vendor Parks** are subject to the provisions of [Article 11](#) as well as the following:

11.701 Abandonment

1. Once a nonconforming **Mobile Food Unit or Mobile Food Vendor Park** is abandoned, its nonconforming status is lost and any new, replacement use must comply with the regulations of the zoning district in which it is located.
2. A nonconforming **Mobile Food Unit or Mobile Food Vendor** is presumed abandoned when the use is discontinued or ceases for a continuous period of three (3) months or more.

3. The presumption of abandonment may be rebutted upon showing, to the satisfaction of the City Planner, that during such period the owner of the land or structure has made application for a Mobile Food Vendor Permit and/or Conditional Use Permit as required by this Development Code.
4. Periods of discontinued use caused by government action, accidental fire or natural disaster are not counted in calculating the length of discontinuance.

ARTICLE 12 DEVELOPMENT REVIEW AND APPROVAL PROCEDURES

Contents:

12.100 Common Provisions

12.200 Development Code Text Amendments

12.300 Zoning District Map Amendments

12.400 Planned Developments

12.500 Historic Preservation Overlay District Map Amendments

12.600 Certificates of Appropriateness

12.700 Subdivision Plats

12.800 Conditional Uses

12.900 Variances

12.1000 Appeals of Administrative Decisions

12.1100 Master Development Plan

12.100 COMMON PROVISIONS

12.101 **Applicability**

The “common provisions” of this section (Sec. 12.100) apply to all procedures in this article unless otherwise expressly stated.

12.102 **Review and Decision-making Authority (Summary Table)**

The following table summarizes the review and approval procedures of this article. In the event of conflict between this summary table and the detailed procedures contained elsewhere in this article, the detailed procedures govern.

Table 12-1: Review and Decision-making Authority Summary Table					
Procedure	City Planner	Historic Preservation Commission	Planning Commission	Board of Adjustment	City Council
Development Code Text Amendment	R	—	<R>	—	<DM>
Zoning District Map Amendment	R	—	<R>	—	<DM>
Planned Developments					
Concept plan	R	—	<R>	—	<DM>
Development plan	R	—	<R>	—	<DM>
PD Site Plan	DM	—	—	—	—
Historic Preservation Overlay Map Amendment	R	R	<R>	—	<DM>
Certificate of Appropriateness	R	DM	—	—	—
Minor plat	DM	—	—	—	—
Major Subdivision					
Preliminary Plan	R	—	DM	—	—
Final Plat	R	—	DM	—	—

Table 12-1: Review and Decision-making Authority Summary Table					
Conditional Use	R	–	<R>	–	<DM>
Variance	R	–	–	<DM>	–
Appeals of Administrative Decisions	R	–	–	<DM>	–
Master Development Plan	R	–	DM	–	–
R = Review/Recommendation DM = Decision-Maker < > = Public Hearing Required					

12.103 Preapplication Meetings

12.103.A Purpose

Preapplication meetings provide an early opportunity for City staff and applicants to discuss the procedures, standards and regulations required for development approval under this Development Code.

12.103.B Applicability

Preapplication meetings are required whenever the provisions of this Development Code expressly state that they are required. They are encouraged in all cases.

12.103.C Scheduling

Preapplication meetings must be scheduled with planning division staff.

12.103.D Guidelines

The City Planner may establish guidelines for preapplication meetings, including information that should be provided and any available alternatives to face-to-face meetings, such as telephone conversations and email correspondence.

12.104 Applications and Fees

12.104.A Form of Application

Applications required under this Development Code must be submitted in a form and in such numbers as required by the City Planner. Applications must include materials and information as may be required by the City Planner to establish that the proposed activity complies with all applicable requirements of this Development Code.

12.104.B Application Filing Fees

All applications must be accompanied by the fee amount that has been established by City Council.

12.104.C Application Completeness, Accuracy and Sufficiency

1. An application will be considered complete and ready for processing only if it is submitted in the required number and form, includes all required information and is accompanied by the required filing fee.
2. The City Planner must make a determination of application completeness within 10 business days of application filing.
3. If an application is determined to be incomplete, the City Planner must provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of the application will occur until the deficiencies are corrected. If the deficiencies are not

corrected by the applicant within 60 days, the application will be considered withdrawn.

4. No further processing of incomplete applications will occur, and incomplete applications will be pulled from the processing cycle. When the deficiencies are corrected, the application will be placed in the next available processing cycle.
5. Applications deemed complete will be considered to be in the processing cycle and will be reviewed by staff and other review and decision-making bodies in accordance with applicable review and approval procedures of this Development Code.
6. The City Planner may require that applications or plans be revised before being placed on an agenda for possible action if the City Planner determines that:
 - a. The application or plan contains one or more significant inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with Development Code requirements or other regulations;
 - b. The application contains multiple minor inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with Development Code requirements or other regulations; or
 - c. The decision-making body does not have legal authority to approve the application or plan.

12.104.D **Application Filing Date**

For the purposes of calculating any time frames required, pursuant to this Development Code or state law, for processing applications, the date of application filing is deemed to be the date on which an application is deemed complete by the City Planner. An application will be considered vested on the date it is deemed complete by the City Planner.

12.105 **Application Processing Cycles**

The City Planner, after consulting with review and decision-making bodies, is authorized to promulgate reasonable cycles and timelines for processing applications, including filing deadlines for receipt of complete applications.

12.106 **Public Hearing Notices**

The public hearing notice requirements described in this article are in addition to the general requirements of the *Texas Open Meetings Act*.

12.106.A **Mailed Notice**

Except as otherwise expressly stated, when the procedures of this Development Code require that mailed notice be provided, the notice must be mailed to all owners of land within 300 feet of the lot lines of the land that is the subject of the application. Ownership information must be taken from the most recent City property tax records, except that when land is owned by a condominium association, notice must be given to the condominium association. Notice will be deemed to have been mailed on the date that it is deposited in United States Postal Service mail, properly addressed with postage prepaid. The failure of a property owner to receive notice is not cause for renotification or hearing postponement and does not invalidate any action taken on the application if a good faith attempt was made to comply with the notice requirements of this section.

Commentary: As a matter of practice, the City may provide additional forms of public hearing notice or otherwise exceed the minimum notice requirements prescribed by law.

12.106.B Published Notice

When the procedures of this Development Code require that published notice be provided, the notice must be published in the City's official newspaper, as designated by the City Council.

12.106.C Posted Notice

When the procedures of this Development Code require that posted (sign) notice be provided, at least one official public notice sign must be posted on the subject property for each 500 feet of street frontage or fraction thereof. Required notice signs must be posted in locations that are plainly visible from abutting streets.

12.106.D Content of Required Notices

Public hearing notices required by this Development Code must include at least the following information:

1. The subject property's street address, legal description or other description reasonably calculated to identify the location of the subject property;
2. A description of the proposal or action requested;
3. The time, date and location of the public hearing;
4. The time, date and place where the application may be inspected by the public or where additional information may be obtained; and
5. A statement that interested parties may submit written comments and/or appear at the public hearing and be heard with respect to the application.

12.106.E Public Hearing Notice Summary Table

The following table provides a summary of the notice requirements for public hearings required under the procedures of this article. In the event of conflict between this summary table and the detailed procedures contained elsewhere in this article, the detailed procedures govern.

Table 12-2: Public Hearing Notice Summary Table			
Procedure	Planning Commission Hearing	Board of Adjustment Hearing	City Council Hearing
Development Code Text Amendment	None	NA	Published 16 days before
Zoning District Map Amendment (including Overlay Districts)	Mailed & Posted 11 days before	NA	Published 16 days before
Planned Developments			
Concept plan	Mailed & Posted 11 days before	NA	Published 16 days before
Development plan	Mailed & Posted 11 days before	NA	Published 16 days before
PD Site Plan	None	NA	NA
Major Subdivision			
Preliminary Plan	None	NA	NA
Final Plan	None[1]	NA	NA
Conditional Use	Mailed & Posted 11 days before	NA	Published 16 days before
Variance	NA	Mailed & Posted 11 days before	NA
Appeals of Administrative Decisions	NA	Mailed 11 days before[2]	NA
[1] Some residential replats require hearing and public notice. See § 12.710.C.			
[2] Mailed notice required only to the subject property owner, individuals who request such notice in writing and other parties in interest.			

12.107 Action by Review Bodies and Decision-Making Bodies

Review and decision-making bodies may take any action that is consistent with:

12.107.A The regulations of this Development Code;

12.107.B Any rules or by-laws that apply to the review or decision-making body; and

12.107.C The notice that was given.

12.108 Conditions of Approval

When a decision-making body approves an application with conditions, the conditions must relate to a situation created or aggravated by the proposed use or development and must be roughly proportional to the impacts of the use or development.

12.200 DEVELOPMENT CODE TEXT AMENDMENTS

12.201 Applicability

The procedures of this section apply to all text amendments to the regulations of this Development Code.

12.202 Initiation of Text Amendments

An amendment to the text of this Development Code may be initiated by the City Council, the Planning Commission or the City Planner.

12.203 Review and Report—City Planner

The City Planner must prepare a report and recommendation on the proposed Development Code text amendment. The report must be transmitted to the Planning Commission before their public hearing on the proposed amendment.

12.204 Notice of Hearing

Notice of the City Council's required public hearing on a Development Code text amendment must be published in the newspaper in accordance with §12.106.B. The notice must be published at least 16 days before the date of the public hearing.

12.205 Hearing and Recommendation—Planning Commission

The Planning Commission must hold a public hearing on the proposed text amendment. Following the close of the hearing, the Planning Commission must act by simple majority vote to recommend that the proposed text amendment be approved, approved with modifications, or denied and transmit its recommendations to the City Council.

12.206 Final Action—City Council

12.206.A Following receipt of the Planning Commission's recommendation, the City Council must hold a public hearing on the proposed amendment. Following the close of their public hearing, the City Council must act to approve the proposed Development Code text amendment, approve the proposed text amendment with modifications or deny the proposed text amendment. The City Council may also remand the proposed text amendment back to the Planning Commission for further consideration.

12.206.B Development code text amendments may be approved by a simple majority vote.

12.207 Joint Hearings

In lieu of separate hearings, the City Council and Planning Commission are authorized to conduct a single, joint public hearing to consider Development Code text amendments. In such cases, applicable notice requirements for Planning Commission and City Council public hearings must be met.

12.300 Zoning District Map Amendments

12.301 Applicability

The procedures of this section apply to all amendments to the zoning district map.

12.302 Initiation of Map Amendments

Amendments to the zoning district map may be initiated only by the City Council, the Planning Commission, or the owner of the property that is the subject of the proposed zoning district map amendment or by the subject property owner's authorized agent.

12.303 Review and Report—City Planner

Upon receipt of a complete zoning district map amendment application, the City Planner must prepare a report and recommendation on the proposed zoning district map amendment. The report must be transmitted to the Planning Commission before their public hearing on the proposed map amendment.

12.304 Notice of Hearings

12.304.A Planning Commission

Notice of the Planning Commission's required public hearing on a zoning district map amendment must be mailed to all affected property owner and posted, in accordance with § 12.106.A and § 12.106.C. Required notices must be mailed and posted at least 11 days before the Planning Commission public hearing.

Commentary: As a matter of practice, the City will also publish newspaper notice of the Planning Commission hearing on proposed zoning district map amendments.

12.304.B City Council

Notice of the City Council's required public hearing on a zoning district map amendment must be mailed to all affected property owner and published in accordance with § 12.106.B. The notice must be published at least 16 days before the City Council public hearing.

12.305 Hearing and Recommendation—Planning Commission

The Planning Commission must hold a public hearing on the proposed map amendment. Following the close of the hearing, the Planning Commission must act by simple majority vote to recommend that the proposed amendment be approved, approved with modifications, or denied and transmit its recommendations to the City Council.

12.306 Final Action—City Council

12.306.A Following receipt of the Planning Commission's recommendation, the City Council must hold a public hearing on the proposed map amendment. Following the close of their public hearing, the City Council must act to approve the proposed zoning district map amendment, approve the proposed amendment with modifications or deny the proposed amendment. The City Council may also remand the proposed amendment back to the Planning Commission for further consideration.

12.306.B Zoning district map amendments may be approved by a simple majority vote, except as stated in Sec. 12.307.

12.307 Protest Petitions

12.307.A If a valid protest petition is filed against any proposed zoning district map amendment, passage of the amendment requires a favorable vote of at least 75% of the City Council members who are qualified to vote on the matter.

12.307.B A protest petition will be deemed valid only if it is signed and acknowledged by at least 20% of the owners of the property that is the subject of the proposed amendment, or by at least 20% of the owners of property located within 200 feet of the subject property.

12.307.C The deadline for submittal of a protest petition is 72 hours prior to action by City Council.

12.308 Review and Approval Criteria

The decision to amend the zoning district map is a matter of legislative discretion that is not controlled by any single standard. In making recommendations and decisions about zoning district map amendments, review and decision-making bodies must consider at least the following factors:

- 12.308.A Consistency with the Comprehensive Plan;
- 12.308.B Compatibility with existing zoning district classifications, uses of nearby property and the character of the surrounding neighborhood; and
- 12.308.C Availability of water, wastewater, stormwater, and transportation facilities generally suitable and adequate for use allowed under the proposed zoning district.

12.309 Joint Hearings

In lieu of separate hearings, the City Council and Planning Commission are authorized to conduct a single, joint public hearing to consider zoning district map amendments. In such cases, applicable notice requirements for Planning Commission and City Council public hearings must be met.

12.3010 Successive Applications

To help ensure the stability of land use and to promote and protect the quality of life for its citizens with respect to the use and enjoyment of their property, neither the City Council nor the Planning Commission may accept a reapplication for a zoning district map amendment for a period of 12 months following the date of the City Council's denial of the previous application. The City Council is authorized to waive this required 12-month waiting period requirement and accept a reapplication if the City Council determines that conditions have substantially and materially changed since the initial submission of the application and upon further evidence that such changes justify a rehearing and new amendment application.

12.400 PLANNED DEVELOPMENTS

12.401 Overview

Planned development (PD) districts are established through the approval of a zoning district map amendment in accordance with Sec. 12.300. The PD approval process also requires either a two-step or three-step plan approval procedure. The three-step plan approval process entails (1) approval of an initial generalized "concept plan," (2) approval of a more detailed "development plan," and (3) staff approval of PD site plans. At the property owner's option, the PD plan approval process may be consolidated into two steps, involving (1) review and approval of a "development plan" that includes all of the information otherwise required in the concept plan and development plan and (2) staff review and approval of PD site plans. This section sets forth the required review and approval procedures for approval of planned developments.

12.402 Step One: Map Amendment and Concept (or Development) Plan Approval

The first step of the PD approval process is approval of the zoning district map amendment establishing the PD district. A PD concept plan must be processed concurrently with a PD map amendment unless the applicant elects instead to forgo the concept plan stage and process a development plan concurrently with the PD map amendment.

12.402.A Authority to File

PD concept plan (or development plan) applications may be filed only by the subject landowner or the subject landowner's authorized agent.

12.402.B Application Filing

Complete applications for concept plan (or development plan) approval must be filed with the City Planner at the same time that the PD zoning district map amendment application is filed.

12.402.C Review and Recommendation—City Planner

Following receipt of a complete application for concept plan (or development plan) approval, the City Planner must prepare a report and recommendation that evaluates the proposed planned zoning district and concept plan (or development plan) in light of applicable PD district provisions of [Article 2](#) and the criteria of §12.402.G. The report must be transmitted to the Planning Commission before their public hearing on the proposed PD map amendment and concept plan (or development plan).

12.402.D Notice of Hearing

Public hearing notice must be provided in accordance with the zoning district amendment notice procedures (see Sec. [12.304](#)).

12.402.E Hearing and Recommendation—Planning Commission

The Planning Commission must hold a public hearing on the proposed PD map amendment and concept plan (or development plan). Following the close of the hearing, the Planning Commission must act by simple majority vote to recommend that the proposed map amendment and concept plan (or development plan) be approved, approved with modifications, or denied and transmit its recommendations to the City Council.

12.402.F Hearing and Final Action—City Council

1. Following receipt of the Planning Commission's recommendation, the City Council must hold a public hearing on the proposed PD map amendment and concept plan (or development plan). Following the close of their public hearing, the City Council must act to approve the proposed map amendment and concept plan (or development plan), approve the map amendment and concept plan (or development plan) with modifications or deny the proposed map amendment and concept plan (or development plan). The City Council may also remand the proposed map amendment and concept plan (or development plan) to the Planning Commission for further consideration.
2. PD district map amendments are subject to the protest provisions of Sec. [12.307](#).

12.402.G Approval Criteria

1. In order to approve a PD concept plan and map amendment, the City Council must make all of the following determinations:
 - a. The proposed PD district is at least 5 acres in area;
 - b. The proposal is consistent with the Comprehensive Plan;
 - c. Proposed uses and the development features are compatible with uses of nearby property and the existing and proposed character of the surrounding neighborhood;
 - d. The concept plan (or development plan) complies with applicable PD district provisions of [Article 2](#); and

- e. Appropriate terms and conditions have been imposed on the approval to protect the interests of the public and any residents of the planned development.
2. In order to approve a PD development plan and map amendment, the City Council must make all determinations required for concept plans (see §12.402.G) and PD development plans (See §12.403.I).

12.402.H **Adopting Ordinance**

1. The ordinance establishing a PD district must incorporate the approved concept plan or development plan and include at least the following:
 - a. A statement as to the purpose and intent of the district.
 - b. The uses authorized for each tract or subarea in the district, by use category, the location of such uses, and the residential densities and/or nonresidential intensities associated with phases of the project, in conformance with the approved concept plan or development plan.
 - c. The conditions applicable to development within the district, as established by the City Council.
2. The graphic depiction of features on the incorporated concept plan or development plan must be enforced as regulatory standards applicable within the approved PD district. Change or modification to such features requires processing of a PD district map amendment, including a revised concept plan or development plan.

12.403 **Optional Step Two: Development Plan Approval**

12.403.A **Options**

1. **Substitution for Concept Plan**

The developer may submit a development plan in lieu of a concept plan in accordance with Sec. 12.402.

2. **Following Approval of Concept Plan and PD District**

If a PD district is established based upon a concept plan, review and approval of a development in accordance with this subsection (12.403) is required before any PD site plans are approved and before any development or construction is allowed within the PD district.

12.403.B **Timing; Lapse of Approval**

If the landowner fails to file an application for development plan approval within 2 years of the date of the PD district amendment and concept plan approval, the plan approval will be deemed to have lapsed and no development plan may be accepted for processing. In the event of lapse of approval, the City Council may institute proceedings to determine whether the land should be classified in another zoning district. In such case, the Planning Commission must deliver its recommendation, with a copy to the owner of the affected land, to the City Council, who must conduct a public hearing on the matter and determine what action is to be taken with respect to the PD district and whether to revoke or reinstate the developer's authorization to submit a development plan.

12.403.C **Authority to File**

PD development plan applications may be filed only by the subject landowner or the subject landowner's authorized agent.

12.403.D Application Filing

Complete applications for development plan approval must be filed with the City Planner.

12.403.E Review and Recommendation—City Planner

Following receipt of a complete application for development plan approval, the City Planner must prepare a report and recommendation that evaluates the PD development plan in light of the approved concept plan and the approval criteria of §12.403.I. The report must be transmitted to the Planning Commission before their public hearing on the proposed PD development plan.

12.403.F Notice of Hearing

1. Planning Commission

Notice of the Planning Commission's required public hearing on a PD development plan must be mailed and posted, in accordance with § 12.106.A and §12.106.C. Required notices must be mailed and posted at least 11 days before the Planning Commission public hearing.

2. City Council

Notice of the City Council's required public hearing on a PD development plan must be published in accordance with §12.106.B. The notice must be published at least 16 days before the City Council public hearing.

12.403.G Hearing and Recommendation—Planning Commission

The Planning Commission must hold a public hearing on the proposed PD development plan. Following the close of the hearing, the Planning Commission must act by simple majority vote to recommend that the proposed development plan be approved, approved with conditions, or denied and transmit its recommendations to the City Council.

12.403.H Hearing and Final Action—City Council

1. Following receipt of the Planning Commission's recommendation, the City Council must hold a public hearing on the proposed PD development plan. Following the close of their public hearing, the City Council must act to approve the proposed development plan, approve the development plan with conditions or deny the development plan. The City Council may also remand the development plan to the Planning Commission for further consideration.
2. PD zoning development plans are subject to the protest provisions of Sec. 12.307.

12.403.I Approval Criteria

In order to approve a PD development plan, the City Council must make all of the following determinations:

1. The development plan generally is consistent with the approved concept plan and the standards and conditions set forth in the PD district adopting ordinance;
2. The plan provides for a compatible arrangement of buildings and land uses within the project;

3. The general plan for traffic circulation and pedestrians provides for adequate and safe circulation inside and external to the development, consistent with the adopted thoroughfare plan;
4. The general plan for accommodation of floodwaters and drainage is adequate;
5. The plan does not adversely affect adjoining neighborhoods or properties outside the plan, taking into consideration proposed buffers;
6. The amenities proposed in the development plan application, if any, are sufficient to justify increased densities or intensities on the site; and
7. The sequence of development and timing of the phases are consistent with the overall phasing of capital facilities intended to serve the site and with the City's overall growth.

12.403.J **Approving Ordinance**

The ordinance approving the development plan, whether approved as part of the PD map amendment or after the PD map amendment and concept is approved, must include at a minimum the following information. The development plan must be incorporated as an exhibit to the ordinance:

1. A table of the specific land uses permitted in the area subject to the development plan, together with a description of the tracts or subareas to which such uses are restricted;
2. The residential densities and nonresidential intensities of each permitted land use;
3. A table showing the dimensions of each permitted land use, including the following information:
 - a. Minimum lot area;
 - b. Minimum lot width and depth;
 - c. Minimum front, side, and rear yard areas;
 - d. Maximum height of buildings;
 - e. Minimum parking standards for each multi-unit residential and nonresidential land use;
4. A description of the elements of the general circulation plan to serve the development;
5. Provisions governing amenities, if any, to serve the area subject to the development plan; and
6. Such additional conditions as are applicable to development within the area subject to the development plan, as established by the City Council.

12.404 **Final Step: PD Site Plans**

Approval of PD site plans for development on individual building lots, parcels or tracts within the project is the final step of the PD approval process. Such reviews are intended to help ensure that all construction and development are consistent with the approved development plan and standards for the PD district.

12.404.A **Timing; Lapse of Approval**

A PD site plan must be submitted for approval within 2 years of the date that the development plan was approved. If a PD site plan is not submitted within such period, the development plan approval will be deemed to have lapsed and no PD site plan may be accepted for processing. In the event of lapse of approval, the City Council may institute proceedings to determine whether the development plan for the property should be modified or the property subject to the development plan should be reclassified in another zoning district, and whether to revoke or reinstate the developer's authorization to submit a site plan.

12.404.B Review and Action by City Planner

1. The City Planner is authorized to review and take action on PD site plans. The City Planner must approve a PD site plan if it complies with the approved development plan, all conditions of development plan approval and all of the following criteria:
 - a. The plan complies with the approved development plan;
 - b. The plan complies with all standards and conditions set forth in the ordinance approving the development plan;
 - c. Unless modified by the ordinance approving the development plan, the plan complies with the following additional standards generally applicable to development within the City, as set forth in this Development Code:
 - (1) Performance standards; and
 - (2) Setback, landscaping and off-street parking and loading standards;
 - d. The plan provides for appropriate ingress and egress points for access, parking and loading, including existing and proposed ingress/egress/access easements, queuing and internal circulation;
 - e. The plan provides for fire safety and adequate measures for fire control and dealing with fire or explosive hazard; and
 - f. The plan provides for adequate utilities, roads, drainage, and other infrastructure, as required by the City's Development Codes.
2. The City Planner may establish conditions and require modifications to ensure that the PD site plan is consistent with the approved development plan and the approval criteria in this section.
3. If the City Planner disapproves a PD site plan or imposes conditions, the applicant may appeal the decision to the City Council by filing a written request with the City Planner within 10 days of the decision.

12.404.C Effect of Approval

Approval of PD site plans must occur before a building permit may be issued for the subject property.

12.404.D Lapse of Approval

1. An approved PD site plan will lapse and have no further effect 24 months after it is approved, unless:
 - a. A building permit has been issued (if required); or
 - b. A certificate of occupancy has been issued.

12.404.E The Planning Commission is authorized to extend the expiration period for good cause on up to 2 separate occasions, by up to one year each. Requests for

extensions must be submitted to the City Planner and forwarded to the Planning Commission for a final decision.

- 12.404.F A conditional use also lapses upon revocation of a building permit or a certificate of occupancy, for violations of conditions of approval or upon expiration of a building permit to carry out the work authorized by the approved PD site plan.

12.405 **PD Project Review**

If the City Council finds that conditions imposed on development of the planned development project have not been timely fulfilled, or for any other reasons related to reasonable exercise of the powers conferred by Texas *Local Government Code* Chapter 211, that the zoning district classification of the PD district should be reexamined, the City Council may initiate review of the PD district in order to determine whether the authorized uses, standards and conditions applicable to development within the district should be changed for part or all of the undeveloped land within the district. If the City Council makes such determination, it must refer the matter to the Planning Commission for its recommendation and thereafter take appropriate action to modify the uses, standards or conditions applicable to development within the district in accordance with procedures applicable to zoning district amendments.

12.500 HISTORIC PRESERVATION OVERLAY DISTRICT MAP AMENDMENTS

12.501 **Intent**

The Historic Preservation (HPO) Overlay district map amendment procedures of this section govern the establishment, amendment or repeal of any HP Overlay district (see Sec. 3.400).

12.502 **Authority to File**

HP Overlay map amendments may be initiated by the City Council, Historic Preservation Commission or the owner of the real property that is the subject of the proposed map amendment or by the subject property owner's authorized agent. Any request initiated by the City Council or Historic Preservation Commission is subject to the approval of the property owner before its consideration.

12.503 **Compliance with Zoning District Map Amendment Procedures**

At a minimum, the zoning district map amendment procedures of Sec. 12.300 apply and must be followed for all HP Overlay map amendments, including all requirements for public notice and hearings and the rights of property owners to protest the amendment.

12.504 **Review and Recommendation—Historic Preservation Commission**

12.504.A After notification of all owners of property within the proposed HP Overlay, the Historic Preservation Commission must hold a public hearing to consider the map amendment.

12.504.B At the Historic Preservation Commission's public hearing, property owners, interested parties and technical experts must be given an opportunity to present testimony or documentary evidence that will become part of the record regarding the historic, architectural or cultural importance of the proposed historic landmark or district to be included within the HP Overlay.

12.504.C Following the close of the public hearing, the Historic Preservation Commission must act by simple majority vote to recommend that the proposed overlay district map amendment be approved, approved with modifications, or denied and transmit its recommendations to the Planning Commission. The

report and recommendation must include specific findings regarding the proposed map amendment's consistency with the HP Overlay criteria of Sec. 12.506. The report must include a map showing the boundaries of the proposed HP Overlay boundaries.

12.505 Review by Planning Commission; Final Decision by City Council

- 12.505.A Following review and recommendation by the Historic Preservation Commission, the proposed HP Overlay amendment must be forwarded to the Planning Commission for review and recommendation, and then, following review and recommendation by the Planning Commission, the matter must be forwarded to the City Council for final decision.
- 12.505.B The Planning Commission must make its recommendation to the City Council within 45 days of the date that the Planning Commission's hearing is closed.
- 12.505.C The City Council must conduct its hearing within 45 days of receipt of the Planning Commission recommendation.
- 12.505.D Upon designation of an HP Overlay, the designated boundaries must be recorded in the official public records of real property of Walker County, the tax records of the City of Huntsville and the Walker County Appraisal District as well as the official zoning district map of the City of Huntsville.

12.506 HP Overlay Approval Criteria

- 12.506.A An individual (landmark) property may be designated as an HP Overlay if it substantially complies with 2 or more of the following:
 - 1. Possesses significance in history, architecture, archeology, or culture;
 - 2. Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;
 - 3. Is associated with events that have made a significant impact in the past;
 - 4. Represents the work of a master designer, builder, or craftsman;
 - 5. Embodies the distinctive characteristics of a type, period, or method of construction; or
 - 6. Represents an established and familiar visual feature of the City.
- 12.506.B Multiple properties may be designated as an HP Overlay district area if the area substantially complies with both of the following:
 - 1. Contains properties and an environmental setting which meet 2 or more of the criteria for designation of an individual landmark property (see §12.506.A); and
 - 2. Constitutes a distinct section of the City.
- 12.506.C Properties that are listed as a Recorded Texas Historic Landmark (RTHL), State Archeological Landmark (SAL) or listed on the National Register of Historic Places (NR) may be considered for HP Overlay designation as recognized local historic landmarks.

12.600 CERTIFICATES OF APPROPRIATENESS

12.601 Applicability

- 12.601.A Within any HP Overlay district, a Certificate of Appropriateness must be obtained in accordance with this section before performing any construction, reconstruction, alteration, restoration, rehabilitation, or relocation of any historic landmark or any property within a historic district. A Certificate of Appropriateness is also required before making any material change in light

fixtures, signs, fences, steps, or other exterior elements that are visible from a public right-of-way and that affect the appearance and cohesiveness of any historic landmark or any property within a historic district.

- 12.601.B A Certificate of Appropriateness must be obtained in accordance with the procedures of this section before demolishing any building or structure within an HP Overlay.
 - 12.601.C Certificates of Appropriateness are not required for ordinary maintenance and repair of any exterior architectural feature that does not involve a change in design, material, or outward appearance. In-kind replacement or repair is included in this definition of ordinary maintenance.
 - 12.601.D No building or demolition permits may be issued for properties within an HP Overlay until a Certificate of Appropriateness is obtained. The Certificate of Appropriateness required by this section is in addition to and not in lieu of any other building or demolition permit that may be required by any other ordinance of the City of Huntsville.
- 12.602 **Authority to File**
- Applications for Certificates of Appropriateness may be filed only by the subject property owner or by the subject property owner's authorized agent.
- 12.603 **Application Filing**
- Complete applications must be filed with the Historic Preservation Officer in a form established by the City. The application must include at least the following information:
- 12.603.A Name, address, telephone number of applicant;
 - 12.603.B Name, address, and telephone number of the property owner;
 - 12.603.C A detailed description of the proposed work;
 - 12.603.D Location and photographs of the property and adjacent properties;
 - 12.603.E Elevation drawings of the proposed changes, if available;
 - 12.603.F Samples of materials to be used;
 - 12.603.G If the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property; and
 - 12.603.H Any other information that the Historic Preservation Commission deems necessary in order to visualize the proposed work.
- 12.604 **Meeting and Final Decision—Historic Preservation Commission**
- 12.604.A The Historic Preservation Commission must review the application at a regularly scheduled meeting within 60 days of the date that a complete application is received, at which time an opportunity must be provided for the applicant to be heard. The Historic Preservation Commission must approve, deny, or approve with modifications the application within 45 days after the review meeting. If the Historic Preservation Commission does not act within 90 days of the receipt of a complete application, a permit may be granted.
 - 12.604.B All decisions of the Historic Preservation Commission must be in writing and must state its findings pertaining to the approval, denial, or modification of the application. A copy must be sent to the applicant. Additional copies must be filed as part of the City of Huntsville's records on that property and dispersed to appropriate departments.

- 12.604.C An applicant for a Certificate of Appropriateness dissatisfied with the action of the Historic Preservation Commission relating to the issuance or denial of a Certificate of Appropriateness has the right to appeal to the City Council within 30 days after receipt of notification of such action. The City Council must hold a public hearing and make its decision on the matter within 45 days of receiving the appeal notice.

12.605 **Standards and Review Criteria**

In considering an application for a Certificate of Appropriateness, the Historic Preservation Commission must be guided by any adopted design guidelines, and where applicable, by the Secretary of the Interior's *Standards for Rehabilitation of Historic Buildings*. Any adopted design guidelines and Secretary of the Interior's standards must be made available to the property owners of historic landmarks or property located within historic districts. The following items, as appropriate, must be considered in the application for a Certificate of Appropriateness:

- 12.604.A Every reasonable effort must be made to adapt the property in a manner that requires minimal alteration of the building, structure, object, or site and its environment.
- 12.604.B The distinguishing original qualities or character of a building, structure, object, or site and its environment may not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- 12.604.C All buildings, structures, objects, and sites must be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance are discouraged.
- 12.604.D Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, object, or site and its environment. These changes may have acquired significance in their own right, and this significance must be recognized and respected.
- 12.604.E Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, object, or site must be kept where possible.
- 12.604.F Deteriorated architectural features must be repaired rather than replaced wherever possible. In the event replacement is necessary, the new material must reflect the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features must be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
- 12.604.G The surface cleaning of structures must be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials may not be undertaken.
- 12.604.H Every reasonable effort must be made to protect and preserve archeological resources affected by, or adjacent to, any project.
- 12.604.I Contemporary design for alterations and additions to existing properties are not discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.

- 12.604.J Whenever possible, new additions or alterations to buildings, structures, objects, or sites must be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object or site would be unimpaired.
- 12.606 **Economic Hardship Process**
- 12.604.A After receiving written notification from the Historic Preservation Commission of the denial of a Certificate of Appropriateness, an applicant may commence the hardship process of this subsection. No building permit or demolition permit may be issued unless the Historic Preservation Commission makes a finding that an economic hardship exists.
- 12.604.B When a claim of economic hardship is made due to the effect of the historic preservation requirements of this Development Code, the applicant or property owner must prove that:
1. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 2. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, that would result in a reasonable return; and
 3. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- 12.604.C The applicant must consult in good faith with the Historic Preservation Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property. Such efforts must be shown to the Historic Preservation Commission.
- 12.604.D The Historic Preservation Commission must hold a public hearing on the application within 60 days of the date that a complete application is received by the Historic Preservation Commission. Following the hearing, the Historic Preservation Commission has 30 days in which to prepare a written decision on the application. If the Historic Preservation Commission does not act within 90 days of the receipt of the application, a permit may be granted.
- 12.604.E All decisions of the Historic Preservation Commission must be in writing and must state its reasons for granting or denying the hardship application. A copy must be sent to the applicant and filed with the Historic Preservation Officer for public inspection.
- 12.604.F An applicant for economic hardship relief who is dissatisfied with the action of the Historic Preservation Commission relating to the issuance or denial of a Certificate of Appropriateness, has the right to appeal to the City Council within 30 days after receipt of notification of such action. The City Council must hold a public hearing and makes its decision on the matter within 45 days of receiving the appeal notice.

12.700 SUBDIVISION PLATS

12.701 *Purposes*

The subdivision review and approval procedures of this section are intended to help:

- 12.701.A Facilitate the creation of accurate and permanent public records of the separate interests created and conveyed by the subdivision of land, thereby helping to protect private property rights; and
- 12.701.B Ensure that proposed lots are capable of being built upon in accordance with applicable City regulations.

12.702 **Applicability**

Except as otherwise expressly exempted, subdivisions of property within the City limits or the City's extraterritorial jurisdiction are required to be approved in accordance with state law and the applicable plat approval procedures of this article before any of the following occurs:

- 12.702.A The division of land (for any purpose) into 2 or more parcels, to lay out a subdivision of the tract, including an addition to the City, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on to or adjacent to the streets, alleys, squares, parks or other parts;
- 12.702.B Development on a parcel not previously legally subdivided;
- 12.702.C Resubdivision of land that has previously been platted; or
- 12.702.D Amendment of any approved plat.

12.703 **Exemptions**

All of the following are expressly exempt from the subdivision plat approval procedures of this section (Sec. 12.700):

- 12.703.A A division of land into parcels greater than 5 acres in area when each parcel has street access and no public improvements are dedicated;
- 12.703.B Division of property that results from a governmental entity's land acquisition for public facilities such as street right-of-way;
- 12.703.C Any lot or lots forming a part of a subdivision created and recorded before July 26, 1983 or before the date on which the City's subdivision regulations applied to the property through extension of the City's extraterritorial jurisdiction;
- 12.703.D A division of land performed by a political subdivision of the state, as defined in Chapter 245 of the Texas *Local Government Code*. Entities who choose to plat voluntarily must comply with all of the applicable requirements;
- 12.703.E A division of land created by order of a court with competent jurisdiction;
- 12.703.F Leases that do not involve the actual division of land, such as:
 - 1. Agricultural leases, fishing leases, grazing leases, and hunting leases;
 - 2. Leases that pertain to existing identified commercial or residential units; and
 - 3. Sign leases;
- 12.703.G Easements that do not involve the division of land;
- 12.703.H The laying out of cemetery plots in a cemetery or addition to a cemetery if no public street is constructed or dedicated.

12.704 **Determination of Applicability**

- 12.704.A Upon receipt of a complete application, and in compliance with Section 212.0115 of the Texas *Local Government Code*, the City Planner is authorized to make the following determinations:
 - 1. Whether a plat is required for the subject tract; and
 - 2. If a plat is required, whether it has been prepared and whether it has been reviewed and approved.
- 12.704.B The City Planner may require additional information and documents be provided by the applicant in order to make the requested determination.

- 12.704.C If the City Planner determines that a plat is not required, the City Planner must issue to the requesting party a written certification of that determination. If it is determined that a plat is required and that the plat has been prepared and has been reviewed and approved, the City Planner must issue to the requesting party a written certification of that determination.
- 12.704.D The City Planner must make the determination of applicability within 20 days of the date of receipt of a complete application and must issue the certificate, if applicable, no later than 10 days after the date the determination is made.
- 12.704.E The decision of the City Planner is appealable to the Planning Commission.
- 12.705 **Subdivision (Plat) Approval Procedure Generally**
- Except as otherwise expressly stated in this section (Sec. 12.700), the subdivision plat approval process requires preliminary plan approval and final plat approval. Prior to the submission of a preliminary plan application required by this Development Code, applicants are encouraged to schedule and attend an optional preapplication meeting (see Sec. 12.103).
- 12.706 **Minor Plats**
- 12.706.A **Applicability**
- The City Planner is authorized to approve the following in accordance with the minor plat approval procedures of this section:
1. Amending plats, as described in Section 212.016 of the *Texas Local Government Code*;
 2. Plats or replats involving 4 or fewer lots fronting on an existing street and not requiring the creation of any new street or extension of municipal facilities, as described in Section 212.0065 of the *Texas Local Government Code*; and
 3. A replat, as described in Section 212.0145 of the *Texas Local Government Code*, that does not require the creation of any new street or the extension of municipal facilities.
- 12.706.B **Procedure**
1. Minor plat approval requires submission of a final plat, as described in Sec 12.708. No preliminary plan is required. The minor (final) plat must be reviewed by the City Planner for compliance with all applicable requirements of this Development Code.
 2. Within 30 days of receipt of a complete minor plat application and final plat, the City Planner must approve the plat, approve the plat with conditions or recommend denial of the plat. If the plat is recommended for denial, it must be forwarded to the Planning Commission for final action at their next available meeting. The City Planner may also elect, for any reason, to forward a proposed minor plat to the Planning Commission for final action.

Commentary: The 30-day requirement for plat approval is imposed by state law. The City's typical practice is to act on minor plats within 10 days.

3. If forwarded to the Planning Commission, the Planning Commission must approve, disapprove, or conditionally approve the plat within 30 days of the date that it is forwarded as set forth in Section 212.009(a) of the *Texas Local Government Code*. Upon applicant request in writing, and upon

approval by the Planning Commission, the approval period may be extended for a period not to exceed 30 days as set forth in Section 212.009(b-2) of the *Texas Local Government Code*. Planning Commission conditional approval or disapproval of a plat shall follow the procedures set forth in Section 212.0091, 212.0093, 212.0095, 212.0096, 212.0097, and 212.0099 of the *Texas Local Government Code*.

12.706.C **Recordation**

After approval by the City Planner or Planning Commission, and when all requirements and conditions have been met, the approved plat must be recorded in the office of the Walker County clerk.

12.707 **Preliminary Plans**

12.707.A **Applicability**

Major subdivisions are those that do not meet the minor plat applicability provisions of §12.706.A. Review and approval of a preliminary plan is required for all major subdivisions, except as otherwise expressly stated or unless the Planning Commission approves a consolidated preliminary and final plat.

12.707.B **Purpose**

The purpose of preliminary plan review and approval is to allow the Planning Commission to evaluate the proposed subdivision for compliance with applicable regulations of this Development Code and to evaluate construction plans for public improvements or to provide adequate security for construction of public improvements.

12.707.C **Application Filing**

Complete applications for preliminary plan approval must be filed with the City Planner.

12.707.D **Review and Recommendation by City Planner**

The City Planner must review the preliminary plan and recommend approval, approval with conditions or disapproval based on the plan's compliance with the following:

1. The Comprehensive Plan;
2. The infrastructure and public improvement standards of [Article 10](#); and
3. Other applicable provisions of this Development Code.

12.707.E **Review and Final Action by Planning Commission**

1. The City Planner must forward the preliminary plan to the Planning Commission for review when it meets all of the technical terms and conditions of this Development Code, or the applicant has filed an application for a waiver or modification of the infrastructure and public improvement standards of [Article 10](#). (See §12.711 for waiver and modification procedures)
2. The Planning Commission must act to approve conditionally approve or disapprove the preliminary plan within 30 days of receipt of a complete application as set forth in Section 212.009(a) of the *Texas Local Government Code*. If action is not taken within the required 30-day period, the plat will be deemed approved. Planning Commission conditional approval or disapproval of a plan shall follow the procedures set forth in Sections

212.0091, 212.0093, 212.0095, 212.0096, 212.0097, and 212.0099 of the *Texas Local Government Code*.

3. Upon applicant request in writing, and upon approval by the Planning Commission, the approval period may be extended for a period not to exceed 30 days as set forth in Section 212.009(b-2) of the *Texas Local Government Code*.

12.707.F **Effect of Preliminary Plan Approval**

Approval of a preliminary plan shall mean the following:

1. Once a preliminary plan application is approved by the Planning Commission, the applicant may continue the major subdivision approval process by submitting construction plans and a final plat application.
2. Approval of a preliminary plan does not constitute approval of a final plat. Application for approval of a final plat will be considered only after the requirements for preliminary plan approval have been fulfilled and after all other specified conditions have been met.

12.707.G **Lapse of Approval**

1. If a final plat is not filed with the City Planner within 24 months of the date of approval of the preliminary plan, the preliminary plan will be deemed to have lapsed and be of no further effect. The Planning Commission may, upon written application of the applicant, extend the preliminary plan approval one time for up to 12 additional months. The extension request must be filed with the City Planner at least 30 days before the preliminary plan's expiration date.
2. Each final plat that is a phase of an approved preliminary plan extends the expiration date of the preliminary plan an additional 24 months from the date the previous final plat was approved by the Planning Commission.

12.707.H **Preliminary Plan Amendments**

1. **Minor Amendments.**

Minor amendments of an approved preliminary plan may be incorporated in an application for approval of a final plat without the necessity of filing a new application for approval of a preliminary plan. Authorized minor amendments include adjustment in street or alley alignments and lengths, adjustment in lot lines that do not result in creation of additional developable lots, or adjustments to utility or access easements. Minor amendments must comply with all applicable regulations of this Development Code and may not increase the extent of any previously approved waiver.

2. **Major Amendments**

All proposed amendments to an approved preliminary plan that do not constitute a minor amendment are considered a major amendments and require approval of a new preliminary plan application. Examples of major amendments include any increase in the number of developable lots, additions or rerouting of streets and modification of parkland.

3. **Amendment Determination**

The applicant must provide a written description of proposed amendments to an approved preliminary plan. The City Planner is authorized to determine whether the proposed amendments are deemed minor or major amendments. At the discretion of the City Planner, a new preliminary plan application that proposes major amendments may be processed simultaneously with a final plat application.

4. **Retaining Previous Approval**

If the proposed major amendments are not approved or if the applicant is unwilling to accept the terms and conditions required by the Planning Commission, the applicant may withdraw the proposed preliminary plan amendments by written request and retain the previously approved preliminary plan.

12.708 **Final Plats**

12.708.A **Applicability**

Final plat review is required for all major subdivisions and is the procedure used for approval of minor plats (See Sec. 12.706).

12.708.B **Purpose**

The purpose of a final plat is to record the subdivision of property including an accurate description of blocks, rights-of-way, easements, building lines and street names.

12.708.C **Application Filing**

Complete applications for final plat approval must be filed with the City Planner.

12.708.D **Review and Action**

1. The City Planner is authorized to approve minor plats (final plats).
2. A final plat for a major subdivision requires review and recommendation by the City Planner and review and approval by the Planning Commission.
3. The Planning Commission must act to approve, conditionally approve or disapprove the final plat within 30 days receipt of a complete application as set forth in Section 212.009(a) of the *Texas Local Government Code*. If action is not taken within the required 30-day period, the plat will be deemed approved. Planning Commission conditional approval or disapproval of a plat shall follow the procedures set forth in Sections 212.0091, 212.0093, 212.0095, 212.0096, 212.0097, and 2112.0099 of the *Texas Local Government Code*.
4. Upon applicant request in writing, and upon approval by the Planning Commission, the approval period may be extended for a period not to exceed 30 days as set forth in Section 212.009(b-2) of the *Texas Local Government Code*.
5. No final plat may be approved unless the plat is determined to (a) be in substantial conformance with the approved preliminary plan (if applicable) and the Comprehensive Plan and (b) comply with the infrastructure and public improvement standards of [Article 10](#) and all other applicable provisions of this Development Code.

12.708.E **Recordation**

1. After approval by the City Planner or Planning Commission, as applicable, and when all requirements and conditions have been met, the approved final plat must be recorded in the office of the Walker County clerk.
2. If infrastructure and public improvements are required for the proposed subdivision, the following are required before the approved final plat may be recorded.
 - a. Engineering and construction documents must be approved by the City Engineer;
 - b. Any required dedications and easements must be reviewed and determined acceptable by the City in recordable form; and
 - c. All required infrastructure and public improvements must either (a) be in place and accepted by the City or (b) a financial guarantee must be provided in accordance with Sec. 10.300.
3. If the approved final plat is not recorded within 18 months of the date of approval by the Planning Commission, the previous approval will lapse and be of no further effect.

12.709 Vacating Plat

Vacating plats, as described in Section 212.013 of the *Texas Local Government Code* require review and approval in accordance with the same procedures used for approval of final plats (see Sec. 12.708). Once recorded, a vacating plat has the effect of returning the property to its previous (platted or unplatted) condition.

12.710 Replats

12.710.A When Required

Except as otherwise expressly stated in this article, replats of any portion of an already approved final plat, other than to amend or vacate the plat, require review and approval in accordance with the same procedures used for approval of final plats (see Sec. 12.708).

12.710.B Replatting Without Vacating Preceding Plat

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

1. Is signed and acknowledged by only the owners of the property being replatted; and
2. Does not attempt to amend or remove any covenants or restrictions previously incorporated in the final plat.

12.710.C Additional Requirements for Residential Replats

1. Applicability

Pursuant to Section 212.015 of the *Texas Local Government Act*, the additional residential replat requirements of this subsection apply whenever:

- a. During the preceding 5 years, any of the area to be replatted was limited by an interim or permanent zoning districts classification to residential use for not more than 2 residential units per lot; or
 - b. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than 2 residential units per lot.
- ###### 2. Public Hearing Notice

Residential replats require public notice hearing before the Planning Commission. Notice of the Planning Commission's public hearing must be published in accordance with §12.106.B. The notice must be published at least 16 days before the public hearing.

Notice of the hearing must also be mailed, in accordance with §12.106.A, to the owners of lots that are in the original subdivision and that are within 300 feet of the lots to be replatted. Required notices must be mailed at least 16 days before the Planning Commission's public hearing.

3. Written Protest

a. Residential replats may be approved by a simple majority vote, except that if the proposed residential replat requires a modification or waiver of subdivision standards and a valid protest petition is filed against the replat, approval of the replat requires a favorable vote of at least 75% of the Planning Commission members who are present and qualified to vote on the matter.

b. A written protest of a residential replat will be deemed valid only if it is signed and acknowledged by the owners of at least 20% of the area of the lots to whom mailed notice is required to be given under § 12.710.C2.

12.711 Modifications and Waivers of Subdivision Standards

The Planning Commission is authorized to approve, approve with conditions, or disapprove modifications and waivers of the infrastructure and public improvement standards of Article 10. Such waivers and modifications must be reviewed as approved in conjunction with review and approval of the preliminary subdivision plan. In order to approve a waiver or modification, the Planning Commission must find that:

12.711.A There are special circumstances or conditions affecting the property;

12.711.B The waiver or modification is necessary for reasonable and appropriate development of the property in question and is not a greater modification or waiver than is required to allow reasonable and appropriate development of the subject property; and

12.711.C Granting the waiver or modification will not be detrimental to the public welfare or injurious to other property in the vicinity in which the subject property is situated.

12.800 CONDITIONAL USES

12.801 Intent

The conditional use approval procedure of this section is intended to provide a transparent, public review process for land uses that, because of their widely varying design and operational characteristics, require case-by-case review in order to determine whether they will be compatible with surrounding uses and development patterns.

12.802 Applicability

All uses listed as conditional uses in Sec. 4.100 require review and approval in accordance with the procedures of this section.

12.803 Initiation of Application

Conditional use applications may be initiated only by the owner of the subject property or by the subject property owner's authorized agent.

12.804 Review and Report—City Planner

Upon receipt of a complete conditional use application, the City Planner must prepare a report and recommendation on the proposed conditional use. The report must be transmitted to the Planning Commission before their public hearing on the conditional use matter.

12.805 Notice of Hearings

12.805.A Planning Commission

Notice of the Planning Commission's required public hearing on a conditional use application must be mailed and posted, in accordance with §12.106.A and §12.106.C. Required notices must be mailed and posted at least 11 days before the Planning Commission public hearing.

12.805.B City Council

Notice of the City Council's required public hearing on a conditional use application must be published in accordance with §12.106.B. The notice must be published at least 16 days before the City Council public hearing.

12.806 Hearing and Recommendation—Planning Commission

The Planning Commission must hold a public hearing on the proposed conditional use. Following the close of the hearing, the Planning Commission must act by simple majority vote to recommend that the proposed conditional use be approved, approved with conditions, or denied and transmit its recommendations to the City Council.

12.807 Final Action—City Council

12.807.A Following receipt of the Planning Commission's recommendation, the City Council must hold a public hearing on the proposed conditional use. Following the close of their public hearing, the City Council must act to approve the proposed conditional use, approve the proposed amendment with conditions or deny the proposed conditional use. The City Council may also remand the proposed conditional use application to the Planning Commission for further consideration.

12.807.B Conditional use applications may be approved by a simple majority vote.

12.808 Review and Approval Criteria

No conditional use may be recommended for approval or approved unless the respective review or decision-making body determines that evidence has been submitted to support each of the following conclusions:

12.808.A That the proposed use is consistent with the Comprehensive Plan;

12.808.B That adequate utilities, roads, drainage and other necessary infrastructure facilities and public services are or will be available to serve proposed use; and

12.808.C That the proposed use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity or be injurious to property values or improvements in the vicinity.

12.808.D The proposed use meets all supplemental regulations for the subject use.

12.809 Lapse of Approval

12.809.A An approved conditional use application will lapse and have no further effect 18 months after it is approved by the City Council, unless:

1. A building permit has been issued (if required);
2. A certificate of occupancy has been issued; or
3. The conditional use has been lawfully established.

12.809.B The City Council is authorized to extend the expiration period for good cause on up to 2 separate occasions, by up to one year each. Requests for extensions must be submitted to the City Planner and forwarded to the City Council for a final decision.

12.809.C A conditional use also lapses upon revocation of a building permit or a certificate of occupancy for violations of conditions of approval or upon expiration of a building permit to carry out the work authorized by the conditional use approval.

12.810 **Transferability**

Conditional use approval runs with the land and is not affected by changes of tenancy, ownership, or management.

12.811 **Amendments**

Amendments to approved conditional uses may be approved in accordance with the following requirements. The conditional use amendment procedures may not be used to vary or modify Development Code requirements.

12.811.A **Minor Amendments**

1. The City Planner is authorized to approve the following minor amendments to approved conditional uses:
 - a. Any amendments expressly authorized as minor amendments at the time of conditional use approval;
 - b. The addition of customary accessory uses and structures; and
 - c. Changes to the development site or to structures necessitated by engineering, architectural or physical limitations of the site that could not have been foreseen at the time the conditional use was approved and that are not otherwise classified as major amendments pursuant to §12.811.B.
2. Applications for minor amendments to approved conditional uses must be filed in a form established by the City Planner. If no action is taken on the minor amendment application within 15 days of filing of a complete application, the minor amendment is deemed denied.

12.811.B **Major Amendments**

1. All of the following constitute major amendments to approved conditional uses:
 - a. An increase in overall building coverage by more than 5%;
 - b. An increase in building height by more than 10% or 5 feet, whichever is less;
 - c. An overall reduction in the amount of usable open space, common open space or landscaping;
 - d. A reduction in off-street parking by more than 10% or one space, whichever results in a greater reduction;
 - e. A change in the vehicle circulation pattern that would increase points of access, change access to another street or increase projected traffic volumes; and
 - f. Any combination of 3 or more minor changes that were not expressly authorized by the approved conditional use permit.

2. Major amendments to an approved conditional use must be processed as a new conditional use application, including all requirements for fees, notices and public hearings.

12.900 VARIANCES

12.901 Intent

A variance is a grant of relief to a property owner from strict compliance with the regulations of this Development Code. The intent of a variance is not to simply remove an inconvenience or financial burden that may result from compliance with applicable Development Code requirements. Variances are intended to help alleviate an undue hardship that would be caused by the literal enforcement of the subject ordinance requirements. They are intended to provide relief when the requirements of this Development Code render construction or placement of improvements impractical or impossible because of some unique or special characteristic of the subject property itself.

12.902 Authorized Variances

The Board of Adjustment is authorized to grant a variance to any regulation in this Development Code in accordance with the variance procedures of this section, except that the variance procedures may not be used to do any of the following:

- 12.902.A Allow a principal use in a zoning district that is not otherwise allowed in that zoning district (i.e., “use variances” are prohibited);
- 12.902.B Waive, modify or amend any definition or use classification;
- 12.902.C Waive, modify or otherwise vary any of the review and approval procedures of this article;
- 12.902.D Waive, vary, modify or otherwise override a condition of approval or requirement imposed by an authorized decision-making body or the state or federal government; or
- 12.902.E Waive, vary or modify subdivision-related standards (i.e., those administered and enforced as part of the subdivision review procedures, including, for example, the infrastructure and public improvement standards of [Article 10](#).)
Note: waivers and modifications of subdivision-related requirements may be considered concurrently with review of a major subdivision (See Sec. [12.705](#)).

12.903 Authority to File

Variance applications may be filed by the subject property owner or by the property owner’s authorized agent.

12.904 Application Filing

- 12.904.A A Pre-Application Meeting is required before an application may be filed.
- 12.904.B Complete applications for variances must be filed with the City Planner.

12.905 Notice of Hearing

Notice of the Board of Adjustment’s required public hearing on a variance request must be mailed and posted, in accordance with [§12.106.A](#) and [§12.106.C](#). Notice must also be mailed to any individuals who have, in writing, requested such notification. Required notices must be mailed and posted at least 11 days before the public hearing.

12.906 Hearing and Final Decision—Board of Adjustment

- 12.906.A Following receipt of a complete application, the Board of Adjustment must hold a public hearing within 60 days to consider the requested variance.

- 12.906.B Following the close of the public hearing, the Board of Adjustment must make its findings of fact and act to approve the requested variance, approve the variance with modifications and/or conditions, or deny the variance request based on the standards and review criteria of Sec. 12.907.
- 12.906.C Approval of a variance requires an affirmative vote of at least 4 members of the Board of Adjustment.
- 12.907 **Standards and Review Criteria**
- 12.907.A No variance may be approved unless the Board of Adjustment finds that the variance to be approved is consistent with the spirit and intent of this Development Code and that strict compliance with the subject provisions would result in an unnecessary hardship for the subject property owner.
- 12.907.B In its consideration of whether a variance request has met the standard of unnecessary hardship, the Board of Adjustment must make all of the following findings from the evidence presented:
1. The variance is necessary to overcome a condition of the property itself;
 2. The condition necessitating the variance is unique to the subject property;
 3. The condition necessitating the variance was not created by the subject property owner;
 4. Literal enforcement of the subject regulation will deprive the property owner of any economically beneficial use of the subject property;
 5. Approval of the variance will not be contrary to the public interest; and
 6. Approval of the variance is in keeping with the overall spirit of this Development Code and furthers substantial justice.
- 12.908 **Transferability**
- Approved variances run with the land and are not affected by changes of tenancy, ownership, or management.
- 12.909 **Amendments**
- A request for changes in the specific nature of the approved variance or changes to any conditions attached to an approved variance must be processed as a new variance application, including all requirements for fees, notices and public hearings.
- 12.910 **Lapse of Approval**
- 12.910.A An approved variance will lapse and have no further effect one year after it is approved by the Board of Adjustment, unless:
1. A building permit has been issued (if required); or
 2. The use or structure has been lawfully established.
- 12.910.B The Board of Adjustment is authorized to extend the expiration period for good cause on up to 2 separate occasions, by up to 6 months each. Requests for extensions must be submitted to the City Planner before the variance expires. No hearings, notices or fees are required for extensions.
- 12.910.C A variance also lapses upon revocation of a building permit or a certificate of occupancy for violations of conditions of approval or upon expiration of a building permit to carry out the work authorized by the variance.
- 12.911 Appeals of Final Decisions of the Board of Adjustment

Any person aggrieved by a variance decision of the Board of Adjustment may appeal the decision to district court. Appeals must be filed with district court of Walker County within 10 days of the date that the Board of Adjustment's decision is filed in the office of the City Planner.

12.1000 APPEALS OF ADMINISTRATIVE DECISIONS

12.1001 Authority

The Board of Adjustment is authorized to hear and decide appeals where it is alleged there has been an error in any order, requirement, decision or determination made by the City Planner or any other administrative official in the administration, interpretation or enforcement of this Development Code.

12.1002 Right to Appeal

Appeals of administrative decisions may be filed by any person aggrieved by the City Planner's or other administrative official's decision or action. The Board of Adjustment is authorized to make determinations about whether individuals filing appeals are "aggrieved" by the decision or action.

12.1003 Application Filing

12.1007.A Complete applications for appeals of administrative decisions must be filed with the City Planner.

12.1007.B Appeals of administrative decisions must be filed within 30 days of the date of the decision being appealed.

12.1004 Effect of Filing

The filing of a complete notice of appeal stays all proceedings in furtherance of the action appealed, unless the City Planner certifies to the Board of Adjustment, after the appeal is filed, that, because of facts stated in the certification, a stay would cause immediate peril to life or property, in which case the proceedings will not be stayed unless by a restraining order, may be granted by the Board of Appeals or by a court of record based on due cause shown.

12.1005 Record of Decision

Upon receipt of a complete application of appeal, the City Planner or other administrative official whose decision is being appealed must transmit to the Board of Adjustment all papers constituting the record upon which the action appealed is taken.

12.1006 Notice of Hearing

Notice of the Board of Adjustment's required public hearing on an appeal of an administrative opinion must be mailed to the applicant, any individuals who have, in writing, requested such notification and any other parties in interest. Required notices must be mailed at least 11 days before the public hearing.

12.1007 Hearing and Final Decision

12.1007.A The Board of Adjustment must hold a public hearing on the appeal.

12.1007.B Following the close of the public hearing, the Board of Adjustment must take action on the appeal. The board's decision must be in writing and be supported by written findings of fact.

12.1007.C In exercising the appeal power, the Board of Adjustment has all the powers of the administrative official from whom the appeal is taken. The Board of

Adjustment may affirm or may, upon the concurring vote of at least 4 members, reverse, wholly or in part, or modify the decision being appealed.

12.1007.D In acting on the appeal, the Board of Adjustment must grant to the official's decision a presumption of correctness, placing the burden of persuasion of error on the appellant.

12.1008 **Review Criteria**

An appeal may be sustained only if the Board of Adjustment finds that the City Planner or other administrative official erred.

12.1009 **Appeals of Final Decisions of the Board of Adjustment**

Any person aggrieved by the decision of the Board of Adjustment may appeal the decision to the District Court. Appeals must be filed with the District Court of Walker County within 10 days of the date that the Board of Adjustment's decision is filed in the office of the City Planner.

ARTICLE 13 ADMINISTRATION

Contents:

13.100 City Council

13.200 Planning Commission

13.300 Board of Adjustment

13.400 Historic Preservation Commission

13.500 Historic Preservation Officer

13.600 City Planner

13.100 CITY COUNCIL

The City Council is responsible for adopting the regulations and procedures of this Development Code, for confirming appointments to Planning Commission and Board of Adjustment and for carrying out those decision-making responsibilities expressly assigned by this Development Code, including final decision making on:

- 13.101 Development code text amendments (see Sec. 12.200);
- 13.102 Zoning district map amendments (see Sec. 12.300);
- 13.103 Planned development (PD) district concept plans and/or development plans (see Sec. 12.400); and
- 13.104 Conditional uses (see Sec. 12.800)

13.200 PLANNING COMMISSION

13.201 Creation and Membership

- 13.201.A The Planning Commission must consist of 7 voting members appointed by the Mayor with approval of the City Council. Each member must reside in the City or in the City's extraterritorial jurisdiction.
- 13.201.B The members of the Planning Commission are identified by place numbers 1 through 7. Members are appointed for a term of 3 years and serve until the end of their terms or until a successor is appointed and confirmed. Planning commission members may be reappointed.
- 13.201.C When a vacancy occurs, the Mayor, with approval of the City Council, must appoint a person to complete the unexpired term.

13.202 Operation

- 13.202.A The Planning Commission must conduct meetings, take action and operate in accordance with its adopted by-laws, this Development Code and state law.
- 13.202.B The Planning Commission must hold at least one regular meeting each month unless there is no business to conduct, in which case no meeting is required. The Planning Commission may hold special meetings at the call of the chairperson or by the call of a majority of the Planning Commission.
- 13.202.C The Planning Commission must elect a chairperson and vice-chairperson annually.
- 13.202.D The City Planner serves as ex officio (non-voting) secretary of the Planning Commission, with responsibility for keeping minutes, books, files and other records of the Planning Commission and performing other duties as are incidental to the position.

- 13.202.E A quorum, consisting of at least 4 voting members of the Planning Commission, must be present in order to conduct official business.

13.203 Responsibilities

The Planning Commission is responsible for assisting with preparation of a Comprehensive Plan and other planning studies and advising the City Council on planning and development-related matters. The Planning Commission is also responsible for carrying out those specific review and decision-making duties assigned by this Development Code, including:

- 13.203.A Reviewing, holding public hearings and making recommendations to the City Council on:
1. Development code text amendments (see Sec. 12.200);
 2. Zoning district map amendments (see Sec. 12.300);
 3. Planned development (PD) district concept plans and/or development plans (see Sec. 12.400); and
 4. Conditional uses (see Sec. 12.800); and
- 13.203.B Reviewing and making final decisions on (subdivision) preliminary plans and final plats, except for those minor plat matters delegated to the City Planner (see Sec. 12.707 [preliminary plans], Sec. 12.708 [final plats] and Sec. 12.706 [minor plats]); and
- 13.203.C Reviewing and making final decisions on Master Development Plans;
- 13.203.D Reviewing and making final decisions on modifications and waivers of subdivision standards (see Sec. 12.711).

13.204 Conflict of Interest

Planning commission members must recuse themselves and not participate in any discussion or vote on any matter concerning a business entity or real property in which they have a substantial interest if:

- 13.204.A The vote or decision involving the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or
- 13.204.B It is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the real property that is distinguishable from the effect on the public.

13.300 BOARD OF ADJUSTMENT

13.301 Creation and Membership

- 13.301.A The Board of Adjustment consists of 5 voting members and 2 alternate members who may vote in the absence of regular voting members. Members are appointed by the Mayor with approval of the City Council. Each member must reside in the City.
- 13.301.B The members of the Board of Adjustment are identified by place numbers 1 through 5. The terms for places 1, 2 and 3 have terms that end in even-numbered years. The terms for places 4 and 5 end in odd-numbered years. Members are appointed for a term of 2 years. Members serve until the end of their terms or until a successor is appointed and confirmed. Members of the Board of Adjustment may be reappointed.
- 13.301.C The 2 alternate members of the Board of Adjustment may participate in all discussions but are eligible to vote only when one or more regular voting

members are unable to do so. The alternate members are designated as alternate "A" and alternate "B." Alternate members serve the same terms as place 4 and place 5 regular members and are subject to appointment and removal in the same manner as regular voting members.

13.301.D When a vacancy occurs, the Mayor, with approval of the City Council, must appoint a person to complete the unexpired term.

13.302 **Operation**

13.302.A The Board of Adjustment must conduct meetings, take action and operate in accordance with its adopted by-laws, this Development Code and state law.

13.302.B The Board of Adjustment must elect a Chairperson and Vice-chairperson annually, at the first regularly scheduled meeting after appointments are made.

13.302.C The City Planner serves as ex officio (non-voting) secretary of the Board of Adjustment, with responsibility for keeping minutes, books, files and other records of the Board of Adjustment and performing other duties as are incidental to the position.

13.302.D A quorum, consisting of at least 4 members of the Board of Adjustment, must be present in order to conduct official business.

13.303 **Responsibilities**

The Board of Adjustment is responsible for carrying out those specific review and decision-making duties assigned by this Development Code, including conducting public hearings and making final decisions on:

13.303.A Variances (see Sec. 12.900); and

13.303.B Appeals of administrative decisions (see Sec. 12.1000).

13.304 **Conflict of Interest**

Board of Adjustment members must recuse themselves and not participate in any discussion or vote on any matter concerning a business entity or real property in which they have a substantial interest if:

13.304.A The vote or decision involving the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

13.304.B It is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the real property that is distinguishable from the effect on the public.

13.400 HISTORIC PRESERVATION COMMISSION

13.401 **Creation and Membership**

13.401.A The Historic Preservation Commission must consist of 7 voting members appointed by the Mayor with approval of the City Council, with consideration given to the following recommended professions:

1. An architect, Planner, or representative of a design profession;
2. A historian;
3. A licensed realtor;
4. An owner of a landmark or of a property in a historic district; and,
5. A member of Walker County Historical Commission; or
6. Any other resident of Huntsville as deemed appropriate by the City Council.

- 13.401.B All Historic Preservation Commission members, regardless of background, must have a known and demonstrated interest, competence, or knowledge in historic preservation within the City of Huntsville.
- 13.401.C Historic preservation commission members are appointed for a term of 2 years, with the exception that the initial term of 3 of the members will be one year, and the initial term of the other 4 members will be 2 years.
- 13.401.D In addition to the 7 regular members of the Historic Preservation Commission, the Historic Preservation Officer and any other person of experience and knowledge designated by the City Council as special advisor may sit on the Historic Preservation Commission as ex officio members. None of the ex officio members have voting power, but they are authorized to assist the Historic Preservation Commission in its various functions.
- 13.402 **Operation**
 - 13.402.A A chair and vice chair must be elected annually, by and from the members of the Historic Preservation Commission.
 - 13.402.B The Historic Preservation Commission must meet at least monthly, if business is at hand. Special meetings may be called at any time by the chair or upon written request of any 2 Historic Preservation Commission members. All meetings must be conducted in conformance with the *Texas Open Meetings Act*.
 - 13.402.C A quorum, consisting of no less than a majority of the regular voting membership, must be present in order to conduct official business of the Historic Preservation Commission.
- 13.403 **Responsibilities**

The Historic Preservation Commission is responsible for carrying out those review and decision-making duties expressly assigned by this Development Code, including:

 - 13.403.A Making recommendations for staff and professional consultants as necessary to carry out the duties of the Historic Preservation Commission;
 - 13.403.B Preparing rules and procedures as necessary to carry out the business of the Historic Preservation Commission;
 - 13.403.C Conducting public hearings and providing comments on buildings, objects, sites, structures, and districts for nomination to the National Register of Historic Places and/or to the Texas Historic Commission based on the criteria established in the National Historic Preservation Act of 1966, as amended;
 - 13.403.D Conducting surveys and maintaining an inventory of significant historic, architectural, and cultural landmarks and all properties located in historic districts within the City;
 - 13.403.E Recommending the designation of resources as landmarks or historic districts;
 - 13.403.F Maintaining written minutes that record all actions taken by the Historic Preservation Commission and the reasons for taking such actions;
 - 13.403.G Recommending conferral of recognition upon the owners of landmarks or properties within districts by means of certificates, plaques, or markers;
 - 13.403.H Increasing public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public education programs;
 - 13.403.I Making recommendations to the City Council concerning the utilization of state, federal, or private funds to promote the preservation of landmarks and historic districts within the City;
 - 13.403.J Approving or disapproving applications for Certificates of Appropriateness;

- 13.403.K Preparing and submitting reports to the City Council summarizing the work completed, as appropriate;
- 13.403.L Preparing specific design guidelines for the review of landmarks and districts;
- 13.403.M Recommending the acquisition of a landmark structure by the City where its preservation is essential to the purposes identified in Sec. 3.401 and where private preservation is not feasible;
- 13.403.N Proposing and recommending to the City Council incentive programs for the preservation of designated landmarks or districts;
- 13.403.O Accepting on behalf of the City the donation of preservation easements and development rights as well as any other gift of value for the purpose of historic preservation, subject to the approval of the City Council; and
- 13.403.P Providing comments to the Texas Historical Commission on any federal undertakings within a historic district pursuant to Section 106 of the *National Historic Preservation Act of 1966*.

13.500 HISTORIC PRESERVATION OFFICER

The City manager is authorized to appoint a qualified City official or staff person to serve as Historic Preservation Officer. The Historic Preservation Officer is responsible for carrying out those duties and responsibilities expressly identified in this Development Code and for advising the Historic Preservation Commission on matters submitted to it. In addition to serving as representative of the Historic Preservation Commission, the Historic Preservation Officer is responsible for coordinating the City of Huntsville's preservation activities with those of state and federal agencies and with local, state and national nonprofit preservation organizations.

13.600 CITY PLANNER

13.601 Appointment

The City manager has the authority to appoint a City Planner.

13.602 Responsibilities

The City Planner is responsible for assisting with preparation of a Comprehensive Plan and other planning studies and advising the Planning Commission, Board of Adjustment and City Council on planning and development-related matters. The City Planner is also responsible for carrying out those specific review and decision-making duties assigned by this Development Code, including:

- 13.602.A Interpreting, administering and enforcing the regulations of this Development Code;
- 13.602.B Reviewing and making recommendations to the Planning Commission and City Council on:
 1. Development code text amendments (see Sec. 12.200);
 1. Zoning district map amendments (see Sec. 12.300);
 2. Planned development (PD) district concept plans and/or development plans (see Sec. 12.400);
 3. Preliminary subdivision plans (see Sec. 12.707);
 4. Conditional uses (see Sec. 12.800); and
 5. Master Development Plans (see Sec. 12.1100)

- 13.602.C Reviewing and making recommendations to the Planning Commission on final subdivision plats (see Sec. [12.708](#));
- 13.602.D Reviewing and making recommendations to the Board of Adjustment on variances (see Sec. [12.900](#));
- 13.602.E Providing assistance to the City Council, Planning Commission and Board of Adjustment concerning the exercise of their responsibilities under this Development Code; and
- 13.602.F Delegating to staff responsibility for carrying out specific day-to-day functions in the administration and enforcement of this Development Code.

ARTICLE 14 ENFORCEMENT

Contents:

14.100 Responsibility for Enforcement

14.200 Violations

14.300 Continuing Violations

14.400 Remedies and Enforcement Powers

14.100 RESPONSIBILITY FOR ENFORCEMENT

The City Planner has primary responsibility for enforcing this Development Code.

14.200 VIOLATIONS

Unless otherwise expressly allowed by this Development Code or state law, any violation of a provision of this Development Code—including but not limited to all of the following— may be subject to the remedies and penalties provided for in this Development Code.

- 14.201 To use land or buildings in any way not consistent with the requirements of this Development Code;
- 14.202 To erect a building or other structure in any way not consistent with the requirements of this Development Code;
- 14.203 To sell or divide property that has not been platted as required by this Development Code;
- 14.204 To adjust a lot or tract boundary or consolidate 2 or more lots or tracts of land that has not been platted as required by this Development Code;
- 14.205 To file a plat or map with the Walker County clerk for a land division that has not been approved in accordance with the subdivision plat procedures of this Development Code;
- 14.206 To fail to construct or install a public improvement described on an approved plat or on a document attached to an approved plat;
- 14.207 To install or use a sign in any way not consistent with the requirements of this Development Code;
- 14.208 To engage in the use of a building, structure or land, the use or installation of a sign, or any other activity requiring one or more permits or approvals under this Development Code without obtaining such required permits or approvals;
- 14.209 To engage in the use of a building or land, the use or installation of a sign, or any other activity requiring one or more permits or approvals under this Development Code in any way inconsistent with any such permit or approval or any conditions imposed on the permit or approval;
- 14.210 To violate the terms of any permit or approval granted under this Development Code or any condition imposed on the permit or approval;
- 14.211 To obscure, obstruct or destroy any notice required to be posted or otherwise given under this Development Code;
- 14.212 To violate any lawful order issued by any person or entity under this Development Code; or
- 14.213 To continue any violation after receipt of notice of a violation.

14.300 CONTINUING VIOLATIONS

Each day that a violation remains uncorrected after receiving notice of the violation from the City constitutes a separate violation of this Development Code.

14.400 REMEDIES AND ENFORCEMENT POWERS

14.401 Fines

Upon conviction, any person violating or failing to comply with any of the provisions of this Ordinance may be fined not less than \$500 nor more than \$2,000, with each day any violation or noncompliance continues constituting a separate and distinct offense.

14.402 Injunctions

The power of injunction, as provided in Texas Revised Civil Statutes, may be exercised in enforcing this Development Code regardless of whether there has been a criminal complaint filed.

14.403 Property Owner Rights

In addition to all other remedies and penalties authorized under this Development Code, the right is hereby conferred and extended to any property owner whose property may be affected by a violation of the terms of this Development Code, to bring suit in a court having jurisdiction and obtaining such remedies as may be available at law or in equity for the protection of the rights of such property owner.

14.404 Forfeiture and Confiscation of Signs on Public Property

Any sign installed or placed on public property, except in compliance with the regulations of this Development Code, will be forfeited to the public and subject to confiscation. See also Sec. 8.403.

14.405 Withholding Services and Denying Permits

The City may refuse to maintain streets, furnish water or sewer service, assign street numbers, or issue building permits for construction of any building for any property in any subdivision, development or in any lot or tract of land in the City that is in violation of this Development Code.

14.406 Other Penalties, Remedies and Powers

The City may seek such other penalties as are provided by Texas law, including filing court action to:

14.406.A Enjoin the violation or threatened violation of a requirement of this Development Code;

14.406.B Recover damages in an amount adequate for the City to undertake construction or other activity necessary to cause compliance with this Development Code; and

14.406.C Recover civil penalties, plus court costs and attorneys fees, as allowed by law.

14.407 Appeals

Enforcement actions taken by the City Planner or other administrative officials may be appealed by the affected party in accordance with Sec. 12.1000.

ARTICLE 15 TERMINOLOGY AND DEFINITIONS

Contents:

15.100 Rules of Language and Interpretation

15.200 Definitions

15.100 RULES OF LANGUAGE AND INTERPRETATION

15.101 Meanings and Intent

Words and terms expressly defined in this Development Code, including those defined in Sec. 15.200, have the specific meanings assigned unless the context indicates another meaning. Words that are not expressly defined in this Development Code have the meaning given in the latest edition of Merriam-Webster's Unabridged Dictionary.

15.102 Computation of Time

15.102.A References to "days" are to calendar days unless otherwise expressly stated. References to "business days" are references to regular city government working days, excluding Saturdays, Sundays and holidays observed by city government.

15.102.B The time in which an act is to be completed is computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday or holiday observed by city government, that day is excluded.

15.102.C A day concludes at the close of business and any materials received after that time will be considered to have been received the following day.

15.103 Tenses and Usage

15.103.A Words used in the singular include the plural. The reverse is also true.

15.103.B Words used in the present tense include the future tense. The reverse is also true.

15.103.C The words "must," "will," "shall" and "may not" are mandatory.

15.103.D The word "may" is permissive, not mandatory or required.

15.103.E When used with numbers, "up to x," "not more than x" and "a maximum of x," all include "x."

15.103.F The word "person" includes a firm, association, organization, partnership, limited liability company, trust company or corporation, as well as an individual.

15.103.G The words "used" and "occupied" include "intended, designed or arranged to be used or occupied."

15.104 Conjunctions

Unless the context otherwise expressly indicates, conjunctions have the following meanings:

15.104.A "And" indicates that all connected items or provisions apply; and

15.104.B "Or" indicates that the connected items or provisions may apply singularly or in combination.

15.105 Headings and Illustrations

Headings and illustrations are provided for convenience and reference only and do not define or limit the scope of any provision of this Development Code. In case of any difference of meaning or implication between the text of this Development Code and any heading, drawing, table, figure or illustration, the text governs.

15.106 **Versions and Citations**

All references in this Development Code to other city, state or federal regulations are to be construed as referring to the most up-to-date version and citation for those regulations, unless otherwise expressly indicated. When the referenced regulations have been repealed and not replaced by other regulations, Development Code requirements for compliance are no longer in effect.

15.107 **Lists and Examples**

Unless otherwise expressly indicated, lists of items or examples that use “including,” “such as,” or similar terms are intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.

15.108 **Delegation of Authority**

Whenever a provision appears requiring the head of a department or another officer or employee of the city to perform an act or duty, that provision will be construed as authorizing the department head or officer to delegate that responsibility to others over whom they have authority. Delegation of authority is not allowed when the provisions of this Development Code expressly prohibit such delegation.

15.109 **Public Officials and Agencies**

1. Unless otherwise expressly stated, all employees, public officials, bodies and agencies to which references are made are those of the City of Huntsville or individuals or agencies legally authorized to act on behalf of the City of Huntsville.
2. References in this Development Code to the “city” are references to the City of Huntsville.
3. References in this Development Code to the “city council” are references to the Huntsville City Council.

15.200 DEFINITIONS

Abut or Abutting

To touch or have a common boundary.

Accessory Building

A building or structure customarily incidental and subordinate to the principal structure and located on the same lot as the principal building. See also §4.201.

Adjacent

Lying near or in the immediate vicinity.

Agriculture

Any land or building used for pasturage, floriculture, dairying, horticulture, forestry, and livestock or poultry husbandry.

Agriculture

Uses such as gardens, farms and orchards that involve the raising and harvesting of food and non-food crops and the raising of farm animals

Aircraft Landing Area

Facilities where fixed-wing aircraft or helicopters take off and land, including customary accessory uses and structures.

Airport

The Huntsville Municipal Airport.

Airport Elevation

The highest point of an airport's usable landing area measured in feet from mean sea level.

Airport Hazard

Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft.

Alley

A legally established private access easement affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

Alluvial Fan Flooding

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.

All-Weather Surface (or Material)

Asphalt, concrete or other equivalent city-approved, hard-surface material that is capable of providing protection against potholes, erosion, dust and substantial deterioration. Gravel or crushed stone alone does not qualify as an all-weather surface.

Alterations

Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams or girders; or any change which may be referred to herein as "altered" or "reconstructed".

Animal Service

Uses that provide goods and services for the care of animals, including grooming shops, boarding kennels, shelters, training facilities and veterinary clinics.

Apartment/Condo

See description in [Table 4-1](#).

Apex

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.

Apartment/Condo

One or more residential buildings occupied by 3 or more dwelling units that share common walls and/or common floors/ceilings.

Applicant

A person seeking an action or approval under provisions of this ordinance.

Approach

Transitional, horizontal and conical zones. These zones apply to the area under the approach, transitional, horizontal, and conical surfaces defined in FAR Part 77.

Area of Shallow Flooding

A designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three 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

The land in the floodplain within a community subject to a one 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, AE, AH, AO, A1-99, VO, V1-30, VE or V.

As-Built Drawings (or Plans)

Plans prepared by a registered professional engineer and certifying that the public improvements are constructed as shown.

Assembly and Entertainment

Uses that provide gathering places for participant or spectator recreation, entertainment or other assembly activities. Assembly and entertainment uses may provide incidental food or beverage service. Typical uses include gun clubs, shooting ranges, riding stables and academies, bowling centers, cinemas, go-cart tracks, miniature golf courses, stadiums, arenas, video arcades, race tracks, fairgrounds, rodeo grounds, water parks, amusement parks and live theater.

Base Flood

The flood having a one percent chance of being equaled or exceeded in any given year.

Basement

Any area of the building having its floor sub-grade (below ground level) on all sides.

Bedroom, Purpose-Built Shared Housing

A room intended for occupancy by a single occupant and meeting the requirements of the International Residential Code and International Building Code.

Berm

A man-made, formed, earth mound of definite height and width used for obscuring purposes; the intent of which is to provide a transition between uses of differing intensity.

Block

A tract or parcel of land designated as such on a subdivision plat surrounded by streets or other physical obstructions.

Boundary Sewer Line

A sewer line installed in a street bounding a development or faced on only one side by a development, which can also serve property not included in the development on the opposite side of the street.

Boundary Water Line

A water line, installed in a street bounding a development or faced on only one side by a development, which can also serve property not included in the development on the opposite side of the street.

Buffer

A strip of land, including any specified type and amount of landscape plantings or structures that may be required to protect one type of land use from another, or minimize or eliminate conflicts between them.

Buildable Area

That portion of a building site on which a structure or building improvements may be erected, and including the actual structure, driveway, parking lot, pool, and other construction as shown on the site plan.

Building

See definition in Building Code.

Building Height

See "height."

Building Line

Same as minimum required front setback.

Building or Tower-mounted Antenna

The physical device that is attached to a freestanding tower, building or other structure, through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received.

Building Service

Uses that provide maintenance and repair services for all structural and mechanical elements of structures and their surroundings. Typical uses include janitorial, landscape maintenance, extermination, plumbing, electrical, HVAC, window cleaning and similar services.

Business Support Service

Uses that provide personnel services, printing, copying, photographic services or communication services to businesses or consumers. Typical uses include employment agencies, day labor hiring services, armored car services, copy and print shops, caterers, telephone answering services and photo developing labs.

Building, Principal

A building in which is conducted the main or principal use of the lot on which said building is located.

Caliper

The diameter measurement of the stem or trunk of nursery stock. The location of the measurement depends on the plant type. For fruit trees, small fruits, understock, and seedling trees and shrubs, caliper measurement shall be taken at the root collar or at other points expressly described in ANSI Z60.1. For all other nursery stock, caliper measurement is taken six inches above the ground level for field grown stock and from the soil line for container grown stock, which should be at or near the top of the root flare, and six inches above the root flare for bare root plants, up to and including the four-inch caliper size interval (i.e., from four inches up to, but not including, 4Yi inches). If the caliper measured at six inches is four and one-half inches or more, the caliper shall be measured at 12 inches above the ground level, soil line, or root flare, as appropriate. (See also "Diameter at Breast Height.")

Caliper-Existing Tree(s)

Existing tree caliper shall be determined by measuring the tree width at a point 4½ feet above ground level.

Caliper-Replacement Tree(s)

Replacement tree caliper shall be determined by measuring the tree width at a point 4 to 6 inches above ground level. This measurement is used for measuring nursery stock and is only used for trees that are to be planted or relocated. The minimum caliper of a replacement tree is 2 inches.

Car Wash

A facility for the washing or cleaning of vehicles. A car wash may be:

- A bay or a group of bays with each bay to accommodate one vehicle only where a person uses a high-pressure hose to wash the vehicle by hand;
- An automated conveyor or drive-through bay that allows washing a vehicle while moving through the structure.

Certificate of Compliance

A certificate issued by the City to a party or parties intending to initiate any work or change any use of property in the City.

City

The City of Huntsville, Texas.

College or University

Institutions of higher learning (beyond senior high school) that offer courses of general or specialized study and are authorized to grant academic degrees.

Commercial

Uses that provide a business service or involve the selling, leasing or renting of merchandise to the general public. The commercial use subcategories are as follows.

Commercial Message

Any sign, wording, logo, or other representation that directly or indirectly, names, advertises, or calls attention to a business, product, service or other commercial activity.

Commercial Service

Uses that provide for consumer or business services and for the repair and maintenance of a wide variety of products.

Commercial Service Uses, All Other

Commercial service uses other than those more specifically identified above.

Community Center

A building and its surrounding premises owned, leased or otherwise controlled by a unit of local government or a school district and that contains rooms or other facilities limited to use for purposes of meetings, gatherings or other functions or activities carried on or performed by or under the supervision of a unit of local government, a school district or a civic, educational, religious or charitable organization.

Community Garden

An area managed and maintained by a group of individuals to grow and harvest food crops or non-food crops (e.g., flowers) for personal or group consumption, for donation or for sale that is incidental in nature.

Community Home

A community-based residential home occupied by no more than 8 disabled persons and 2 nonresident supervisory personnel and that otherwise complies with the Community Homes for Disabled Persons Location Act, Chapter 123.001, Texas Human Resources Code.

Construction, Existing

For the purpose of interpreting and administering the flood protection regulations of §8.1103.B, "existing construction" means 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."

Construction, New

For the purpose of interpreting and administering the flood protection regulations of §8.1103.B, this term means 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.

Consumer Maintenance and Repair Service

Uses that provide maintenance, cleaning and repair services for consumer goods on a site other than that of the customer (i.e., customers bring goods to the site of the repair/maintenance business). Typical uses include laundry and dry cleaning pick-up shops, tailors, taxidermists, dressmakers, shoe repair, picture framing shops, gunsmiths, locksmiths, vacuum repair shops, electronics repair shops and similar establishments. Business that offer repair and maintenance service technicians who visit customers' homes or places of business are classified as a "building service."

Correctional Facility (Private)

A facility not owned or operated by a governmental entity that provides housing and care for individuals legally confined for violations of law.

Critical Feature

An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Day Care

Uses providing care, protection and supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day.

Detached House

A single dwelling unit on a single lot, with private yards on all sides.

Development

For the purpose of interpreting and administering the flood protection regulations of §8.1103.B, “development means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

For purposes of administering and interpreting all other provisions of this Development Code, “development” means any of the following (1) Construction of any new building or structure with a total gross floor area of more than 500 square feet; or (2) expansion by more than 25% of any existing building or structure with a total gross floor area of more than 500 square feet.

Developer

Any person who improves or subdivides a tract of land or improves or takes any action preparatory to the erection, improvement or movement of any building or structure on a tract of land.

Density

The average number of dwelling units per acre for the entire development, including streets. For density regulations for Purpose-Built Shared Housing, refer to *Purpose-Built Shared Housing Design Criteria*.

Diameter at Breast Height

The outside bark diameter at breast height. Breast height is defined as 4.5 feet (1.37m) above the forest floor on the uphill side of the tree. For the purposes of determining breast height, the forest floor includes the duff layer that may be present, but does not include unincorporated woody debris that may rise above the ground line.

Display Surface (of a Sign)

The entire surface of a sign, on one side, devoted to exhibiting or contrasting exhibits of advertising. The display surface shall generally include the entire sign surface except for the sign frame and incidental supports.

District (Development)

An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations.

Driveway

That portion of a vehicular use area that consists of a travel lane bounded on either side by an area that is not part of the vehicular use area.

Dwell Time

The time that a single message on a dynamic display is held static or constant, without any change in the message or image displayed.

Dwelling Unit, Apartment/Condo & Purpose-built Shared Housing

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Dwelling Unit, Single Family

One or more rooms with bathroom and principal kitchen facilities designed as a self-contained unit for occupancy by one family for living, cooking and sleeping purposes. See also description of residential building types in [Table 4-1](#).

Dynamic Display

Any element of a sign or sign structure capable of displaying words, symbols, figures, images or messages that can be electronically or mechanically changed by remote or automatic means. This also includes any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method or technology that allows a sign to present a series of images, messages or displays.

Eating Establishment

Uses that prepare and serve food and beverages for on- or off-premise consumption as their principal business. Typical uses include cafés, restaurants, cafeterias, ice cream/yogurt shops, coffee shops and similar establishments.

Erected

The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erection.

Elevated Building

A non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

Excavation

Any breaking of ground, except common household gardening, general farming and ground care.

Family

One or more persons related by blood, marriage, or adoption, or parents along with their direct lineal descendants, and adopted or foster children (including domestic employees) or a group not to exceed two persons not related by blood or marriage, occupying a premises and living as a single housekeeping unit with single cooking facilities. Every additional group of two or less persons living in such housekeeping unit shall be considered a separate family. This definition does not apply in instances of group care centers, or licensed residential facilities.

Farming/General Agriculture

An area managed and maintained by an individual or group of individuals to grow and harvest crops or animals for sale or distribution,

FEMA

Federal Emergency Management Agency

FHBM

Flood Hazard Boundary Map

Filling

The depositing or dumping of any matter into or onto the ground except common household gardening and general maintenance.

Financial Service

Uses engaged in the exchange, lending, borrowing and safe-keeping of money. Typical examples are banks, credit unions, and consumer lending establishments.

FIRM

See Flood Insurance Rate Map

Flag Lot

A lot that has minimum frontage on a public street, but on which the buildable portion of such lot is reached via a private drive or lane whose width is some distance back from the street right-of-way. Sometime referred to as “panhandle lots.”

Flood or Flooding

A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters or (2) the unusual and rapid accumulation or run-off of surface waters from any source.

Flood Insurance Rate Map (FIRM)

An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study

The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

Floodplain Management

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 or Flood-Prone Area

Any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodproofing

Any combination of structural and nonstructural additions, changes or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Flood Protection System

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 areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such as 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.

Floodway (Regulatory Floodway)

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.

Foot-candle

A measure of illumination, the amount of light falling onto a surface. One lumen of light, shining evenly across one square foot of surface, illuminates that surface to one foot-candle.

Fraternal Organization

The use of a building or lot by a not-for-profit organization that restricts access to its facility to bona fide, annual dues-paying members and their occasional guests and where the primary activity is a service not carried on as a business enterprise.

Freestanding Tower

A structure intended to support equipment that is used to transmit and/or receive telecommunications signals including monopoles and guyed and lattice construction steel structures.

Frontage

The dimension of a property line or portion of a property line that abuts a street; side yards of corner lots are excluded. If the subject property does not abut a street, frontage is measured along the property line that is closest to and most nearly parallel to a street.

Fuel Sales

A place where vehicular fuel, stored only in underground tanks, is offered for sale to the public or where charging stations are made available for the charging of vehicles.

Functionally Dependent Use

For the purpose of interpreting and administering the flood protection regulations of §8.1103.B, this term 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.

Funeral or Mortuary Service

Uses that provide services related to the death of a human, including funeral homes, mortuaries, crematoriums and similar uses. Also includes crematoriums for pets and domestic animals.

Governmental Facility

Uses (not otherwise classified) that are related to the administration of local, state or federal government services or functions.

Grade

Grade shall be determined by the level of the ground adjacent to the walls of any structure if the finished grade is level on all sides of the building or structure. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the structure.

Groundcover

A spreading plant, including sods and grasses less than 18 inches in height, used for landscape design and erosion control.

Group Living

Residential occupancy of a building or any portion of a building by a group other than a household. Group living uses typically provide communal kitchen/dining facilities.

Habitable Floor

For the purpose of interpreting and administering the flood protection regulations of §8.1103.B, this term means any floor usable for the following purposes; which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used for storage purposes only is not a "habitable floor."

Half-Street

A vehicular access-way created if only a portion of the required right-of-way width or pavement width is dedicated and/or constructed.

Height, Building

The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on a sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

Height, Sign

See §8.1102.

Highest Adjacent Grade

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure (See also Sec. 3.400)

For the purpose of interpreting and administering the flood protection regulations of 8.1103.B, this term 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 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.

Home Occupation

Accessory use of a dwelling unit for limited commercial (home-based work) purposes. Home occupations are subject to the regulations of Sec. 4.202.

Hospital

Uses providing medical or surgical care to patients and offering inpatient (overnight) care.

Household Living

Residential occupancy of a dwelling unit by a household. When dwelling units are rented, tenancy is arranged on a month-to-month or longer basis. Uses where tenancy may be arranged for a shorter period are not considered residential; they are considered a form of lodging.

Improvement

Any physical structure or system, including building, drainage work, water system, sewer system, sidewalks, streets, or utility system.

Industrial

Uses that produce goods from extracted and raw materials or from recyclable or previously prepared materials, including the design, storage and handling of these products and the materials from which they are produced.

Industrial, Heavy

Uses engaged in the manufacturing, assembly or processing of chemicals, animal products and metals; the activities of which are likely to have characteristics that discourage adjacency to residential uses. Factory production and industrial yards are located here. Sales to the general public are rare.

Uses in this use category include the manufacture, assembly or processing of: acid, acetylene gas, aircraft, alcoholic beverages (wholesale), ammonia, asbestos and asbestos products, asphalt, automobiles or trucks, batteries, bones, boxes or crates or pallets, brick or tile or terra cotta, building materials, celluloid, cement, chalk, charcoal, chemicals, chlorine, coffins, corrugated metal, cotton oil, creosote, disinfectant, dyes or inks, fat, fertilizer, fireworks, gas, gelatin, glass, glue, graphite, grease, gunpowder, gypsum, hemp, insecticide, lacquer, lard, lime, linoleum, machinery, manufactured or mobile homes, metal, motors or engines, paint, paraffin, petroleum, plaster of Paris, plastic, poison, porcelain, recreational vehicles, railroad vehicles and equipment, rubber, salt, shellac, tallow, tar, tires, trailers, turpentine, varnish, vinegar, wax, or yeast.

Additional uses include: Arsenal; Boiler works; Bulk storage of explosive or hazardous materials; Concrete batching and asphalt processing and manufacture; Fertilizer storage; Grain elevator; Grain and feed manufacturing building; Incinerator for reduction of garbage, dead animals, offal, refuse or automobile bodies (non-governmental); Railroad yard or repair shop; Sawmill; Smelter; Slaughtering, packaging or processing of animals; Wrecking, junk or salvage yard.

Industrial, Light

Uses engaged in the manufacturing, assembly or processing of industrial, business or consumer goods; usually from basic finished inputs such as metal, stone, glass, plastic, or rubber. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.

Uses in this use category include manufacture or assembly of: appliances, artificial limbs, awnings, beds, blinds, boats, books, brooms, buses, carpet, clothing or textiles or canvas, cosmetics, equipment, electrical items, felt, hardware, ice, jewelry, medical, optical or dental instruments or supplies, mirrors, medical instruments, musical instruments, perfume, pharmaceuticals, shoes, shutters or shades, signs, and toys.

Additional uses include: Bakery, wholesale; Bottling or canning; Brewery; Building and development contractors; Bulk mailing service; Clothing or textile manufacturing; Creamery; Crematorium; Engraver; Exterminator service; Food processing; Janitorial and building maintenance service; Maintenance and repair shop; Laundry, dry-cleaning, and carpet cleaning plants; Metal plating; Metal shop; Printing, publishing, and lithography; Repair of scientific or professional instruments or electric motors; Research and development laboratory; Smoking or processing of meat products (wholesale); Stone cutting; Welding, tool repair or machine shop; Woodworking, including cabinet makers and furniture manufacturing.

Landscape Development

Trees, shrubs, ground cover, vines or grass installed in planting areas, having a minimum of 10 square feet of actual plantable area and a minimum inside dimension on any side of at least 18 inches.

Lawfully Established

A use, structure, lot or sign (as the context indicates) that was established in conformance with all applicable development regulations in effect at the time of its establishment.

Lease

A contract by which one owning such property grants to another the right to possess, use and enjoy it for a specified period of time in exchange for the periodic payment of a stipulated price.

Levee

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

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.

Library

Collections of books, manuscripts and similar materials for free public lending, study and reading.

Lodging

Uses that provide temporary overnight guest accommodations.

Lot

An undivided tract or parcel of land having frontage on a public street and which is, or in the future may be offered for sale, conveyance, transfer or improvement.

Lot Depth

The distance on a horizontal plane between the midpoint of the front lot line and the midpoint of the rear lot line.

Lot Lines

The lines bounding a lot.

Lot Line, Front:

In the case of an interior lot, a line separating the lot from the street; as in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street, except in those cases where the deed restrictions specifies another line as the front lot line; provided, however, that the front lot line of a non-residential lot shall be that side adjacent to the highest volume street.

Lot Line, Rear

A lot line opposite and most distant from the front lot line.

Lot Line, Side

Any lot line not a front line or rear lot line.

Lot of Record

A lot that is either:

- 1) part of a platted subdivision, the plat of which is recorded in the office of the Walker County clerk,
- 2) a parcel or lot described by metes and bounds, the deed of which has been recorded in the office of the Walker County clerk prior to March 1, 1982; or
- 3) a lot that is part of an approved Boundary Line Adjustment, the plat of which is filed with the City.

Lot Width

See §5.703.

Lowest Floor

For the purpose of interpreting and administering the flood protection regulations of §8.1103.B, this term means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of 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 or Housing Unit (HUD-code)

A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or 40 body feet or more in length, or, when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 Code of Federal Regulations, Section 3282.8(g).

Manufactured Home Park or Subdivision

A parcel (or contiguous parcels) of land divided into 4 or more manufactured home lots for rent or sale.

Manufactured Home Park or Subdivision, Existing

For the purpose of interpreting and administering the flood protection regulations of §8.1103.B, “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.

Manufactured Home Park or Subdivision, Expansion of an Existing

For the purpose of interpreting and administering the flood protection regulations of §8.1103.B, “expansion of 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).

Manufactured Home Park or Subdivision, New

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.

Marquee

A roof-like structure of a permanent nature projecting from the wall of a building.

Mean Sea Level

For the purpose of interpreting and administering the flood protection regulations of §8.1103.B, this term means 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.

Mining/Extraction

The extraction of oil, gas, minerals, top soil or aggregate resources from the ground, whether conducted below grade or at ground-level. Examples include oil and gas extraction; quarrying or dredging for sand, gravel or other aggregate materials; mining and top soil extraction. Also includes crushing, washing and grading minerals, top soil or aggregate resources; manufacture of Portland cement, concrete or asphaltic concrete, at the source of supply of crushed rock, sand, or gravel.

Mining/Extraction, Surface or Above-ground

Mining or extraction that occurs above ground, whether in whole or in part

Mining/Extraction, Underground

Mining or extraction that occurs completely underground

Mixed Use, Horizontal

A development that contains both commercial and residential uses that share common features, that may include, but is not limited to, parking, access, building design features, or common open space or amenity areas.

Mixed Use, Vertical

A building that contains both commercial and residential uses with permitted nonresidential uses on the first floor and permitted residential uses on the upper floors.

Mobile Food Vendor

Any person that sells edible goods from a mobile unit at a stationary location approved for such activity within the city. "Mobile" shall mean the state of being in active, but not necessarily continuous, movement. Edible goods shall include but are not limited to: a) Prepackaged food including, but not limited to, candy, beverages, and ice cream. b) Prepared food including, but not limited to, hot dogs, desserts, and pizza. c) On-site prepared food including, but not limited to shaved ice, sandwiches, and tacos.

Mobile Food Vendor Court

A land approved and developed in conformity with an approved site plan, where two or more mobile food vendors congregate to offer edible goods, including beverages, for sale to the public and amenities are provided for all vendors' customers.

Mobile Home

A structure that was 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 40 body feet or more in length, or, when erected on-site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

Mobile Home Park

A mobile home park is a parcel of land under single ownership on which two (2) or more mobile homes are occupied as residences. Any mobile home facility where two or more units are intended for long-term residential use (beyond ninety (90) days) is considered a mobile home park for purposes of applying development standards.

Mobile/Manufactured Dwelling Unit (Outside of MH Park)

Three or fewer mobile homes or manufactured dwelling units located on a single lot outside of a mobile/manufactured home park. See also the definition in Sec. 15.200.

Multiplex

A multi-family building type divided into three or four dwelling units and designed to resemble a large single-family home. Units may have either private or shared access and may be arranged in a variety of configurations, including back-to-back, side-to-side, or over-under.

Museum or Cultural Facility

Museum-like preservation and exhibition of objects in one or more of the arts and sciences, gallery exhibitions of works of art and similar institutions.

Natural Resource Preservation

Undeveloped land left in a natural state for specific use as visual open space or environmental purposes. Typical uses include wildlife or nature preserves, arboretums, flood management projects and reservoirs.

Noncommercial Message

Any sign, wording, logo, or other representation that does not directly or indirectly, name, advertise, or call attention to a business, product, service for sale or lease, or to any other commercial interest or activity.

Nonconforming Building (Nonconforming Structure)

See §11.401.

Nonconforming Use

See §11.301.

Nonprecision Instrument Runway

A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on an FAA planning document or military service's military airport planning document.

Nursing Home

An institution providing meals and resident care and services for persons who are generally admitted for periods of time exceeding 30 days. Such service includes custodial or attendant care, and may or may not provide for routine and regular medical and skilled nursing services. Nursing homes include homes for the aged, and convalescent and rest homes.

Office

Uses in an enclosed building, customarily performed in an office, that focus on providing executive, management, administrative, professional or medical services.

Open-Air Use

Storage yards, construction debris sites, used vehicle sales lots, vehicle impound yards, auto wrecking, junkyards, and similar uses conducted outside of enclosed buildings and when the only buildings on the lot are incidental and accessory to principal use of the lot.

Owner

Any owner, authorized agent or contractor who constructs, enlarges, alters, repairs, moves or changes the occupancy of a building or structure.

Owner's Front Footage

The pro rata amount of the cost of a water or sewer line extension that is not reimbursable to the person requesting the extension.

Parks and Recreation

Recreational, social or multi-purpose uses associated with public parks and open spaces, including playgrounds, playfields, play courts, community centers and other facilities typically associated with public park and open space areas. Also includes public and private golf courses.

Pavement Width

The portion of the surface of the street available for vehicular traffic; if curbed, it is that portion of street between back of curb and back of curb.

Perpetual Access Easement

An easement to allow access to properties that do not have frontage on an established public street. The easement is required to be of permanent extent and without any limitation of time.

Person

An individual, firm, partnership, corporation, company, association, joint stock association or governmental entity. It includes a trustee, receiver, assignee or similar representative of any of them.

Personal Improvement Service

Uses that provide a variety of services associated with personal grooming, instruction and maintenance of fitness, health and well-being.

Typical uses include: Animal grooming; Barbershop or beauty, nail, skin care, or tanning salon; Day spa; Dry cleaning and pressing establishment; Funeral home or mortuary; Kennel; Laundromat; Massage establishment; Music, art, or photographic studio or classroom; Optician or optometrist; Photocopy, blueprint, and quick-sign service; Postal services (non-governmental); Psychic or medium; Tailor; Taxidermist; and Veterinarian (small animal); and other uses meeting the definition of Service-Oriented Uses according to the City Planner.

Primary Surface

A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulation (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Principal Use

The main use to which the premises are devoted and the principal use for which the premises exist.

Private Street

A vehicular access way under private ownership and maintenance providing access to building units in the interior of a lot.

Pro Rata

The charge per front foot of abutting land to be paid by the lot owner or owner of a development to aid in defraying the cost of supplying sewer service or water service to his lot or site.

- 1) Single pro rata: The charge based on the front footage of abutting land on only one side of the street or easement.
- 2) Double pro rata: The charge based on the front footage of abutting land on both sides of the street or easement.

Protected Tree Replacement Plan

Is a plan that include all information necessary to demonstrate tree replacement along with tree preservation meet the forestation requirements of this section.

Public Street

A public right-of-way, however designated, dedicated or acquired, that provides vehicular access to adjacent private or public properties.

Public Utility

Any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public; gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation or water.

Public, Civic and Institutional

Public, quasi-public and private uses that provide unique services that are of benefit to the public at-large.

Purpose-Built Shared Housing, Attached

Two or more attached dwelling units on an individual lot, rented by the bedroom through individual leases, for which an approved building permit was issued after 04/16/2019, which is occupied or intended to be occupied by more than two (2) unrelated persons.

Purpose-Built Shared Housing, Detached

One or more detached dwelling units on an individual lot, rented by the bedroom, for which an approved building permit was issued after 04/16/2019, each detached dwelling unit having three (3) or more bedrooms and which is occupied or intended to be occupied by more than two (2) unrelated persons.

Ratio of Replacement

Refers to protected trees to be replaced at a ratio of one inch for every three inches removed and historic trees are to be replaced at a ratio of two inches for every one inch removed.

Recreational Vehicle (Outside of RV park)

One or more recreational vehicles located on a single lot outside of a recreational vehicle park. See also the definition in Sec. 15.200.

Recreational Vehicle (RV)

A vehicle that is:

- a) built on a single chassis;
- b) 400 square feet or less when measured at the largest horizontal projections;
- c) designed to be self-propelled or permanently towable by a light duty truck; and
- d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use

Recreational Vehicle Park

An establishment that provides temporary, short-term overnight accommodations for camping in two or more campers, trailers, or similar recreational vehicles.

Recyclable Material Drop-off Facility

An establishment that accepts consumer recyclable commodities directly from the consuming party and stores them temporarily before transferring them to recyclable material processing facilities.

Recyclable Material Processing Facility

Establishments that receive and process consumer recyclable commodities for subsequent use in the secondary market.

Recycling Facility

Uses that collect, store or process recyclable material for the purpose of marketing or reusing the material in the manufacturing of new, reused or reconstituted products.

Religious Assembly

Religious services involving public assembly that customarily occur in churches, synagogues, temples and other places of worship.

Repair Service

Uses that are primarily engaged in the provision of repair services to individuals and households rather than other businesses, but excluding vehicle and commercial repair services.

Uses in this use category include store offering repair of retail consumer goods excluding those repair services listed in the Vehicle Sales and Service use type, and including, but not limited to: appliances, bicycles, clocks, electronics, furniture, jewelry, locks and keys, musical instruments, office equipment, shoes, and watches.

Research Service

Uses engaged in scientific research and testing services leading to the development of new products and processes. Such uses resemble office buildings or campuses and do not involve the mass production, distribution or sale of products.

Reserve

A tract of land created within a subdivision plat that is not divided into lots or proposed for development at the time of platting.

Residential

A tract of land designed for or used exclusively to contain a dwelling unit or units. A "primary residential area" shall mean a street or streets in which a majority of the total front footage is used for residential purposes.

Retail Sales

Uses (other than those more specifically defined herein) involving the sale, lease or rental of new or used goods to the ultimate consumer.

Typical uses include selling, leasing or renting consumer, home, and business goods including, but not limited to: alcoholic beverages; animal feed; antiques; appliances; art; art supplies; automobile and motorcycle parts and accessories; baked goods (retail); bicycles; books; building supplies; cameras; carpet and floor coverings; clothing; collectibles; computers; convenience goods; crafts; electronic equipment; electronic and mixed media; fabric; flowers; furniture; garden supplies; gifts or novelties; groceries; hardware; home improvement supplies; household products; jewelry; luggage; medical supplies; musical instruments; office supplies; pawned items; pets or pet supplies; pharmaceuticals; photographic supplies; picture frames; plants; postal supplies (non-governmental); printed materials; produce; school or teacher supplies; second-hand goods indoors; seeds; souvenirs; shoes; sporting goods; stationery; tobacco, electronic cigarettes, and related products; and toys.

Right-of-way

A street, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.

Runway

A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Safety Service

Establishments that provide fire, police or life protection, together with the incidental storage and maintenance of necessary vehicles. Typical uses include fire stations, police stations, ambulance services and storm or civil defense shelters.

School

Public and private schools at the primary, elementary, junior high or high school level that provide basic, state-compulsory education.

Self-Service Storage Facility

Uses that provide separate, small-scale, self-service storage facilities leased or rented to individuals or small businesses.

Setback

See Sec. 5.705.

Setback, Rear

See §5.705.A3.

Setback, Side

See §5.705.A2.

Setback, Street

See §5.705.A1.

Setback, Street Side

See §5.705.A1.

Shared Driveway Easement

An easement which allows abutting properties, with access on an established public street, to permanently combine and share driveway access points.

Shrub

A woody perennial plant differing from a perennial herb by its more woody stem and from a tree by its low stature and habit of branching from the base.

Sign

Any identification, description, illustration, or device illuminated or non-illuminated that is visible to the public from adjoining streets or adjoining properties and that directs attention to a product, service, place, activity, person, institution, business, or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, banner, pennant, placard, temporary sign, light, decoration, balloon or other device designed to attract attention, advertise, identify or convey information. Building details that are an integral part of the overall architectural design of a building or works of art accessory to a building are not considered signs.

Sign, Off-Premise

A sign that directs attention to a business, commodity service, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located or to which it is affixed.

Sign, On-Premise

A sign that directs attention to a business, commodity service, or entertainment conducted, sold, or offered upon the premises where such sign is located or to which it is affixed.

Sign Area (or Sign Face Area)

The surface measurement of a sign. See also Sec. 8.1100.

Sign, Construction

A sign on the site of permitted development/construction activities.

Sign, Directional

A sign used to convey directions and other information for the convenience of the public. Included are signs designating restrooms, address numbers, hours of operation, entrances to buildings, help wanted, public telephone, etc. Also included are signs on private property designed to direct pedestrians or vehicular traffic, such as “entrance” or “exit.”

Sign, Dynamic Display

See “dynamic display.”

Sign, Freestanding

Any sign on a frame, pole or other support structure that is not attached to any building. Sometimes referred to as “ground signs.”

Sign, Identification

A sign indicating the name and address of a building, or the name of an occupant thereof, and the practice of a permitted occupation therein.

Sign, Menu Board

A sign displaying goods or services available through a drive-up window or available through a drive-in or drive-through establishment.

Sign, Monument

A freestanding sign where the base of the sign structure is on the ground or no more than 12 inches above the ground adjacent to the sign. Typically constructed of brick, wood, stone, or metal, monument signs have a base that is at least 80% of the width of the sign face.

Sign, Moving

Any sign that revolves, rotates, swings, undulates, or otherwise attracts attention by moving parts, whether operated by mechanical equipment or by natural sources, not including flags or banners.

Sign, Portable

Any sign not permanently attached to the ground, a building or other structure that is not readily movable. Any sign attached to a sign structure that has wheels will be considered a portable sign, as well as any sign attached to a frame or other sign structure that is not permanently attached to the ground or a building.

Sign, Projecting

Any sign that is attached to a building and that projects outward from the exterior wall of the building by more than 18 inches. The face of a projecting sign is typically perpendicular to the adjacent building wall.

Sign, Roof

Any sign erected, constructed, maintained or visible above the parapet on a building with a flat roof or above the peak on a pitched roof.

Sign Structure

Any structure that supports a sign, including decorative cover.

Sign, Temporary

Any sign, banner, pennant, valance, or advertising display that by intent is not permanent, constructed of cloth, canvas, lightweight fabric, cardboard, wallboard, or other lightweight materials with or without frames, intended to be displayed for a short period of time only.

Sign, Wall

A single-faced sign attached generally flush or parallel to the wall of a building.

Site Area

The total land and water surface area contained within the boundaries of a parcel proposed for infill development, including all platted lots or unplatted properties.

Site Plan

A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Code.

Start of Construction

For the purpose of interpreting and administering the flood protection regulations of §8.1103.B, this term means 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.

Street, Expressway

Roads intended to serve interstate or high speed, high-volume urban traffic. Access to expressways is limited to other expressways and major streets.

Street, Arterial

Roads of regional importance or the main roads of a community. Direct access is primarily limited to significant land uses.

Street, Collector

Provides access to nonresidential land uses and connects residential streets to the system's arterial streets.

Street, Local

Provides access to adjacent land. Characterized by a small service and low speeds.

Street, Stub

A street that is temporarily terminated, but that is planned for future continuation.

Structure

As defined in International Building Code.

Structure (Floodplain)

For floodplain management purposes, means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Subdivision

See Sec. 12.702.

Subdivision Plat

A map or drawing of a proposed subdivision prepared in a manner suitable for recording in the County records and containing accurate and detailed engineering and survey data, dimensions, dedicatory statements and certificates. See also Sec. 12.700.

Substantial Damage

For floodplain management purposes, 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 market value of the structure before the damage occurred.

Substantial Improvement

For the purpose of interpreting and administering the flood protection regulations of §8.1103.B, this term 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 includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- a) 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 conditions or
- b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Tiny House

A dwelling unit that is factory or site-built on a permanent foundation in accordance with applicable codes, laws and standards.

Tiny Home Community

A group of tiny homes, constructed either on a chassis or on a foundation, that are arranged in common relationship to one another, usually surrounding a shared common open space area.

Townhouse

A single dwelling unit on a single lot that shares at least one common or abutting wall with another attached house located on a separate lot.

Trade School

Uses that focus on teaching the skills needed to perform a particular job. Examples include schools of cosmetology, modeling academies, computer training facilities, vocational schools, administrative business training facilities and similar uses.

Tree

Any self-supporting woody plant species, which normally grows to an overall minimum height of 20 feet.

Tree, Canopy

Any self-supporting woody plant with one well-defined trunk and a distinct and definite formed crown that attains a height of at least 30 feet at maturity.

Tree Diameter

See “Diameter at Breast Height” (for measuring existing trees) and “Caliper” (for measuring new trees to be planted)

Tree(s) Historic

A tree(s) which has been found by the city to be of a notable historic interest because of its age, type, size or historic association and has been so designated as part of the official records of the city.

Tree, Non-canopy

Any self-supporting woody plant with one or more trunks that attains a height of at least 15 feet at maturity.

Tree(s) Nuisance

A tree(s) that is non-native invasive, diseased, infested with harmful insects, dying or dead.

Tree(s) Protected

Any self-supporting woody perennial plant which has a caliper of three inches (3”) or more when measured at a point of 4½ feet above ground level and which normally attains an overall height of at least 20 feet at maturity, usually with one main stem or trunk and many branches. It may appear to have several stems or trunks as in several varieties of oaks and is not diseased, dying, dead, or a nuisance tree as determined by an urban forester or International Society of Arboriculture (ISA) certified arborist.

Tree Survey/Inventory

A survey that depicts the location, size and number of trees within the survey area. The survey shall summarize the total number of trees and the diameter inches of trees that will be removed and/or will be preserved. A Tree Survey/Inventory for treed areas that exceed one acre shall be prepared by a registered landscape architect, registered architect, registered engineer or registered surveyor.

Two-unit house

Two dwelling units within the same principal building, located on a single lot. The 2 dwelling units are attached and may be located on separate floors or side-by-side. Also known as “duplexes.”

Unified Development

The separate ownership of single units or apartments in a multiple unit structure or structures with common elements. (See Tex. Rev. Civ. Stat. art. 1301a)

Utilities and Public Service Facility, Minor

Infrastructure services that need to be located in or close to the area where the service is provided. Minor utilities and public service facilities generally do not have regular employees at the site and typically have few if any impacts on surrounding areas. Typical uses include water and sewer pump stations; gas regulating stations; underground electric distribution substations; electric transformers; water conveyance systems; stormwater facilities and conveyance systems; telephone switching equipment and emergency communication warning/broadcast facilities

Utilities and Public Service Facility, Major

Infrastructure services that typically have substantial visual or operational impacts on nearby areas. Typical uses include but are not limited to water and wastewater treatment facilities, high-voltage electric substations, utility-scale power generation facilities (including wind, solar and other renewable and nonrenewable energy sources), sanitary landfills and utility-scale water storage facilities, such as water towers and reservoirs.

Utility Runway

A runway that is constructed for and intended to be used by propeller driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight and less.

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.

Vehicle Sales and Service

Uses that provide for the sale, rental, maintenance or repair of new or used vehicles and vehicular equipment. Typical uses included within the vehicle sales and service subcategory include vehicle sales and rental businesses, vehicle repair and maintenance shops, fueling stations and car washes.

Vehicle Maintenance

An establishment that specializes in the replacement or repair of any vehicle part that does not require removal of the engine, transmission, or differential. Examples include dent repair, minor painting, upholstery, brake work, and oil changes.

Vehicle Repair

An establishment that specializes in mechanical work, bodywork, major painting, or other similar work on vehicles.

Vehicles Sales, Rental, and Leasing

Premises where the primary occupation is the sale or rental of any vehicle and can include ancillary service or repair of any vehicle. Such use may include the storage of inoperable vehicles for a period not to exceed 90 days.

Violation

For the purpose of interpreting and administering the flood protection regulations of §8.1103.B, this term means the failure of a structure or other development to be fully compliant with the Flood Protection regulations of §8.1103.B. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §8.1103.B is presumed to be in violation until such time as required documentation is provided to the City.

Watercourse

A definite channel of a stream in which water flows within a defined bed and banks, originating from a definite source or sources. (The water may flow continuously or intermittently, and if the latter, with some degree of regularity, depending on the characteristics of the sources.)

Water Surface Elevation

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.

Wholesale, Distribution & Storage

Uses that provide and distribute goods in large quantities, principally to retail sales, commercial services or industrial establishments. Long-term and short-term storage of supplies, equipment, commercial goods and personal items is included.

Wholesale, Distribution and Storage, All Other

Wholesale, distribution and storage uses other than those more specifically identified above.

Wholesale, Distribution and Storage, Indoor

Wholesale, distribution and storage uses conducted within a completely enclosed building.

Wireless Communications

Towers, antennas, equipment, equipment buildings and other facilities used in the provision of wireless communication services. The following are wireless communication facility specific use types:

APPENDIX 1: PRELIMINARY PLAN SUBMITTAL REQUIREMENTS

The following information is required with all preliminary plans, unless the City Planner determines that specific items of information are not required in a particular case:

1. The preliminary plan must demonstrate compliance with the general requirements of the Development Code, specifically including the infrastructure and public improvement standards of Article 10;
2. Provide the preliminary plan on sheets 24 inches by 36 inches to a scale of 100 feet per inch or larger. Smaller scales may be allowed at the discretion of the City Planner. If more than one sheet, provide an index sheet at a scale of 500 feet per inch or larger;
3. The words "PRELIMINARY PLAN - NOT FOR RECORD" shall appear on the plan;
4. The date the preliminary plan was submitted and the dates of any revisions shall legibly appear on the plan;
5. The proposed name of the subdivision or development, which shall not have the same spelling as or be pronounced similar to the name of any other subdivision located within Walker County;
6. The name and address of all property owners, developers and subdividers, engineers, and surveyors;
7. An accurate location of the subdivision or development shall be provided by reference to an established survey or league corner, City of Huntsville horizontal control monument, subdivision corner, or other known point. Primary control points or descriptions and ties to such control point, to which, later, all dimensions, angles, bearings, block numbers, and similar data shall be referred. The preliminary plan shall be located with respect to a corner of the survey or tract, or an original corner of the original survey of which it is a part;
8. Subdivision boundary lines shall be indicated by heavy lines and the computed acreage of the subdivision or development shown;
9. The name of contiguous subdivisions and names of owners of contiguous parcels, and an indication whether or not contiguous properties are platted;
10. The following existing features shall be shown:
 - (a) The location, dimension, name and description of all recorded streets, alleys, reservations, easements, or other public or private rights-of-way within the subdivision or development, intersecting or contiguous with its boundaries or forming such boundaries. In the case of pipelines carrying flammable gas or fuel, the approximate location, size of line, design pressure and product transported through the line shall be shown;
 - (b) The location, dimension, description, and name of all existing or recorded lots, parks, public areas, and other sites within or contiguous with the subdivision or development;
 - (c) The location and size of all existing water, sanitary sewer, and drainage facilities;
 - (d) The location of existing water courses, storm drainage, and the one hundred-year floodplain according to the most recent best available data;
11. Scale in feet and north arrow;
12. Topographic information, including contours at two-foot intervals, flow line elevation of streams, indication of drainage directional flow, and location of any wooded areas;
13. The location, approximate dimensions, description and name of all proposed streets, alleys, drainage structures, parks, or other public areas, easements, or other rights-of-way,

blocks, lots, and other sites within the subdivision or development. Proposed channel cross sections, if any. Existing and/or proposed well site locations;

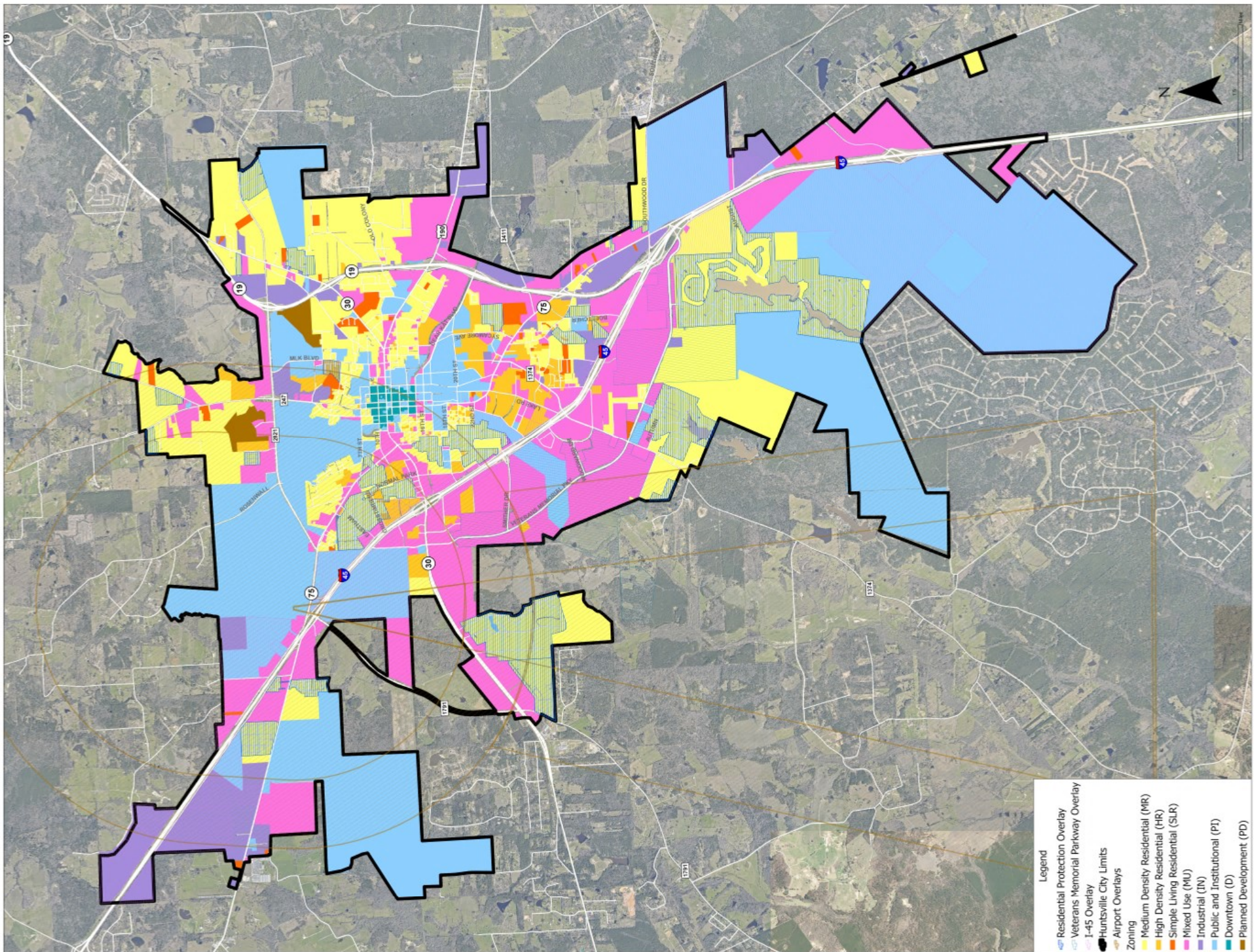
14. A number or letter to identify each lot and each block. Lots and blocks shown on a preliminary plan should be numbered sequentially;
15. Location of current City limits line, ETJ boundary line, and CCN boundaries as applicable;
16. Vicinity map which shows general location of subject property to existing streets in Huntsville and to its City limits. No scale is required but a north arrow is to be included;
17. Show number of residential lots and proposed density; designate all proposed land uses;
18. Proposed layout and capacities of public utilities and provide any oversize participation requests that will be sought;
19. Estimated traffic impact of the development;
20. Sequence of phased development (if applicable) and a tentative timetable for development;
21. When requested by City Planner, provide title report for property that is current within ninety (90) days and includes applicable information such as ownership, liens, encumbrances, etc;
22. Written requests for waivers of subdivision standards, if any, shall be submitted in accordance with the applicable Sections of this Development Code; and
23. 11-inch by 17-inch copies of the preliminary plan (not necessarily to scale) will be requested by the City Planner when the preliminary plan has been reviewed and is scheduled for a Planning Commission meeting for consideration.

APPENDIX 2: FINAL PLAT SUBMITTAL REQUIREMENTS

The following information is required with all final plats, replats, minor plats, amending plats, vacating plats, and development plats, unless the City Planner determines that specific items of information are not required in a particular case:

1. The plat shall conform to the general requirements of this Development Code and minimum standards of design and improvements as set forth in Article 10 unless expressly provided for otherwise;
2. Provide current certified tax certificates from all taxing agencies showing payment of all ad valorem taxes on the land within the subdivision;
3. Provide title report for property that is current within ninety (90) days and includes applicable information such as ownership, liens, encumbrances, etc;
4. Provide the plat on sheets 18 inches by 24 inches to a scale of 100 feet per inch or larger. Smaller scales may be allowed at the discretion of the City Planner. If more than one sheet, provide an index sheet at a scale of 500 feet per inch or larger;
5. Vicinity map which shows general location of subject property to existing streets in Huntsville and to its City limits. No scale is required but a north arrow is to be included;
6. The proposed name of the subdivision or development, which shall not have the same spelling as or be pronounced similar to the name of any other subdivision located within the county it is located;
7. Date of preparation, scale in feet, and north arrow;
8. The name and address of all property owners, developers, subdividers, engineers, and surveyors responsible for the plat;
9. Subdivision boundary lines shall be indicated by heavy lines and the computed acreage of the subdivision or development shown;
10. For a replat where there are existing improvements, provide a survey of the subject property showing the improvements to ensure that no setback encroachments are created;
11. The name of contiguous subdivisions and names of owners of contiguous parcels, and an indication whether or not contiguous properties are platted;
12. The location of the 100-year floodplain and floodway according to the most recent best available data;
13. A number or letter to identify each lot and each block. Lots and blocks shown on a plat should be numbered sequentially;
14. Provide the number of lots;
15. Written requests for waivers of subdivision standards, if any, shall be submitted in accordance with the applicable Sections of this Development Code;
16. The Plat shall also include the following, based on field survey and marked by monuments and markers:
 - a. The exact location, dimensions, name, and legal description of all existing or recorded streets, alleys, easements, or other rights-of-way within the subdivision or development, intersecting or contiguous with the boundary or forming such a boundary with accurate dimensions, bearings or deflection angles and radii, area, center angle, degree of curvature, tangent distance, chord data, and length of all curves, where applicable;
 - b. The exact location, dimensions, description, and name of all proposed streets, alleys, drainage structures, parks, and other public areas, easements, or other

- rights-of-way, blocks, lots, and other sites within the subdivision or development, with accurate dimensions, bearings, or deflection angles and radii, areas, center angle, degree of curvature, tangent distance, chord data, and length of curves, where applicable;
- c. Lot corner markers and survey monuments shall be shown clearly by symbol, and clearly tied to City of Huntsville horizontal control monuments;
 - d. The following, when applicable, shall appear on the face of the plat:
 - 1) Certificate of Ownership and Dedication;
 - 2) Certificate of Surveyor and/or Engineer;
 - 3) Certificate of City Engineer;
 - 4) Certificate of Planning Commission;
 - 5) Certificate of the Walker County clerk;
 - 6) Certificate of City Planner; and
 - 7) Certificate of Approval.
17. The plat shall be accompanied by the construction documents and reports as prescribed below and bearing the seal and signature of a registered professional engineer, including the following:
- a. Construction plans shall be provided on 24-inch by 36-inch sheets;
 - b. Street, alley, and sidewalk plans, profiles, and sections, with specifications and detail cost estimates;
 - c. Sanitary sewer plan with contours, plan and profile lines, showing depth and grades, with sewer report and detailed cost estimates;
 - d. Water line plan showing fire hydrants, valves, etc., with specifications and water report and a detailed cost estimate. This may be combined with related information supplied for preliminary plan submissions;
 - e. Storm drainage system plan with contours, street lines, inlets, storm sewer and drainage channels with profiles and sections. Detail drainage structure design and channel lining design if used, with specifications, drainage report, and detailed cost estimate; Street lighting plan showing location of lights, design, and with specifications and detailed cost estimates; and
 - f. Any associated necessary items, including but not limited to off-site public utility easements, permits or approval of governmental agencies.
18. 11-inch by 17-inch copies of the plat (not necessarily to scale) will be requested by the City Planner when the plat has been reviewed and has the potential to be scheduled for a Planning Commission meeting for consideration.



MINUTES OF THE MEETING OF THE PLANNING COMMISSION HELD IN THE TRAINING ROOM, AT THE CITY OF HUNTSVILLE NEW SERVICE CENTER COMPLEX, 448 SH 75, HUNTSVILLE, TEXAS ON THE 18TH DAY OF JULY 2024 AT 5:30 PM.

Members present: Hooten; Carpenter; Thompson; Barnett; Harris; Wallace; Lynch

City staff present: Irones; Byal; Yeager; Gibson; Jeng-Bullock; Kulhavy

Audience present: Eric Fugate; Joel Starkey; John & Tammy Bolander; Walter Berner; Tomalea Bench; Cheryl Spencer; Lynn Boone; Richard & Linda Horn; Don Martinez; Jeremy Norwood; David Petrakovitz; Tore Fossum; Gay Giffred; Lou McDonald; Cynthia Johnson; Donniea Garrett; Donnie R Tubbs Sr; Rob McCaffety

1. CALL TO ORDER

The meeting was called to order by Chairman Hooten. [5:30 PM]

2. PLEDGE OF ALLEGIANCE

- a. **U.S. Flag**
- b. **Texas Flag**

3. INVOCATION

Vice-Chairwoman Carpenter led the invocation.

4. PUBLIC HEARING to receive public comments concerning revisions to the current Development Districts for the entirety of the City of Huntsville.

Over 20 residents of the city attended the meeting and voiced their concerns, support, opposition, and some sought clarification on issues. They were given a 3-minute time frame to speak.

5. CONSIDER

- a. Approval of the proposed revisions to the current Development Districts map and the Development Code for the entirety of the City of Huntsville.

Director of Development Services, Kevin Byal gave an overview of the proposed changes and the steps taken to get to this point. Staff recommended the approval of the proposed revisions. He then answered questions from the Commissioners.

Director Byal addressed some of the citizens' concerns for clarification including:

- Residential regulations are not increasing. Current regulations would carry over into new zoning district
- The city cannot enforce zoning in the ETJ so the senate bill would not apply. County has stricter building regulations than the city
- Elkins lake petitioned the city to annex due to water supply issues. They now have severe drainage issues that could have been prevented if they had zoning regulations
- Ordinance in terms of percentages of construction costs to base fees are not related to this zoning update
- Zoning update does not propose any annexation or expansion of the city limits.

City Planner, Armon Irones informed the Commission that the Planning Division has been receiving calls from citizens mainly to obtain more information regarding the zoning and the postcards they received concerning this meeting.

Director Byal answered questions from the Commission:

- Investors with rental homes, would they remain this after zoning and if they moved or sold the property would they be able to continue with the same usage?
 - Yes, the usage is grandfathered in with new ownership. They would only need permission in order to change it to a different usage that is different from its original usage.
- Stonehenge?
 - The city does not own the land, so the city is not responsible for what is done with the land. Code Enforcement has been sent out to try to make sure that the land is in compliance with city regulations. The city cannot tear down what is already there
- 2 unrelated people in 1 home is not new?
 - not a new restriction within the neighborhood conservation zone. It is not allowed, and code enforcement is sent to bring them into compliance
- Comment on being accused of telling residents what to do with their property
 - Respects property owner rights but does not want property owners' rights to infringe on their neighbors. There is nothing in place today to provide protection to the residents so that certain property types cannot move in and disturb the community

Commissioner Wallace moved to approve the proposed revisions to the current Development Districts map and the Development Code. Second was by Vice-Chairwoman Carpenter. The vote was unanimous.

- b. The minutes of the July 3, 2024, meeting.

Vice-Chairwoman Carpenter moved to approve the July 3rd minutes. Second was by Commissioner Thompson. The vote was unanimous.

6. ITEMS OF COMMUNITY INTEREST

Announcements concerning items of community interest from the Commission and City Staff for which no action was discussed.

- *No updates concerning Items of Community Interest were given.*

7. ADJOURNMENT

Commissioner Wallace moved to adjourn the meeting. Second was by Vice-Chairwoman Carpenter. The vote was unanimous. [6:26 PM]



CITY COUNCIL AGENDA

8/20/2024

Agenda Item Number: 2.c.

Agenda Item: First Reading - Consider adoption of Ordinance 2024-18, amending Chapter 46 Utilities of the Huntsville Municipal Code, to add Article a New Article IV “Stormwater Utility System” and adopting a process to form a schedule of rates and charges to be assessed.

Initiating Department/Presenter: Engineering

Presenter:

Kathlie Jeng-Bulloch, City Engineer

Recommended Motion: First Reading – No action required.

Strategic Initiative: Strategic Priority #4, Infrastructure - Develop and maintain a comprehensive and well-planned infrastructure network that prepares for the challenges of the future and provides quality, modern and efficient, water, wastewater, drainage and transportation services.

Discussion: To create a Municipal Drainage Utility System will be advantageous and beneficial to the citizens of the City to promote the public health, safety and welfare of the citizens by effectively managing stormwater runoff.

The Texas Local Government Code, (the “Act”), Provisions of Subchapter C of Chapter 552 – the Municipal Drainage Utility Systems Act, creates and establishes a “Stormwater Utility System” to serve the City.

Section 552.042 – Legislative Finding. (a) The Legislature finds that authority is needed to:

1. Permit municipalities to establish a municipal drainage utility system within the established service area;
2. Provide rules for the use, operation, and financing of the system;
3. Protect the public health and safety in municipalities from loss of life and property caused by surface water overflows, surface water stagnation, and pollution arising from nonpoint source runoff within the boundaries of the established service area;
4. Delegate to municipalities the power to declare, after a public hearing, a drainage system created under this subchapter to be a public utility;
5. Prescribe bases on which a municipal drainage utility system may be funded and fees in support of the system may be assessed, levied, and collected;
6. Provide exemptions of certain persons from this subchapter; and
7. Prescribe other rules related to the subject of municipal drainage.

The City Council adopted the City of Huntsville Strategic Plan on February 7, 2023 which includes 7 Goals. Goal #4, Infrastructure includes “Continue Implementation of the Preliminary Drainage Master Plan by Completing the Drainage Fee Study and Considering Identified Projects.”

A Request for Qualification (RFQ) process was conducted, and twenty-seven (27) applications from Engineering Firms were received. Kimley-Horn and Associates, Inc. was awarded (April 2023) to provide professional services for the evaluation and potential enactment of a Drainage Fee Study Program.

On May 7, 2024, the Drainage Utility Fee Program was presented to the Finance Committee; the supplement information pertaining to the proposed charges including examples were provided to the Finance Committee on May 21, 2024 (See attachment I - Drainage Utility Fee Program Presentation).

During the council Meeting of July 16, 2024, a Workshop was held to discuss the details of the Drainage Utility Fee Program (See attachment II – Huntsville Stormwater Utility).

According to Section 552.045 of the Local Government Code, Adoption of System; Rules.

(c) Before adopting the ordinance, the governing body must publish a notice in a newspaper of general circulation in the municipality stating the time and place of a public hearing to consider the proposed ordinance.

The proposed ordinance must be published in full in the notice and shall publish the notice three times before the date of the hearing. The first publication must occur on or before the 30th day before the date of the hearing.

The first Public Hearing Notice was published in “The Huntsville Item” on August 1, 2024, with the Full Ordinance No. 2024 – 18 (See attachment III Ordinance No. 2024-18), and Exhibit A (See attachment IV Huntsville Municipal Code, Chapter 46 Utilities, Article IV. Stormwater Utility System), which also indicated this program is scheduled on the Council Agenda (August 20, 2024).

The second Public Hearing Notice is scheduled to be published on August 15, 2024, and the third Public Hearing Notice is scheduled to be published on August 29, 2024. The Public Hearing is scheduled for September 3, 2024.

Previous Council Action: Council was presented a workshop on this item at the July XX, 2024 Council meeting.

Financial Implications: In the amount of - Should the program be fully implemented as presented, the projected annual revenue for the first year is approximately \$1,300,000.

Approvals:

Leonard Schneider

Sam Masiel

Aron Kulhavy

Kristy Doll

Associated Information:

1. Drainage Utility 5 21 2024 presentation final pptx 8 10 2024
2. 7 16 ksjb Huntsville Stormwater Utility_v5
3. 2024-18 Municipal Drainage Utility System-proposed final 7-18-24
4. 2024 Ex A 7Stormwater Utility Ordinance 7 30 2024 no water mark



Drainage Utility Fee Program

May 21, 2024

by

Dr. Kathlie S. Jeng-Bulloch, P.E., BC.WRE, CFM
City Engineer



Drainage Utility Fee Program Performance

- Phase 1 Services
 - Task 1 - Development of Impervious Dataset
- Phase 2 Services –
 - Task 2 - Account Review, Final Fee Structure and Evaluate Billing Mechanism.
 - Task 3 – Recommendations for Ordinance and Project Documentation



Drainage Utility Fee Program

- The Purpose of the Fee is to Pay for Stormwater Related Activities, Such As Providing Drainage Related Services, Costs of Staff, Equipment, Maintenance and Rehabilitation of Aging Infrastructure, Stormwater Conveyance and Meeting Regulatory Requirements.
- Possible Exemptions:
 - State Property
 - County Property?
 - University
 - Schools and School District Properties?



Drainage Utility Fee Program

- Calculation of Impervious Area - Which doesn't Absorb Rainfall.
- Asphalt, Concrete, Brick, Stone, Pools.
Rooftops, Patios, Decks, Detention Pond.



Drainage Utility Fee Program Performance

- There are 137 Cities in Texas that Collect Storm Utility Fees, For Example:
 - Year Created – 1991 (Copperas Coves), 2023 (Sugar Land).
 - Population Sugar Land (108,000), Copperas Coves (38,500)
 - Fee Charge - \$3.0/ERU to \$6.0/ERU per month.

ERU – Equivalent Residential Unit, the average square footage of Impervious Area for a Residential Property.



Drainage Utility Fee Program Performance

Small Cities in Texas			
City	Monthly Fee	Year Created	Population
Bedford	\$4.50	2002	48,043
Duncanville	\$3.50	2011	39,364
Hurst	\$4.00	2009	36,273
Keller	\$7.00		37,700
Kyle	\$5.00	2016	39,060
New Braunfels	\$4.59	2000	36,494

Data from US Stormwater Utility Survey Database, Western Kentucky University, School of Engineering and Applied Sciences, June 2022.



Drainage Utility Fee Program Performance

Small Cities in Texas			
City	Monthly Fee	Year Created	Population
Seguin	\$3.00	2022	31,000
Brenham	\$3.75	2019	18,000
Waco	\$6.30	2021	140,000
Copperas Cove	\$9.00	1991	37,000
Converse	\$2.43	2010	29,000
San Marcos	\$14.90	1999	68,500



Huntsville Property Classification

Property Classification	Impervious Area (SF)	Number of Parcels	Total ERUs	Average ERU per property type
Single Family	27,243,329	6,928	6,928	1
Non-Single Family Non-Exempt Properties	47,413,734	1,394	14,368	10.3
School ISDs (Discretionary Exempt)	3,777,321	19	1,145	60.3
Religious Institutions (Discretionary Exempt)	2,485,546	92	753	8.2
County Owned Properties (Exempt)	894,334	15	271	18.1
City-Owned Properties (No Charges)	3,908,153	50	1,184	23.7
Total	85,722,418	8,498	24,649	

The average Impervious Area of Single–Family Properties in the City is 3,900 s.f..

The Median Impervious Area of Single-Family Properties in City is 3,300 s.f.. – Recommended to use.

County/State-Owned Properties are Exempted.



Drainage Utility Fee Program Proposed Charges

Monthly Rate	Approximate Annual Revenue Projected	
	Year 1	Year 5
\$3/ERU	\$ 870,000	\$ 940,000
\$5/ERU	\$ 1,400,000	\$ 1,600,000
\$7/ERU	\$ 2,000,000	\$ 2,200,000

The average Impervious Area of Single–Family Properties in the City is 3,900 s.f..
The Median Impervious Area of Single-Family Properties in City is 3,300 s.f.. – Recommended to use.



Drainage Utility Fee Program

Proposed Charges Examples (Approximately)

- Average ERUs for Religious Properties is 8.2 ERUs, Average Bill is \$41/Month.
- Commercial Estimates:
 - Small (Gas Station), 13,803 s.f. Impervious Area, (4.2 ERUs), Average Bill is \$21/Month.
 - Small (Bank), 32,675 s.f. Impervious Area, (9.9 ERUs), Average Bill is \$50/Month.
 - Medium (Apartments), 122,702 s.f. Impervious Area, (37.2 ERUs), Average Bill is \$186/Month.
 - Large (Shopping Center), 288,591 s.f. Impervious Area, (87.5 ERUs), Average Bill is \$437.5/Month.

* Assumed \$5/ERU and use SFR Properties as 3,300 s.f.



Drainage Utility Fee Program Proposed Charges Examples (Approximately)

- Huntsville High School, 1,530,276 s.f. Impervious Area, (463.7 ERUs), Average Bill is \$2,318.6/Month.
- Huntsville ISD Bus Depot (different property near Huntsville High School), 544,199 s.f. Impervious Area, (164.9 ERUs), Average Bill is \$824.54/Month.

Assumed \$5/ERU and use SFR Properties as 3,300 s.f.



Drainage Utility Fee Program Option Charge Selected

Monthly Rate	Approximate Annual Revenue Projected	
	Year 1	Year 5
\$5/ERU	\$ 1,400,000	\$ 1,600,000

*** Projected Fees Based on No-Exemption on Both School ISDs and Religious Institutes.**



Huntsville Property Classification Calculated Properties

Property Classification	Impervious Area (SF)	Number of Parcels	Total ERUs	Average ERU per property type
Single Family	27,243,329	6,928	6,928	1
Non-Single Family Non- Exempt Properties	47,413,734	1,394	14,368	10.3
School ISDs (Non- Exempt)	3,777,321	19	1,145	60.3
Religious Institutions (Non- Exempt)	2,485,546	92	753	8.2
County Owned Properties (Exempt)	894,334	15	271	18.1
City-Owned Properties (No Charges)	3,908,153	50	1,184	23.7
Total	85,722,418	8,498	24,649	

* School ISD and Religious Institutions are Non-Exempt Properties

Questions

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Huntsville Stormwater Utility

City of Huntsville City Council

Kate Ploetzner, P.E., CFM

July 16, 2024



Stormwater Utilities: A Background

A Stormwater Utility is a user-fee-based funding program for a municipality's drainage management activities and drainage infrastructure needs

Authorized by Texas
Local Government
Code Chapter 552

Allows municipality
to use General Fund
for other services

Who will pay fees for the Stormwater Utility?

Properties within the respective municipality limits.

Mandatory exempt properties include:

- Property held and maintained in its natural state
- Property with a wholly sufficient and privately-owned stormwater system that does not discharge runoff
- A subdivision lot until a Certificate of Occupancy has been issued
- Property owned by a state agency or institutions of higher learning

Other exempt properties are included in the proposed annual Fee Schedule

Cost of Service: Examples

- Inspections, operations and maintenance
- Cost of acquisition of land, rights-of-way, easements, relating to structures, equipment, and facilities for drainage
- Repairing deficient systems
- Monitoring active construction projects for proper management of stormwater runoff and erosion
- Ensuring proper design of stormwater collection
- Preparing, planning and construction of future stormwater system upgrades and replacements and providing funding for those future needs

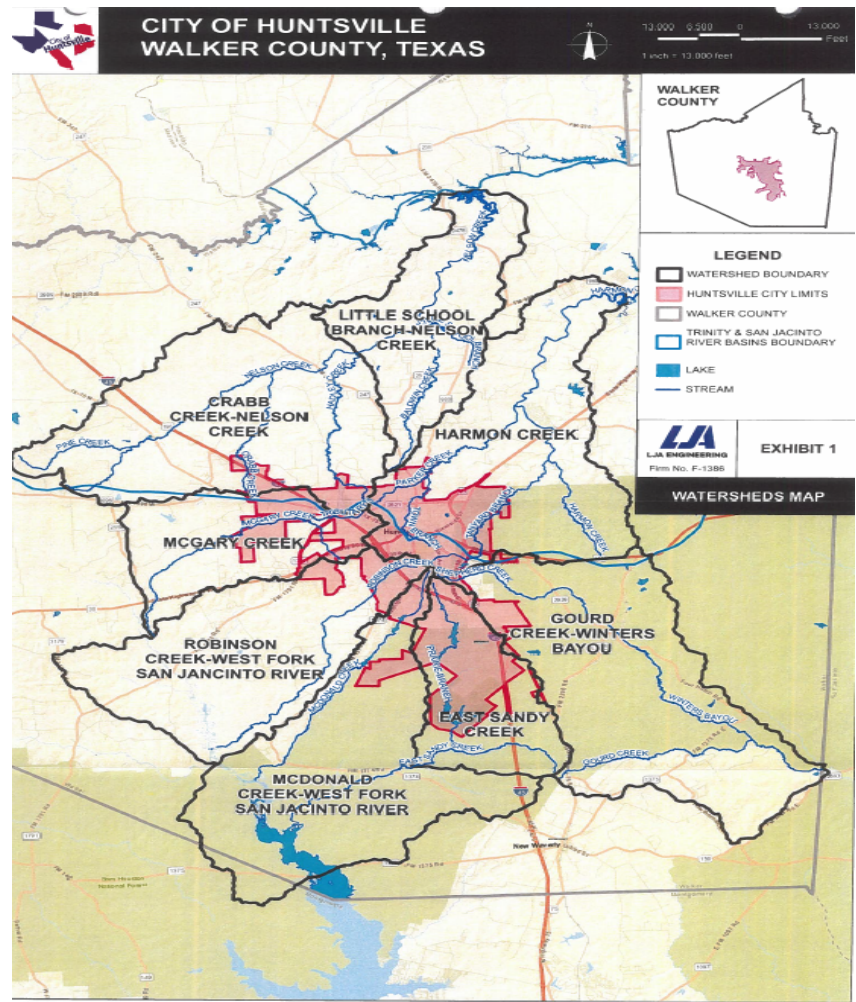
Identified Utility Expenses

- Survey, Drainage Study, Design and Construction

Dawson Lake Dam and Downstream	Gourd Creek
Autumn Road Drainage	Central Huntsville Area in the Harmon Creek
Elkin's Lake	Robinson Creek-West Fork San Jacinto River
Prairie Branch Basin	Kevin Williams Airport Drainage
Spring Lake	Crabb Creek-Nelson Creek
McGary Creek –West Fork San Jacinto River	Little School Branch-Nelson Creek

- Combine with a Bond Payments for Stormwater Construction Projects identified from above professional services

Identified Utility Expenses

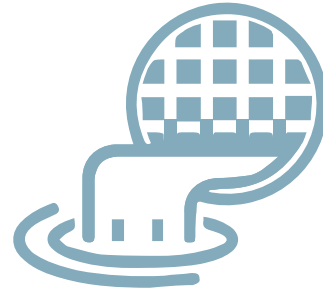


Stormwater Utility: Billing



How utility billing works

- Based on inventory of lots and tracts within the municipality
- Billing cannot be based on value of property



Billing basis must be directly related to drainage

- Equitable
- Nondiscriminatory
- Reasonable



Billing basis includes

- Inventory the municipality
- Split the cost amongst billable parcels

Basis of Typical Stormwater Utility Rate Structure in Texas

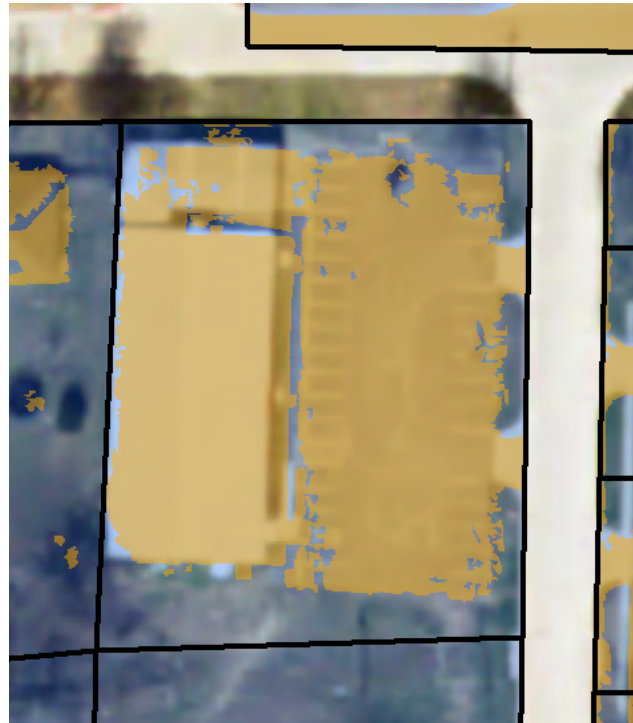
More imperviousness



Increased runoff volume
and flowrate

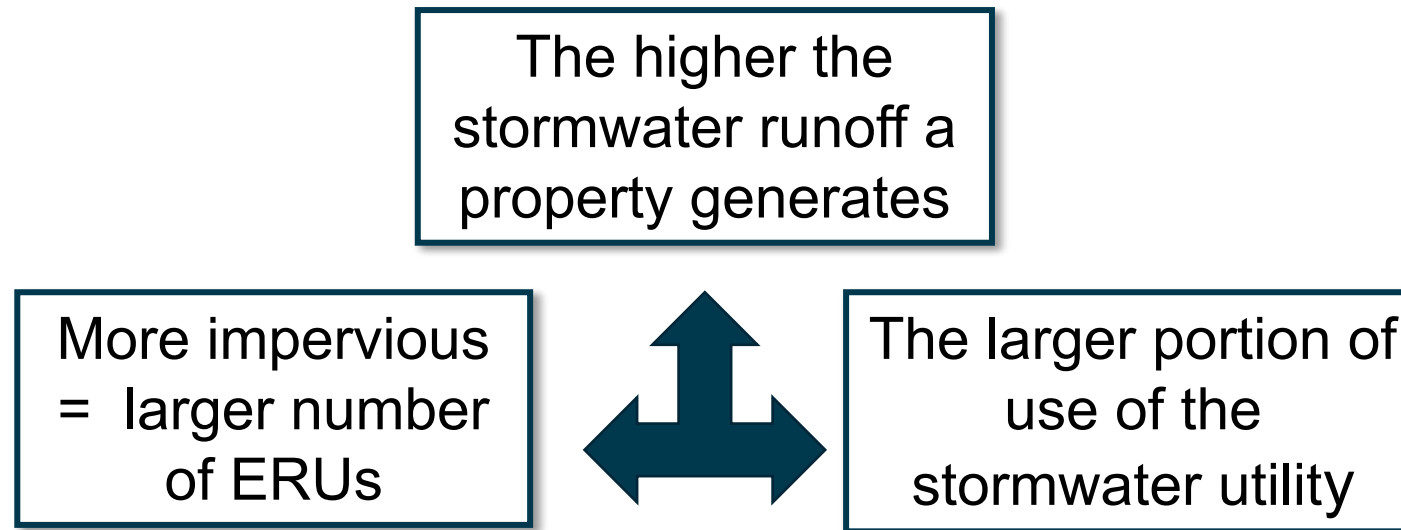


More use of the
stormwater utility system



Equivalent Residential Unit (ERU)

- Most widely used fee system is ERU-based
- ERU = median impervious area of a single-family property
- ERU is the base unit used to assess property fee



Billing Units by Property Type

<i>ERUs (Billing Units)</i>				
<i>Fiscal Year</i>	<i>Single Family¹</i>	<i>Religious Institutions, School, and County²</i>	<i>All other properties^{2,3}</i>	<i>Total</i>
FY 24-25	6,928	2,169	14,368	24,649
FY 25-26	7,067	2,212	14,655	25,142
FY 26-27	7,208	2,256	14,948	25,645
FY 27-28	7,352	2,302	15,247	26,158
FY 28-29	7,499	2,348	15,552	26,681

Notes:

1. Each single-family property = 1 ERU
2. Non-single-family property ERUs = $\text{Impervious Area (s.f.)} * \frac{1 \text{ ERU}}{3,300 \text{ s.f.}}$
3. Excludes 100% exempt properties
4. All Billing Unit estimates assume 2% annual growth rate

Proposed Fee Schedule by Property Type

<i>Proposed Fee Schedule (\$/ERU/month)</i>			
<i>Fiscal Year</i>	<i>Single Family¹</i>	<i>Religious Institutions, and Non-exemptional Properties²</i>	<i>All other properties³</i>
FY 24-25	\$5.00	\$2.50	\$5.00
FY 25-26	\$5.00	\$2.50	\$5.00
FY 26-27	\$5.00	\$2.50	\$5.00
FY 27-28	\$5.00	\$2.50	\$5.00
FY 28-29	\$5.00	\$2.50	\$5.00

Notes:

1. Each single-family property is equivalent to 1 ERU and each property will be billed \$5.00 per month.
2. Properties owned by a County, school district, or religious organization will receive a 50% exemption (\$2.50/ERU/month) at this time.
3. All other properties (excluding 100% exempt properties) will be billed \$5.00/ERU/month.

Projected Annual Revenue

Projected Annual Revenue (\$)				
<i>Fiscal Year</i>	<i>Single Family¹</i>	<i>Religious Institutions, and Non-exemptional Properties²</i>	<i>All other properties^{2,3}</i>	<i>Total</i>
FY 24-25	\$407,366	\$63,764	\$844,827	\$1,315,957
FY 25-26	\$415,514	\$65,039	\$861,723	\$1,342,276
FY 26-27	\$423,824	\$66,340	\$878,958	\$1,369,122
FY 27-28	\$432,300	\$67,667	\$896,537	\$1,396,504
FY 28-29	\$440,946	\$69,020	\$914,467	\$1,424,434

Notes:

1. Each single-family property = 1 ERU
2. Non-single-family property ERUs = $\text{Impervious Area (s.f.)} * \frac{1 \text{ ERU}}{3,300 \text{ s.f.}}$
3. Excludes 100% exempt properties
4. Billing Units assume 2% annual growth rate and 2% annual uncollected billings.

Proposed Charges Examples (Approximately)

- Average ERUs for Religious Properties (8.2 ERUs), Average Bill is \$**20.5**/Month.
- Small Gas Station, 13,800 s.f. Impervious Area, (4.2 ERUs), Average Bill is \$**21**/Month.
- Small Bank, 32,670 s.f. Impervious Area, (9.9 ERUs), Average Bill is \$**50**/Month.
- Medium Apartments, 122,700 s.f. Impervious Area, (37.2 ERUs), Average Bill is \$**186**/Month.
- Large Strip Center, 288,600 s.f. Impervious Area, (87.5 ERUs), Average Bill is \$**437.5**/Month.

Next Steps

- Stormwater Utility Ordinance and Schedule of Charges Will be Published in Newspaper and City Website.
- Required Public Hearings LGC 552.
- Implement Stormwater Utility Fee Schedule of Charges in the FY 24-25 (October 2024) Schedule of Fee and Charges.

Questions?



ORDINANCE NO. 2024 - 18

AN ORDINANCE OF THE CITY OF HUNTSVILLE, TEXAS, AMENDING THE HUNTSVILLE MUNICIPAL CODE BY AMENDING CHAPTER 46 "UTILITIES," TO ADD ARTICLE A NEW ARTICLE IV "STORMWATER UTILITY SYSTEM," ESTABLISHING A MUNICIPAL DRAINAGE UTILITY SYSTEM AND ADOPTING A SCHEDULE OF RATES AND CHARGES TO BE ASSESSED; PROVIDING FOR DRAINAGE SERVICE, BILLING, EXEMPTIONS, DRAINAGE CHARGES, AND APPEALS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Huntsville, Texas, has investigated and determined that it would be advantageous and beneficial to the citizens of the City to promote the public health, safety and welfare of the citizens to adopt a Municipal Drainage Utility System; and

WHEREAS, the City Council further investigated and determined that it would be in the best interest of the citizens to adopt the Municipal Drainage Utility Systems Act as set forth in Chapter 552, Subchapter C, Texas Local Government Code, as amended ("Act"); and

WHEREAS, the City Council finds that the drainage of the City is a public utility within the meaning of the Act and the Service Area is the municipal boundaries, meaning the City Limits; and

WHEREAS, the City Council further finds that the City will establish a schedule of drainage charges against all real property in the proposed service area(s) which included the entire City subject to charges under this Ordinance; and

WHEREAS, the City Council further finds that the City will provide drainage for all real property in the proposed service area(s) on payment of drainage charges, except real property exempted under the Act or pursuant to this Ordinance; and

WHEREAS, the City Council further finds that the City will offer drainage service on nondiscriminatory, reasonable and equitable terms; and

WHEREAS the City Council finds notice of a public hearing was published in a newspaper the required number of times pursuant to Chapter 552 and after public notice, City Council held a public hearing on _____, 2024; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS,

Section 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Huntsville, Texas, and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

Section 2. Huntsville Code of Ordinances Chapter 46 "Utilities" is hereby amended by adding an

new Article IV as shown in the attached Exhibit “A”.

Section 3: All ordinances or parts of ordinances in force when the provisions of this Ordinance becomes effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of any such conflict.

Section 4: Should any paragraph, sentence, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

Section 5: This Ordinance shall take effect upon adoption.

Section 6: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED this ___ day of August 2024.

THE CITY OF HUNTSVILLE

Russell Humphrey, Mayor

ATTEST:

APPROVED AS TO FORM:

Kristy Doll, City Secretary

Leonard Schneider, City Attorney

EXHIBIT A

Chapter 46 Utilities

Article IV. Stormwater Utility System

Division 1. -Generally

Section 46-470. – Creation within the Meaning of the Act. The City hereby adopts the provisions of Subchapter C of Chapter 552 of the Texas Local Government Code, (the “Act”), and hereby creates and establishes a stormwater utility system to serve the City, which boundaries shall be the boundaries of the City. The City declares the stormwater utility system to be a public utility and further finds that the City shall:

- (a) establish a schedule of stormwater (drainage) charges against all real property in the City subject to charges under Subchapter C of Chapter 552 of the Texas Local Government Code; and
- (b) provide stormwater (drainage) facilities and services for real property in the City on payment of stormwater charges, except such real property which may be exempted therefrom as authorized by law; and
- (c) offer such drainage (stormwater) service on non-discriminatory, reasonable and equitable terms.

Section 46-471. – Duty of City Manager or his/her designee. It shall be the duty of the City Manager or his/her designee to administer the stormwater utility system. The City shall keep an accurate record of all properties benefited or served by the stormwater utility system and the stormwater utility fee charged for each parcel or portion of a parcel. The record may be maintained within the City's utility billing system or in other record keeping systems that may be developed.

Secs. 46-472---46-480- Reserved.

Division 2- Implementation

Section 46-481. – Program Implementation. The City makes no representation that all of stormwater problems will be remedied; and the City Council is given full discretion in establishing the time and quantitative priorities in expending funds on a reasonable basis as the same become available to meet the stormwater needs of the City. This Section shall not be construed to relieve private landowners, developers or other individuals or entities from providing stormwater improvements pursuant to the ordinances of the City and the laws of this state which relate to stormwater or stormwater improvements. Further, the City does not waive any immunity granted under any law.

Section 46-482. – Access to Benefited Properties. Employees of the City shall have access, at all reasonable times, to any benefited properties served by the stormwater utility system for inspection

or repair or enforcement of the provisions of this Article and Chapter 522, Subchapter C, Local Government Code.

Section 46-483. – Definitions. The following definitions apply to the establishment and the operation of the Stormwater Utility System:

Act: means Chapter 552, Subchapter C “Municipal Drainage Utility Systems”, of the Texas Local Government Code, as amended.

Benefited Property: means an improved parcel, lot or tract to which stormwater service is made available. All parcels within the City receive stormwater service in some manner directly or indirectly.

City: means the City of Huntsville.

City Manager: means the City Manager as designated pursuant to the City Charter as adopted and as amended.

Customer: means the person(s) or entity(ies) recorded as the customer or user of utility services for a parcel as recorded in the records of the City’s utility billing.

Equivalent Residential Unit (ERU): An area of impervious coverage on an improved lot or tract that is generally equal to the median impervious area on a single-family property in the City limits, calculated as 3,300 square feet.

Impervious Area (or Impervious Surface): means a surface that has been compacted or covered with a layer of material so that it is resistant to infiltration by water and does not have a natural state of vegetative cover. Impervious areas include, but are not limited to, compacted soils with a surface treatment, gravel, crushed stone surfaces or soil compacted by vehicle traffic, asphalt or concrete pavement, parking lots, driveways, sidewalks and private roadways, buildings, swimming pool, detention pond, and other man-made structures, surfaces, or any uses that change the natural surface of the land and have the effect of increasing, concentrating, or otherwise altering stormwater runoff from that experienced under natural vegetative conditions.

Improved Lot or Parcel: means a lot or parcel that has been changed from its natural state by construction of a structure or other improvement on all or a portion of it that causes an impervious surface or change in the natural state of the vegetated soil on the property.

Non-Residential Property: means an improved parcel which is not a residential property, including but not limited to commercial, industrial, institutional, governmental, apartments, condominiums, homeowners’ association and similar properties.

Owner: means the person(s) or entity(ies) recorded as the owner of a parcel as recorded in the records of the Walker County Appraisal District.

Parcel: means one or more lots or tracts, or portions of lots or tracts.

Residential Property: means an improved parcel upon which is classified Residential or Residential - Manufactured Home(s) per City of Huntsville property type classification.

Service Area: means the area for the drainage utility. This area shall include all real property within the boundaries of the City Corporate Limits.

Stormwater Infrastructure or Drainage Infrastructure: means the property, real, personal or mixed, that is used in providing stormwater capacity to manage and control stormwater runoff for the stormwater utility system, including bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, retention ponds, ditches, draws, creeks, flumes, pipes, pumps, sloughs, treatment works, and appurtenances to those items, whether natural or artificial, or using force or gravity, that are used to draw off surface water from land, carry the stormwater runoff away, collect, store, or treat the stormwater runoff, or divert the stormwater runoff into natural or artificial watercourses. Drainage infrastructure has the same meaning as stormwater infrastructure.

Stormwater Operations and Maintenance Expenditures: means any expenditures that are required to finance, operate and maintain stormwater infrastructure including debt service, equipment, personnel, educational and administrative expenditures.

Stormwater Only Account: means a utility billing account established for the sole purpose of billing applicable stormwater utility fees where other utility services are provided privately or through suppliers other than the City or its contractors.

Stormwater Utility Fee or Drainage Utility Fee: means the charge, including interest and penalties, paid by the owner or customer of a benefited property for stormwater services provided by the stormwater utility system, including, but not limited to, the items described in the definition of “cost-of-service” in Section 552.044(2) of the Act. Stormwater utility fee has the same meaning as the drainage utility fee.

Stormwater Utility Ordinance: means this Ordinance, as codified into the Huntsville Code of Ordinances as Article IV. “Stormwater Utility System”, as amended from time to time.

Stormwater Utility Fee Ordinance: means the section of the Huntsville Code of Ordinances as amended, Article IV. “Stormwater Utility System”, Section V. “Stormwater Utility Fees”, as amended for the purpose of providing stormwater service for real property in the proposed service area.

Stormwater Utility System or Drainage Utility System: means the stormwater utility system owned or controlled, in whole or in part by the City, including the City’s existing stormwater facilities, materials, and supplies and any stormwater facilities, materials, and supplies hereafter constructed or utilized, and dedicated to the service of benefited property, and including provision for additions to the system. The stormwater utility system has the same meaning as the drainage utility system.

Wholly Sufficient and Privately Owned Stormwater System: means land and facilities owned and operated by a person or entity other than the City and from which stormwater does not discharge under any storm frequency event or conditions into a creek, river, slough, culvert, culvert, channel or other infrastructure that is part of the City's stormwater utility system.

Section 46-484. – Establishment of a Stormwater Utility Fee and Billing.

- (a) Stormwater Utility Rate Classes. A stormwater utility fee is established, and the fee shall be imposed on each benefited property within the City for services and facilities provided by the stormwater utility system. For purposes of imposing the stormwater utility fee, all eligible parcels within the City are classified into the following categories:
 - (1) Residential
 - (2) Non-Residential
- (b) Responsible Party.
 - (1) The stormwater utility fee shall be billed monthly along with other utilities provided to the property, including water, wastewater or solid waste (garbage) services.
 - (2) The bill imposing the stormwater utility fee will be mailed to either the owner or customer who is currently established as the responsible party for water, wastewater and solid waste service for the parcel; and, the owner or customer recorded in the utility billing system will be responsible for payment of the fee.
 - (3) Where an improved parcel is not occupied by a customer that might use water, wastewater, solid waste or other utility service and considered by the City to be vacant, either on a temporary or permanent basis, the City may bill the owner of the parcel for the stormwater utility fee.
 - (4) Where an improved parcel is not billed for water, wastewater, solid waste or other service to an owner or customer of the City, the City is hereby authorized to establish a "stormwater only account" and to bill the stormwater utility fee to either the owner or customer, as the City Manager determines is appropriate.
- (c) Revision of Rates. The City shall establish the initial rates for the stormwater utility fee by ordinance. The City may review the schedule of rates at any time and may, by ordinance, increase or decrease the rates within the schedule, upon a determination that said increase or decrease is warranted.
- (d) Billing Procedures and Policies.

- (1) Any partial payment of the stormwater utility fee will be applied against the amount due in accordance with the policies and procedures established by the City regarding all utility services provided by the City.
- (2) A late charge and interest may be imposed in accordance with the policies and procedures established by the City regarding all utility services.
- (e) Non-Payment. The City may file suit to recover any charges due hereunder, together with maximum interest, attorney fees and other costs and charges that may be allowed by the Act or other law, which is not paid when due. In addition to any other remedies or penalties provided by law or in this Ordinance, failure of a customer or owner of the stormwater utility system to pay the charges promptly when due shall subject such customer or owner to discontinuance of any utility services provided by the City and/or placement of a lien against the property.

Section 46-485. – Calculation of Storm Water Utility Fees.

- (a) Rates in Accordance with Act. The stormwater utility fee shall be established in accordance with the provisions of the Act.
- (b) Fee Calculation. The stormwater utility fee shall be based on an inventory of parcels within the City which also evaluates the benefited property's impact on the drainage utility system. Due to impervious area causing increases in stormwater runoff and associated pollutants to the drainage utility system, it is fair and equitable to calculate the impact and assess the drainage charge to each benefited property based on impervious cover, subject to limitation set forth below for residential properties. The stormwater utility fee shall be established for the stormwater utility system in a fair and equitable manner, and if so determined by the City Council, an amount to establish one or more funds to provide financing for future stormwater system construction and for implementing programs to improve stormwater quality. The City Council hereby imposes a drainage charge to be paid by users of benefited property to cover the cost of service of the drainage utility system. Said drainage charge shall be calculated as follows:
 - (1) Residential Class: Includes City of Huntsville properties with property type classifications of Residential or Residential – Mobile Home(s).
 - (i) For the purpose of Residential Class, the Equivalent Residential Unit (ERU) is defined as being 3,300 square feet of impervious area.
 - (ii) Residential properties shall be assessed (1) ERU per month as follows: Each residential property = 3,300 square feet being the Equivalent Residential Unit (ERU).
 - (iii) Monthly fees for each residential property are included in Annual published Fee Schedule "Stormwater Utility Fees".
 - (2) Non-Residential Class: All properties that are not included in the Residential Class will be billed Stormwater utility fees as Non-Residential Properties. Monthly fees shall be

calculated in accordance with Annual published City Fee Schedule “Stormwater Utility Fees”.

Section 46-486. – Appeal.

- (a) Appeal of Stormwater Utility Fees to the City Manager or his/her designee. An owner or customer who has been charged a stormwater utility fee for a non-residential parcel and believes that the calculation of the stormwater utility fee is incorrect or inapplicable, may appeal the fee to the City Manager or his/her designee by filing a notice of appeal application.
- (b) Process.
 - (1) An Appeal can be filed by completing a form created by the City Manager or his/her designee that describes the basis for the claimant appealing the data, including the provision of independent engineering reports supporting a more accurate impervious area calculation.
 - (2) The appeal shall set forth in detail the grounds upon which relief is sought. The City Manager or his/her designee shall decide on the appeal based upon a preponderance of the evidence.
 - (3) The information submitted to the City must be complete in order to conduct an evaluation of the appeal. A response regarding receipt and completeness by the City Manager or his/her designee will be provided within fifteen (15) business days of the receipt of the completed appeal form and supporting material.
 - (4) Properties classified as residential shall not have an individual appeals process separate from that offered in the public hearing prior to the initial implementation of the utility system fee.
 - (5) The Utility Billing Office shall refer questions of impervious fee calculations to the Engineering Department.
 - (6) The City Manager or his/her designee shall make determinations of impervious area appeals.
 - (7) Billing and payment disputes for administrative issues shall be subject to appeals procedures used by the City for other billing disputes.
 - (8) Appeals for the following reasons shall be directed to the City Manager or his/her designee for evaluation and determination.
 - (i) the applicability of a stormwater utility fee for a parcel;
 - (ii) the calculation of applicable stormwater runoff potential for a parcel;

- (iii) the calculation of the stormwater utility fee for a parcel; or
 - (iv) the discontinuance of utility service, or other legal actions for non-payment of stormwater utility fees.
- (9) The City Manager or his/her designee shall render a written decision on such appeals within thirty (30) days after receiving a complete written notice of appeal from the landowner.
- (10) The City Manager's decision shall be final.
- (c) Supporting Information for Appeal. The person filing the appeal may be required, at the person's cost, to provide supplemental information to the City Manager or his/her designee, including but not limited to survey data sealed by a Texas licensed professional land surveyor, engineering reports sealed by a Texas licensed professional engineer qualified in civil engineering, or other documentation that the City Manager or his/her designee deems necessary to properly evaluate the appeal. Failure to provide requested information in a timely manner may result in denial of the appeal.
- (d) Delinquencies. Any charge due hereunder which is not paid when due may be recovered in an action at law by the City, in addition to any other remedies or penalties provided in the Act or other law, failure of a use within the Service Area to pay the charges promptly when due shall subject such user to discontinuance of any utility services provide by the City. City employees of the utility drainage system shall have access, at all reasonable times, to any benefited properties served by the drainage utility for inspection or repair or for the enforcement of the provisions of this division.

Section 46-487. – Stormwater Utility Fund.

- (a) Stormwater Fund. A stormwater utility fund is established and may consist of one or more accounts. All stormwater utility fees shall be deposited as collected and received into this fund, and shall be used exclusively for stormwater services as stated in Section 522.044(2) of the Act, including, but not limited to the following:
- (1) The cost of the acquisition of land, rights-of-way, options to purchase land, easements, and interests in land relating to structures, equipment, and facilities used in draining the benefited property;
 - (2) The cost of the acquisition, construction, repair, and maintenance of structures, equipment, and facilities used in draining the benefited property;
 - (3) The cost of architectural, engineering, legal, and related services, plans and specifications, studies, surveys, estimates of cost and of revenue, and all other expenses necessary or incident to planning, designing, providing, or determining the

feasibility and capability of structures, equipment, and facilities used in draining the benefited property;

- (4) The cost of all machinery, equipment, materials and appurtenances, and facilities necessary or incident to the provision and operation of draining the benefited property;
- (5) The prorated cost of funding and financing charges and interest arising from construction projects and the start-up cost of a stormwater facility used in draining the benefited property;
- (6) The prorated cost of debt service and reserve requirements for funding of stormwater infrastructure, equipment and facilities paid with revenue bonds or other securities or obligations issued by the City and supported by pledge of stormwater revenues including any fees and expenses incidental thereto;
- (7) To the extent permitted by law, the cost of constructing, sampling, monitoring, building, inspecting and maintaining structures needed for the State's regulation and permitting requirements imposed on the City for providing stormwater quality improvements for the benefited property; and
- (8) The administrative costs of the stormwater utility system.

(b) Stormwater Fund Accounting.

- (1) The City shall clearly account for revenues and expenditures authorized for operation of the stormwater utility system.
- (2) The revenues collected from stormwater utility fees shall be segregated and completely identifiable from other City funds and accounts.
- (3) Funds and revenues in the stormwater utility fund may be transferred to the City's general fund as allowed by law.

(c) Stormwater Service Deposit. A deposit shall not be charged for initiation or continuation of stormwater utility service.

Section 46-488. – Exemptions. The following entities or persons shall be exempt from payment of the fees established by this ordinance:

- (a) State Government Entities. A state governmental entity listed below, and a parcel in which the governmental entity holds a freehold interest is exempt from payment of the fees established by this ordinance:
 - (1) the State of Texas
- (b) Institutes of Higher Education. A public or private institution of higher education is exempt from payment of the fees established by this ordinance.

- (c) Undeveloped Property Exemption. Any property to which a mandatory exemption under Section 552.053 of the Act applies is exempt from this ordinance, including without limitation:
- (1) property with proper construction and maintenance of a wholly sufficient and privately-owned stormwater system that does not discharge under any storm frequency event or conditions to waterways controlled or maintained by the City; and
 - (2) property held and maintained in its natural state, until such time that the property is developed, and all of the public infrastructure constructed has been accepted by the City for maintenance; and
 - (3) a subdivided parcel or lot, until a structure has been built on the lot and a certificate of occupancy has been issued, or the City has taken another official action to release the property for occupancy; and
- (d) Other Exemptions. Any property owned by the following shall be exempt from this ordinance:
- (1) property owned by a municipality.
- (e) Any property owned by the following described or identified entities include a special rate set forth in Annual published Fee Schedule “Stormwater Utility Fees”.
- (1) property owned by a school district;
 - (2) property owned by a religious organization; or
 - (3) property owned by a county.
- (f) Proof of Exemption. If the owner of property asserts that such property is exempt pursuant to this Section or any other applicable law, such property owner has the burden to assert such exemption by filing notice of eligibility for such exemption and sufficient evidence of entitlement to such exemption with the City Manager. If the exemption is not granted, the owner may appeal using the procedures for appeal provided in Section 46-477 “Appeal”.

Secs. 46-489---46-500- Reserved.



CITY COUNCIL AGENDA

8/20/2024

Agenda Item Number: 3.a.

Agenda Item: Consider the appointments to the City of Huntsville Boards and Commissions.

Initiating Department/Presenter: City Council

Presenter:

Russell Humphrey, Mayor

Recommended Motion: Move to appoint Board and Commission members as presented.

Strategic Initiative: Strategic Priority #3, Quality of Life – Establish an environment where citizens can thrive and enjoy the city in which they live. Provide services that enhance the quality of life for all, with focus on the full life cycle (children, students, families, and retirees) - by creating amenities that support physical, mental and social well-being. Support access to quality health services, education, housing, transportation, recreation and natural environment. Goal #5, Resource Development - Enhance the quality of life for citizens, businesses and visitors by leveraging the human and fiscal resources available to the community.

Discussion: Please see the attached list for appointments to the City of Huntsville Boards and Commissions. Positions on these Boards and Commissions are vacant or expired and need to be filled or reappointed.

Previous Council Action:

Financial Implications:

Approvals:

Sam Masiel

Aron Kulhavy

Kristy Doll

Associated Information:

1. Board Appts 8-20-2024



CITY OF HUNTSVILLE

BOARD AND COMMISSION APPOINTMENTS/REAPPOINTMENTS

BOARD NAME	SEAT #	APPOINT/ REAPPOINT	BOARD MEMBER	TERM EXPIRE
BOARD OF ADJUSTMENTS				
	1	Reapp.	Nate Grigsby	8-31-2026
	2	Reapp.	Cheryl Reader	8-31-2026
	3	Reapp.	Michelle Spencer	8-31-2026
ARTS COMMISSION				
	3	Reapp.	Paul Olle	8-31-2027
CEMETERY ADVISORY BOARD				
	2	Reapp.	Bridget Maloney	8-31-2026
	6	Reapp.	Colt Christian	8-31-2026
	7	Reapp.	Joe Boaz	8-31-2026
	10	Reapp.	Eddene Smith	8-31-2026
PLANNING COMMISSION				
	1	Reapp.	Les Thompson	8-31-2027
	2	Reapp.	Sharon Lynch	8-31-2027
	3	Reapp.	Al Hooten	8-31-2027
MAIN STREET ADVISORY BOARD				
	3	Reapp.	Sandra Gray	8-31-2026
PARKS AND RECREATION ADVISORY BOARD				
	6	Reapp.	Jennifer Harrison	8-31-2027
	7	Reapp.	Nessa Irving	8-31-2027

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CITY COUNCIL AGENDA

8/20/2024

Agenda Item Number: 3.b.

Agenda Item: Consider authorizing the City Manager to enter into a Fixed Based Operation (FBO), lease agreement with Huntsville Aviation to provide aeronautical services at the Bruce Brothers Huntsville Regional Airport.

Initiating Department/Presenter: City Manager

Presenter:

Aron Kulhavy, City Manager

Recommended Motion: To approve the lease as submitted, an appropriate motion would be to: Authorize the City Manager to enter into a 40-year, Fixed Based Operation (FBO), lease agreement with Huntsville Aviation to provide aeronautical services at the Bruce Brothers Huntsville Regional Airport.

Strategic Initiative: Goal #4, Infrastructure - Ensure the quality of the City utilities, transportation and physical structures so that the City's core services can be provided in an effective and efficient manner.

Discussion: City staff have been approached by Huntsville Aviation, the current FBO at the Bruce Brothers Huntsville Regional Airport, to update the existing FBO lease agreement. The lease agreement to be considered utilizes the same boundaries of the current FBO lease agreement.

Within the Airport Master Plan, the forecast of based aircraft and overall flight forecast show an increased need for facilities and improvements at the airport. These improvements as proposed will allow for increased capacity of additional-based aircraft and aviation-related businesses. The larger hangars will allow for aviation related business to sub-lease along with the proposed hanger development that is focused on corporate opportunities.

Should the Council move to approve the FBO lease, staff will coordinate with the Lessor to construct the improvements identified within Article 9, Section 9.1 within the FBO lease agreement. The lease will be for a period of forty years, after which time the city will assume ownership of the improvements.

Although staff is not in favor of a 40-year term, the lease does provide a timeline and dollar value of investments for the construction and improvements of facilities within the lease boundaries that will facilitate growth at the airport. The staff recommendation is to consider the ground lease and authorize the City Manager to execute a ground lease agreement with Huntsville Aviation.

The Airport Advisory Board voted to recommend approval of the lease as submitted. The Council has the ability to approve the lease, deny the lease, or propose changes to the lease to offer to the other party.

Previous Council Action: On the March 5, 2024, council agenda, this item was first presented and taken

to Executive Session for discussion. At that time, a vote was taken to table this item. None

Financial Implications: \$1,300 - \$1,500 annual lease payment based off the square footage of the FBO lease. This lease will also include a fuel flowage fee of \$0.05 per gallon. Using last year's total gallons sold of 100LL and Jet Fuel this will add an estimated amount of \$8,300 of revenue to the city. The total value of building improvements is estimated at \$3,425,000.

Approvals:

Kevin Byal
Leonard Schneider
Sam Masiel
Aron Kulhavy
Kristy Doll

Associated Information:

1. FBO Lease Final - 2-29-24
2. FBO Lease Exhibit A Map Location

X

X

X

Article I

a 112 inch iron rod found in the north boundary of the City of Huntsville 630-acre tract for the southeast corner of a. called 35.81 acre tract described by deed from Dan S. Davis to the City of Huntsville dated 10 September, 1976 and recorded in. Volume 293, Page 302, Walker County Deed Records, bears N 03 degrees 20 minutes 00 seconds E 2,776.09 feet;

THENCE, with present boundary of the property set aside for airport use and generally following an existing fence line, S 03 degrees 20 minutes 21 seconds W 1,826.00 feet to a concrete monument with aluminum cap marked "City of Huntsville" set for corner;

THENCE, N 86 degrees 39 minutes 39 seconds W 525.00 feet to a concrete monument with aluminum cap marked "City of Huntsville" set for corner;

THENCE, parallel with and approximately 325 feet east of the centerline of the existing runway, N 03 degrees 20 minutes 21 seconds E 1,826.00 feet to a concrete monument with aluminum cap marked "City of Huntsville" set for corner;

THENCE, S 86 degrees 39 minutes 39 seconds E 525.00 feet to the POINT OF BEGINNING, the boundaries thus described enclosing an area of 22.007 acres.

ARTICLE 2

Term of Agreement and Lease

Section 2.1: The term of this Agreement and Lease is for a period of forty (40) years beginning the ____ day of _____, and extending to the ____ day of _____; provided, however, that said Agreement may be terminated as hereinafter provided.

ARTICLE 3

Obligation of the Parties

Section 3.1: Construction of Facilities. OPERATOR agrees to construct, at OPERATOR'S expense, , Terminal Building Improvements at an estimated value of \$80,000, eight (8) T-Hangar Building at an estimated value of \$565,000, Corporate / Aviation Service Business Hangar at an estimated value of \$420,000, Multiple Unit Box Hangars at an estimated value of \$750,000, Additional Corporate / Aviation Service Business Hangars at an estimated value of \$1,260,000, Self Service Aviation Fueling Facility at an estimated value of \$350,000 as noted within Article 9.1. OPERATOR agrees that all construction shall comply with all City regulations and any other lawful regulations. Prior to the commencement of construction, OPERATOR will furnish or cause to be furnished a performance bond in an amount equal to the cost of all construction for the Hangar in favor of CITY, in a form acceptable to CITY.

CITY shall construct suitable taxiway access, designed for the appropriate aircraft traffic from the taxiway to the hanger apron, and provide access to water and sewer to the building location, but shall not be obligated to do so prior to one hundred eighty (180) days from the date of this Agreement.

OPERATOR shall be responsible for any existing storm sewer lines located within the footprint of the proposed hangar and must be relocated at OPERATOR'S expense.

The parties recognize that the OPERATOR shall be entitled to use the Hangar and all other buildings within the Leased Premises until this Agreement is terminated.

OPERATOR shall be entitled to build or construct any new aircraft storage or repair facilities or any other type buildings or structure normally found on public use airports, at OPERATOR'S

expense, provided that location of such facilities is in general agreement with the Huntsville Municipal Airport Master Plan, 2020, and all improvements are to be constructed in compliance with all City regulations and any other lawful regulations. All design plans must be first approved by the CITY prior to any construction. All buildings or improvements existing or constructed by OPERATOR on the Leased Premises shall become the property of CITY.

The OPERATOR agrees that no signs, billboards, or advertising material shall be placed or erected upon the Leased Premises without the prior written consent of the CITY. No changes to Airport structure shall be permitted without prior written consent of the CITY.

Section 3.2: Required Services of the OPERATOR. The OPERATOR shall provide aircraft line servicing which includes the sale and in-to-plane delivery of recognized brands of aviation fuels and other petroleum products. The OPERATOR shall provide and maintain an adequate supply at all times of two (2) grades of fuel as closely related to the popular demand of the general aviation users of the Airport as is feasible. The OPERATOR shall provide mobile fuel pumping equipment, as needed, which will meet all applicable safety requirements relative to grounding and fuel contamination as required by federal, state and local codes and regulations.

The OPERATOR shall provide servicing to aircraft, including ramp assistance, itinerant parking, storage, and tie-downs. The OPERATOR shall provide such minor services to general aviation aircraft as can be provided effectively on the ramp or apron parking area.

The OPERATOR shall have the Leased Premises open for business, with all line services, for a minimum of nine (9) hours per day, seven (7) days per week, and shall provide twenty-four (24) hour emergency service on an "on-call" basis during the remaining hours.

The OPERATOR shall hold aircraft out for hire and make available qualified personnel to perform this service.

The OPERATOR shall make available a minimum of two (2) late model aircraft for lease to qualified pilots.

The OPERATOR shall instruct student pilots. The OPERATOR shall provide dual and solo in-flight training and equipment. A sufficient number of qualified instructors and aircraft shall be made available to adequately meet the demand for these services.

CITY and OPERATOR recognize that it is vital to the economic growth of the City of Huntsville, Walker County, and the Airport to have a well-managed airport and a fixed based operation that is an asset to the Airport operations. Therefore, OPERATOR shall furnish high-quality, prompt and efficient service suitable to meet all reasonable demands for its services at the Airport and operate in a manner that promotes the interests of the community and the Airport. OPERATOR shall furnish service on a fair, reasonable and non-discriminatory basis to all users of the Airport. OPERATOR shall charge fair, reasonable, and non-discriminatory prices for each unit of sale or service; provided, however, that OPERATOR may be allowed to make reasonable and non-discriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

Upon acceptance of a commuter airline service at the Airport by the CITY, the OPERATOR shall provide convenient access and floor space for commuter operators within the terminal building; such space not to exceed 300 square feet, unless otherwise agreed upon,

Section 3.3: Maintenance of Premises. OPERATOR shall be responsible for the maintenance and repair of the Leased Premises and shall keep and maintain the Leased Premises in good condition, order and repair, and shall surrender the same upon the expiration of this Agreement, in the condition in which they are required to be kept, reasonable wear and tear and damage by the elements not caused by OPERATOR'S negligence, excepted.

The OPERATOR agrees, at its own expense, to provide such janitorial and cleaning services as may be necessary for the sanitary and safe operation of all the leased facilities.

The OPERATOR agrees to keep all structures in good repair at its own expense. This does not include equipment or building structural component replacement to the airport terminal building,

The OPERATOR agrees to periodically inspect and maintain lighting and heating/air conditioning systems of the terminal building at its own expense. The OPERATOR will incur the cost of normal light bulb and air filter replacement.

CITY shall be responsible for the repair, maintenance, and construction of all runways, taxiways, and ramp parking areas and covenants and agrees that same shall be maintained in a condition acceptable to federal or state agencies in order that the Airport be classified as an airport facility.

CITY shall be responsible for the construction, maintenance and repair of the entrance road to said Airport facility.

OPERATOR shall at all times maintain airport fueling system, hangar and hangar site improvements in good and serviceable condition and repair. Acts of God and other unavoidable casualties excepted.

CITY shall be responsible for all replacement and repairs to existing air navigation facilities to be constructed as from time to time required in updating the overall navigation facilities of the Airport.

OPERATOR shall be responsible for the mowing of grass located on the Leased Premises,

CITY shall be responsible for maintenance of the surface area of the Airport premises, excluding those buildings which are the responsibility of the OPERATOR.

CITY shall be responsible for equipment or building component replacement and structural repairs of the Airport Terminal Building.

Since OPERATOR is located at the Airport, it shall promptly notify CITY of any situation that needs maintenance and/or repair which falls within the CITY'S responsibility for maintenance and/or repair.

Section 3.4: Utilities. OPERATOR shall pay and be chargeable with all expenses incurred in connection with electrical, gas, telephone, or other utility services used in connection with the operation of the Leased premises. with the exception of CITY water, sewer and garbage service, which shall be furnished by CITY. Provided, further, that OPERATOR agrees and understands Electrical services used in connection with the operation of lighting and navigational aids shall be the sole responsibility of CITY until such time as a second operation locates and provides Fixed Base Operator services at the Airport. At the initiation of such new service, the financial responsibilities for electrical power necessary to operate airfield lighting and navigational aids will be evenly divided among the operators and the CITY.

Section 3.5: Access of Premises. The CITY and its authorized agents and contractors shall have the right to enter the Leased Premises to make any repairs obligated to it by this Agreement, to inspect for the OPERATORS compliance to the terms set forth herein, or to conduct maintenance or other work obligated to the OPERATOR which has failed to be done after reasonable notice. In this latter situation, the OPERATOR will be billed for the reasonable value of work done by the CITY.

Section 3.6: Non-discriminatory Policy. OPERATOR, in exercising any of the rights or privileges herein granted, shall not on the grounds of race, color or national origin discriminate or permit discrimination against any person or group of persons in any manner prohibited by law or regulation of any state or federal agency or government and the CITY reserves the right to take any action which maybe directed or required by the state or federal governments to enforce this covenant of non-discrimination.

ARTICLE 4

Payment and Charges

Section 4.1: In consideration of the rights and privileges granted by this Agreement, OPERATOR agrees to pay to CITY during the term of this Agreement, a rental fee of \$0.015 per square foot of area covered under this Agreement as defined in Section 1.2. Rental payments shall be payable to the CITY at 1212 Avenue M Huntsville, Texas 77340 on an annual basis beginning _____ and on the same day of each succeeding year thereafter during the term of this Agreement. All payments shall be timely made by the OPERATOR and CITY shall have the right to assess a service charge for any late payments in accordance with the policies of the CITY.

Section 4.2: In addition to Section 4.1 above, OPERATOR agrees to pay to CITY during the term of this Agreement a fuel flowage fee \$0.05 per gallon on all fuel sold. This flowage fee shall be payable to the CITY at 1212 Avenue M Huntsville, TX 77340 on a monthly basis with payment due by the last day of the month that follows the month being paid.

Section 4.3: At the CITY'S sole discretion, OPERATOR's rental rates and fuel flowage fees may be adjusted at annual intervals on the anniversary date of this Agreement. Adjustment shall be based on the change in Consumer Price Index (CPI) for the Houston Region,

ARTICLE 5

Promotion of the Airport

Section 5.1: The OPERATOR agrees to so conduct his business so that credit reflects to the CITY and the Airport. It agrees not to accept work requiring the absence of key personnel from the Airport unless said work is directly related to the interest and well-being of the Airport, and that there is adequate qualified personnel to carry on their duties while they are absent. It further agrees that qualified personnel shall be present at the Airport during the period of operation specified in Article 2, Section 2.1.

ARTICLE 6

Indemnity and Insurance

Section 6.1: OPERATOR SHALL DEFEND AND INDEMNIFY CITY, ITS RESPECTIVE OFFICIALS, OFFICERS, EMPLOYEES AND AGENTS (TOGETHER, "INDEMNIFIED PERSONS") AGAINST, AND HOLD THE INDEMNIFIED PERSONS HARMLESS FROM, ANY AND ALL LIABILITY, ACTIONS, CAUSES OF ACTION, LAWSUITS, JUDGMENTS, CLAIMS, DAMAGES, PENALTIES, FINES, COSTS OR FEES, INCLUDING REASONABLE ATTORNEY'S FEES AND COSTS OF DEFENSE, FOR ANY INJURY TO OR THE DEATH OF ANY PERSON OR DAMAGE TO OR DESTRUCTION OF ANY PROPERTY, OR BREACH OF CONTRACT, OR ANY OTHER HARM FOR WHICH ANY TYPE OF RECOVERY (WHETHER AT LAW OR IN EQUITY) IS SOUGHT, CAUSED BY, RESULTING FROM OR BASED UPON, IN WHOLE OR IN PART, ANY ACT OR OMISSION OF OPERATOR, ITS OFFICERS, EMPLOYEES, SERVANTS, CONTRACTORS, SUBCONTRACTORS, CUSTOMERS,

INVITEES, SUBTENANTS, LICENSEES OR CONCESSIONAIRES UNDER OR IN CONNECTION WITH THIS AGREEMENT, AND REGARDLESS OF WHETHER OR NOT THE SAME IS CAUSED IN PART BY ANY OF THE INDEMNIFIED PERSONS. OPERATOR'S

OBLIGATIONS AND DUTIES UNDER THIS SECTION WILL SURVIVE THE TERM OF THIS AGREEMENT.

Section 6.2: During the term hereof, OPERATOR shall maintain at OPERATOR's sole cost and expense insurance relating to the Leased Premises as follows:

6.2(a): Commercial General Liability insurance against claims for bodily injury, death or property damage or destruction occurring on, in or about the Leased Premises, with limits of liability of not less than \$1,000,000 for each occurrence, CSL/\$1,000,000 general aggregate. Coverage shall include blanket contractual liability for liability assumed under the Agreement.

6.2(b): Statutory limits of workers compensation insurance and employer's liability with limits of liability of not less than \$1,000,000.

6.2(c): Hangar keepers Legal Liability insurance, at limits of \$1,000,000 per-occurrence is required if OPERATOR is engaged in maintenance, repair, or servicing of aircraft belonging to a third-party, or if OPERATOR is otherwise involved in any operation in which OPERATOR has care, custody, or control of an aircraft that belongs to a third-party.

6.2(d): Aircraft Liability Insurance for all OPERATOR-owned or operated aircraft with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 and \$1,000,000 for personal and advertising injury.

Section 6.3: The above policies shall be endorsed to provide the following, as applicable: (i) in all liability policies, name as additional insured the CITY and its officials, officers, agents, and employees, (ii) in all liability policies, provide that such policies are primary insurance to any other insurance available to the additional insured, with respect to any claims arising out of activities conducted under the permit, and that insurance applies separately to each insured against whom claim is made or suit is brought; and (iii) waiver of subrogation in favor of CITY must be included in all liability and Workers Compensation policies.

Section 6.4: All insurance policies shall be issued by an insurance company authorized to do business in Texas and in the standard form approved by the Texas Department of Insurance and shall be endorsed to provide for at least 30 days advance written notice to CITY of a material change in or cancellation of a policy. Certificates of insurance, satisfactory to CITY, evidencing all coverage above, shall be furnished to CITY prior to the Commencement Date, with complete copies of policies furnished to the CITY upon request. CITY reserves the right to review and revise from time to time the types of insurance and limits of liability required herein.

Section 6.5: The CITY shall be responsible for maintaining property owner's insurance for the buildings and structures on the Airport property.

Section 6.6: Each party hereto waives any and every claim which arises or may arise in such party's favor against the other party hereto during the term of this Agreement for any and all loss of, or damage to, any of such party's property located within or upon, or constituting a part of, the Leased Premises, which loss or damage is covered by valid and collectible fire and extended coverage insurance policies, to the extent that such loss or damage is recoverable under such insurance policies. Such mutual waivers shall be in addition to, and not in limitation or derogation

of, any other waiver or release contained in this Agreement with respect to any loss of, or damage to, property of the parties hereto. In as much as such mutual waivers will preclude the assignment of any aforesaid claim by way of subrogation or otherwise to an insurance company (or any other person), each party hereby agrees immediately to give to each insurance company which has issued to such party policies of fire and extended coverage insurance, written notice of the terms of such mutual waivers, and to cause such insurance policies to be properly endorsed, if necessary, to prevent the invalidation of such insurance coverages by reason of such waivers.

ARTICLE 7

Casualty or Damage

Section 7.1: In case of any damage to or destruction of the buildings, structures, fixtures and equipment on the Leased Premises, or any part thereof, OPERATOR shall promptly give written notice thereof to CITY, generally describing the nature and extent of such damage and/or destruction.

Section 7.2: If the Leased Premises (excluding OPERATOR's fixtures, furniture, equipment, personal property and leasehold improvements made by or on behalf of OPERATOR or any assignee, subtenant or other occupant of the Leased Premises) should be substantially, totally, or partially destroyed or damaged by fire, tornado, flood, hurricane or other casualty, this Agreement shall not terminate, but CITY shall, at CITY's sole cost, expense and risk, proceed forthwith and use reasonable diligence to rebuild or repair the Leased Premises (other than OPERATOR's fixtures, furniture, equipment, personal property and leasehold improvements made by or on behalf of OPERATOR or any permitted assignee, subtenant or other occupant or user of the Leased Premises) to substantially the condition in which it existed prior to such destruction or damage. While CITY is engaged in rebuilding or repairing the Leased Premises and the Hangar is untenantable, in whole or, in part following such destruction or damage and during such period of rebuilding or repair, the rent payable hereunder shall be equitably adjusted for that period which it is untenantable, however, that if the destruction was caused by the negligence, gross negligence, or willful or wanton act or omission of OPERATOR, its officers, employees, agents, subtenants, licensees, contractors, subcontractors, or invitees, rent shall not be abated and OPERATOR shall have the continuing obligation to pay rent during the period of such rebuilding or repair.

Section 7.3: CITY's obligation to pay for the cost of the repair or rebuilding of the Leased Premises or any part thereof shall not extend beyond or exceed the proceeds of any casualty or property damage insurance payable and actually collected in connection with such damage or destruction. All insurance proceeds, if any, payable on account of such damage or destruction shall be held and retained by CITY and used to repair, rebuild or otherwise return the damaged Leased Premises to substantially the condition in which it existed prior to such destruction or damage.

ARTICLE 8

Default by OPERATOR

Section 8.1: The following events shall be deemed to be events of default by OPERATOR under this Agreement:

8.1(a): Failure of OPERATOR to pay any installment of rent, or to pay or cause to be paid taxes (to the extent OPERATOR is obligated to pay or cause same to be paid), utilities, insurance premiums, or any other sum required to be payable to CITY by this Agreement on the date that same is due and such failure shall continue thereafter for a period of thirty (30) days and such failure shall not be cured within ten (10) days after written notice thereof to OPERATOR.

8.1(b): Failure of OPERATOR to comply with any term, condition or covenant of this Agreement, other than the payment of rent or other sum of money, and such failure shall not be cured within thirty (30) days after written notice thereof to OPERATOR.

8.1(c): Insolvency, the making of a transfer in fraud of creditors, or the making of an assignment for the benefit of creditors by OPERATOR or any guarantor of OPERATOR's obligations.

8.1(d): Filing of a petition under any section or chapter of the National Bankruptcy Act, as amended, or under any similar law or statute of the United States or any State thereof by OPERATOR or any guarantor of OPERATOR's obligations, or adjudication as a bankrupt or insolvent in proceedings filed against OPERATOR or such guarantor.

8.1(e): Appointment of a receiver or trustee for all or substantially all of the assets of OPERATOR or any guarantor of OPERATOR's obligations.

8.1(f): Abandonment by OPERATOR of any substantial portion of the Leased Premises or cessation of use of the Leased Premises for the purposes leased.

ARTICLE 9

Remedies of CITY

Section 9.1: Upon the occurrence of any of the events of default listed in Article 8, CITY shall have the option to pursue anyone or more of the following remedies without notice or demand whatsoever:

9.1(a): Terminate this Agreement, in which event OPERATOR shall immediately surrender the Leased Premises to CITY. If OPERATOR fails to surrender the Leased Premises, CITY may, without prejudice to any other remedy which CITY may have for possession of the Leased Premises or arrearages in rent and without further notice or demand, enter upon and take possession of the Leased Premises and expel or remove OPERATOR and any other person who may be occupying the Leased Premises or any part thereof, without being liable for prosecution or any claim for damages therefor. OPERATOR shall pay to CITY on demand the amount of all loss and damages which CITY may suffer by reason of such termination, whether through inability to relet the Leased Premises on satisfactory terms or otherwise,

9.1(b): Terminate this Agreement, in which event OPERATOR shall immediately surrender the Leased Premises to CITY. If OPERATOR fails to so surrender the Leased Premises, CITY may, without prejudice to any other remedy which CITY may have for possession of the Leased Premises or arrearages in rent and without further notice or demand, enter upon and take possession of the Leased Premises and expel or remove OPERATOR and any other person who may be occupying the Leased Premises or any part thereof, without being liable for prosecution or any claim for damages therefor. OPERATOR shall pay to CITY on the date of such termination damages in any amount equal to the excess, if any, of the total amount of all rental and other amounts to be paid by OPERATOR to CITY hereunder for the period which would otherwise have constituted the unexpired portion of the term of this Agreement over the then fair market rental value of the Leased Premises for such unexpired portion of the term of this Agreement.

9.1(c): Enter upon and take possession of the Leased Premises without terminating this Agreement and without being liable for prosecution or for any claim for damages therefor, and expel or remove Operator and any other person who may be occupying the Leased Premises or any part thereof. CITY may (but shall not be required to) relet the Leased

Premises and receive the rent therefor. OPERATOR agrees to pay to CITY monthly or on demand from time to time any deficiency that may arise by reason of any such reletting. In determining the amount of such deficiency, brokerage commissions, attorneys' fees, remodeling expenses and other costs of reletting shall be subtracted from the amount of rent received under such reletting.

9.1(d): Enter upon the Leased Premises without terminating this Agreement and without being liable for prosecution or for any claim for damages therefor and do whatever OPERATOR is obligated to do under the terms of this Agreement. OPERATOR agrees to pay CITY on demand for expenses that CITY may incur in thus effecting compliance with OPERATOR's obligations under this Agreement, together with interest thereon at the rate of the lesser of the maximum lawful contractual rate of interest or eighteen percent (18) per annum from the date expended until paid. OPERATOR agrees to defend, indemnify and hold harmless CITY, its officials, officers, employees and agents, against and from all liability, costs, expense, claims and damages which it may at any time suffer or become liable for by reason of any accidents, damages or injuries to persons or property of OPERATOR or of any other parties, or to the Leased Premises, in any manner arising out of this Agreement, or the taking possession of the Leased Premises or reletting of same.

9.1(e): Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due to CITY herein or of any damages accruing to CITY by reason of the violation of any of the terms, conditions and covenants herein contained. If any of OPERATOR's property ("OPERATOR Property") remains upon the Leased Premises upon the expiration of the Agreement term or any earlier termination of this Agreement or any repossession of the Leased Premises by CITY because of OPERATOR's default under this Agreement, CITY shall have the right to remove such OPERATOR Property from the Leased Premises and store such OPERATOR Property, and OPERATOR shall be obligated to reimburse CITY for all of the costs incurred by CITY in removing and storing such OPERATOR Property. CITY shall not be required to release any OPERATOR Property to OPERATOR until OPERATOR has paid CITY all costs incurred by CITY in removing and storing such OPERATOR Property and all other amounts owed by OPERATOR to CITY pursuant to this Agreement, including, without limitation, unpaid rental and costs incurred by CITY to repair the Leased Premises.

City shall have the option to terminate for breach of this Agreement prior to expiration of the primary term. The basis of the termination will be based off of the agreed upon improvements detailed in Section 9.1 (F) by the identified completion dates. Failure to comply with are grounds for default. In order to exercise the option for early termination of this Agreement, City shall give written notice of its intention to terminate one hundred eighty (180) days prior to the proposed termination date. Within 6 months of such termination the City shall pay to the Company the unamortized portion of the cost as established in Article 3 of the permanent structures and improvements constructed and installed there. That amortization is to be computed based on the number of months remaining on the lease from the date the Certificate of Occupancy is issued to the expiration date of the initial term of this agreement.9.1(f): REQUIRED SCHEDULE OF IMPROVEMENTS OF FBO FACILITIES: On or before the dates listed below, Lessee shall improve/repair, at its sole cost and expense, the current FBO Facilities. Improvements and repairs include but are not limited to:

(i) **Terminal Building** Operator shall complete the following no later than one year from the execution date of this agreement at an estimated cost of \$80,000.

- a. Replace flooring; 1291 sq. ft. with new modern and attractive carpet, wood, or tile.
- b. Replace deteriorated wallpaper; 4400 sq. ft. with new wall treatment.
- c. Replace baseboard; 502 ft. with new commercial office grade product.
- d. Replace ceiling; 1291 sq. ft.
- e. Construct new Reception/Front Sales Counter.
- f. Replace furniture, fixtures and appointments in lobby and meeting rooms.
- g. Coordination is required with City prior to work being done.
- h. 24-hour Pilot accessibility to lounge area and restrooms.

Note: The above improvements will benefit the airport and the entire City by bringing the dated terminal building up to modern attractive standards that reflect the progressive welcoming attitude of the City of Huntsville.

(ii) **T-Hangar** Operator shall be completed at the time of the existing improvements above are constructed and the completion of the runway extension.

- a. New 8 -unit T-Hangar Building of approximately 52 ft. in width and 278 ft. in length at an estimated cost of \$565,000 in location #1 as depicted on the included drawing exhibit "A".
- b. This hangar building will focus on the Single engine and light twin engine private and small business aircraft.

Note: This location will be outside the FBO lease agreement boundaries. This agreement secures a ground lease location.

(iii) **Corporate/Aviation Service Business Hangar.** Operator shall complete the following no later than two years from the execution date of this agreement.

- a. A new 80 ft. wide by 80 ft. deep hangar building at an estimated cost of \$420,000 in location #2 as depicted on the included drawing exhibit A. This hangar building will contain office/workshop space of at least 12 ft. by 12ft. as well as restroom facilities.
- c. This hangar will focus on housing a corporate/business turboprop or jet aircraft and flight department.
- d. This hangar could also be utilized to house multiple smaller aircraft or an aviation service company such as Aircraft Radio and Avionics Business, Aircraft Upholstery Shop, Aircraft Maintenance and Repair Facility or an additional Flight School.

(iv) **Multiple Unit Box Hangar Building** Operator shall complete the following no later than three years from the execution date of this agreement.

- a. New hangar building 45.5 ft. by 278 sq. ft. an estimated cost of \$750,000 in location #3 as depicted on the included drawing exhibit A.
- b. This hangar building will contain 5 separate individual hangar units measuring 55.5 ft. wide by 45.5 ft. deep.
- c. This hangar will focus on larger single engine and multi engine aircraft. The individual units could also be used for multiple small aircraft.

(v) **Additional Corporate/Aviation Service Business Hangars.** Operator shall be completed at the time of the existing improvements above are constructed and the completion of the runway extension. Hangar 5 will be constructed upon occupancy of hangar 4 and hangar 6 will be constructed upon occupancy of hangar 5.

- a. New hangar buildings 100 ft. by 100 ft. each will be constructed in Locations #4,5 & 6 as depicted on the included drawing exhibit A. An estimated cost of \$1,260,000.
- b. The focus of these hangars will be corporate Jets and their associated flight departments. The demand for these hangars may increase with the longer runway that is planned for the Huntsville Airport as the current runway length is marginal for corporate jet aircraft. These hangars will also contain offices and full restroom facilities with showers.

(vi) **Self Service Aviation Fueling Facility** Operator shall complete the placement of a self-service aviation fueling station by the time the existing improvements above are constructed and the completion of the runway extension. The city will identify the location for this facility.

- a. a complete aviation fueling facility that includes required paving, tanks, dispensing equipment and appurtenances.
- b. shall install and maintain at OPERATOR'S expense, fuel storage areas and equipment for the purpose of providing self-service fuel to transient and local aircraft which includes the sale and in-to-plane delivery of recognized brands of aviation fuels and other petroleum products.
- c. shall describe any program that will provide the Airport with a minimum of 1500-gallon 100LL fuel tank refueler. Included with the proposal include a detailed description of ongoing repair and maintenance programs.
- d. Operator must be open to the opportunity of an additional fuel type as recommended by the Airport Advisory Board and Airport Manager as the need arises.
- e. System shall include a nationally recognized credit card program, card reader and provide as needed support.

ARTICLE 10

Default by CITY

Section 10.1: No default by City hereunder shall constitute an eviction or disturbance of OPERATOR's use and possession of the Leased Premises or render CITY liable for damages or entitle OEPRATOR to be relieved from any of OPERATOR's obligations hereunder (including the obligation to pay rent) or grant OEPRATOR any right of deduction, abatement, set-off or recoupment or entitle OEPRATOR to take any action whatsoever with regard to the Leased Premises or CITY until thirty (30) days after OPERATOR has given CITY written notice specifically setting forth such default by CITY, and CITY has failed to cure such default within said thirty (30) day period, or in the event such default cannot be cured within said thirty (30) day period then within an additional reasonable period of time so long as CITY has commenced curative action within said thirty (30) day period and thereafter is diligently attempting to cure such default.

ARTICLE 11

Title to Improvements

Section 11.1: The CITY solely owns the Leased Premises. Any and all improvements made to the Leased Premises by OPERATOR shall become the property of CITY upon the expiration or termination of this Agreement; provided, however if OPERATOR is not then in default hereunder, OPERATOR shall have the right to remove all personal property, equipment, or trade fixtures owned by OPERATOR from the Leased Premises, but OPERATOR shall be required to repair any damage to the Leased Premises caused by such removal in a good and workmanlike manner and at OPERATOR's sole cost and expense. If OPERATOR fails or refuses to remove any or all of OPERATOR's personal property, equipment, and trade fixtures from the Leased Premises on or before the date of the termination of this Agreement, the items which OPERATOR has failed or refused to remove: (i) shall be considered abandoned by OPERATOR, (ii) shall become the property of CITY, and (iii) may be disposed of by CITY in any manner desired by CITY in CITY's unfettered discretion.

ARTICLE 12

Section 12.1 : OPERATOR agrees that no liens of any kind will be filed against the Leased Premises. OPERATOR agrees to defend, indemnify and hold CITY harmless of and from all liability arising out of the filing of any liens against the Leased Premises by reason of any act or omission of OPERATOR or anyone claiming under OPERATOR, and CITY, at CITY's option, may satisfy such liens and collect the amount expended from OPERATOR together with interest at a rate of 10 per annum as additional rent; provided, however, that CITY shall not so satisfy such liens until thirty (30) days after written notification to OPERATOR of CITY's intention to do so and OPERATOR's failure during such thirty (30) day period to bond such liens or escrow funds with appropriate parties to protect CITY's interest in the Leased Premises.

ARTICLE 13

Property Taxes and Assessments

Section 13.1 : OPERATOR agrees to pay any and all property taxes, if any, assessed against OPERATOR's personal property located on the Leased Premises or in Hangars during the term of this Agreement. The operator will not be liable for property taxes on real property or buildings owned by the CITY.

ARTICLE 14

Hold Over

Section 14.1: Should OPERATOR, or any of OPERATOR's successors in interest fail to surrender the Leased Premises, or any part thereof, on the expiration of the term of this Agreement, such holding over shall constitute a tenancy from month to month only terminable at any time by either CITY or OPERATOR after thirty (30) days prior written notice to the other, at a monthly rental equal to two hundred percent (200) of the rent paid for the last year of the term of this Agreement, divided by twelve (12).

ARTICLE 15

Waiver of Default

Section 15.1: No waiver by the parties hereto of any default or breach of any term, condition or

covenant of this Agreement shall be deemed to be a waiver of any subsequent default or breach of the same or any other term, condition or covenant contained herein.

ARTICLE 16

Assignment of Lease

Section 16.1: The Agreement and lease herein granted shall not be assigned by OPERATOR to any person, firm or corporation without prior written approval by CITY and CITY may not unreasonably withhold such approval including any assignment described below in Section 16.2.

Section 16.2: ; For purposes of collateral in financing construction of improvements as authorized herein upon the part of OPERATOR, OPERATOR may assign said Agreement and lease to a bank or lending institution and, provided further, that OPERATOR'S financing assignee shall not further assign said Agreement and lease without prior notification to CITY of such subsequent assignment.

ARTICLE 17

Control of Airfield and Airspace

Section 17.1: The CITY reserves the right to develop or improve the landing area and all publicly owned air navigation facilities of the Airport as it sees fit, regardless of the desires or views of the OPERATOR without interference or hindrance.

Section 17.2: The CITY reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent the OPERATOR from erecting, or permitting to be erected, any building or other structure on the Airport which, in the opinion of the CITY, would limit the usefulness of the Airport or constitute a hazard to aircraft.

ARTICLE 18

NOTIFICATIONS

Section 18.1: Any notifications required by this Agreement shall be given in writing as follows:

TO THE
CITY:

Director of
Development Services
City of Huntsville
448 State Highway 75
North
Huntsville, Texas 77320
(936) 294-5700

With a copy
to:

City Manager
City of Huntsville
1212 Avenue M
Huntsville, Texas
77340
(936) 291-5400

TO THE
OPERATOR:

Huntsville Aviation,
Inc.
1100 Airport Drive
Huntsville, Texas
77340
(936) 295-8136
Attn: Wade Gillaspie, Jr.,
President

ARTICLE 19

Non-Exclusive Lease

Section 19.1: Notwithstanding anything herein contained that may be or appeared to the contrary, it is expressly understood and agreed that the rights granted under this Agreement are non-exclusive and the CITY herein reserves the right to grant similar privileges to another operator or operators on other parts of the Airport.

ARTICLE 20

Miscellaneous

Section 20.1: Independent Contractor: It is understood and agreed that in leasing and operating the Leased Premises, OPERATOR is acting as an independent contractor and is not acting as agent, partner, joint venturer or employee of CITY.

Section 20.2: Force Majeure: In the event performance by CITY or OPERATOR of any term, condition or covenant in this Agreement is delayed or prevented by an Act of God, strike, lockout, shortage of material or labor, restriction by any governmental authority, civil riot, flood, or any other cause not within the control of CITY or OPERATOR, the period for performance of such term, condition or covenant shall be extended for a period equal to the period CITY or OPERATOR is so delayed or hindered.

Section 20.3: Exhibits: All exhibits, attachments, annexed instruments and addenda referred to herein shall be considered a part hereof for all purposes with the same force and effect as if copied verbatim herein.

Section 20.4: Captions: The captions or headings or paragraphs in this Agreement are inserted for convenience only, and shall not be considered in construing the provisions hereof if any question of intent should arise.

Section 20.5: Successors: The terms, conditions and covenants contained in this Agreement shall apply to, inure to the benefit of, and be binding upon the parties hereto and their respective successors in interest and legal representatives except as otherwise herein expressly provided. All rights, powers, privileges, immunities and duties of CITY under this Agreement, including, but not limited to, any notices required or permitted to be delivered by CITY to OPERATOR hereunder, may, at CITY's option, be exercised or performed by CITY's agent or attorney.

Section 20.6: Severability: If any provision in this Agreement should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

Section 20.7: Counterparts: This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

Section 20.8: Governing Law and Venue: This Agreement and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas, and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement; and CITY and OPERATOR both irrevocably agree that venue for any dispute concerning this Agreement or any of the transactions contemplated

herein shall be in any court of competent jurisdiction in Walker County, Texas.

Section 20.9: Time of Essence: Time is of the essence in the payment and performance of the duties and obligations imposed upon CITY and OPERATOR by the terms and conditions of this Agreement.

Section 20.10: Survival: All duties and obligations imposed upon CITY and OPERATOR by the terms and conditions of this Agreement shall survive the termination or expiration of this Agreement until paid or performed.

Section 20.11: Corporate Execution: If OPERATOR is a corporation or if this Agreement shall be assigned by OPERATOR to a corporation or if OPERATOR sublets all or a portion of the Leased Premises to a corporation, such corporation hereby agrees to execute and deliver to CITY from time to time during the term of this Agreement such instruments as CITY may reasonably request to evidence: (i) the authority of such corporation to transact business in the State of Texas; and (ii) the authority of the officers of such corporation to execute this Agreement or other documents executed in connection with this Agreement.

Section 20.12: Attorney's Fees: If, on account of any breach or default by CITY or OPERATOR of their respective obligations under this Agreement, it shall become necessary for the other to employ an attorney to enforce or defend any of such party's rights or remedies hereunder, and should such party prevail, such party shall be entitled to collect reasonable attorneys' fees incurred in such connection from the other party.

Section 20.13: Entire Agreement and Amendments: This Agreement embodies the entire agreement between CITY and OPERATOR and supersedes all prior agreements and understandings, whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter hereof. Except as otherwise specifically provided herein, no agreement hereafter made shall be effective to change, modify, discharge or effect an abandonment of this Agreement, in whole or in part, unless such agreement is in writing and signed by or in behalf of the party against whom enforcement of the change, modification, discharge or abandonment is sought.

City of Huntsville, TX

By: _____
Signature

Name: _____
Printed Name

Title: _____

Date: _____

Attest: _____

Huntsville Aviation, Inc.

By: _____
Signature

Name: _____
Printed Name

Title: _____

Date: _____

Attest: _____

Exhibit "A"





CITY COUNCIL AGENDA

8/20/2024

Agenda Item Number: 6.a.

Agenda Item: The City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.071, to receive legal advice on collecting delinquent Hotel Occupancy taxes on Motel 6 and its owners at 122 Interstate 45 North.

Initiating Department/Presenter: City Attorney

Presenter:

Leonard Schneider, City Attorney

Recommended Motion: Not applicable

Strategic Initiative:

Discussion:

Previous Council Action:

Financial Implications:

Approvals:

Leonard Schneider

Sam Masiel

Aron Kulhavy

Kristy Doll

Associated Information:



CITY COUNCIL AGENDA

8/20/2024

Agenda Item Number: 6.b.

Agenda Item: City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.074 – Personnel Matters: regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee: City Manager Aron Kulhavy.

Initiating Department/Presenter: City Manager

Presenter:
Aron Kulhavy, City Manager

Recommended Motion: None

Strategic Initiative:

Discussion:

Previous Council Action:

Financial Implications:

Approvals:
Aron Kulhavy

Associated Information: