



**NOTICE OF WORKSHOP  
GOVERNING BODY OF MARBLE FALLS, TEXAS  
Tuesday, September 5, 2023 – 5:00 pm**

A quorum of the Marble Falls Economic Development Corporation  
and the Planning & Zoning Commission may be present

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Notice is hereby given that on the 5<sup>th</sup> day of September, 2023 the Marble Falls City Council will meet in workshop session at 5:00 pm in the City Hall Council Chambers located at 800 Third Street, Marble Falls, Texas, at which time the following subjects will be discussed:

**1. CALL TO ORDER**

**2. WORKSHOP**

Presentation and Discussion regarding Development Code/Zoning Text Amendments to the City of Marble Falls Development Code

**3. ADJOURNMENT**

*“The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any matters listed on the agenda, as authorized by the Texas Government Code, including, but not limited to, Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development), 418.183 (Deliberations about Homeland Security Issues) and as authorized by the Texas Tax Code, Section 321.3022 (Sales Tax Information).”*

*In compliance with the Americans with Disabilities Act, the City of Marble Falls will provide reasonable accommodations for persons attending City Council Meetings. To better serve you, requests should be received 24 hours prior to the meeting. Please contact Ms. Christina McDonald, City Secretary at (830) 693-3615.*

**Certificate of Posting**

I, Christina McDonald, City Secretary for the City of Marble Falls, Texas, do certify that this Notice of Meeting was posting at City Hall, in a place readily accessible to the general public at all times, on the 31<sup>st</sup> day of August, 2023 at 8:50 am and remained so posted for at least 72 continuous hours preceding the scheduled time of said meeting.

*Christina McDonald*

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Christina McDonald, TRMC  
City Secretary



## Council Agenda Item Cover Memo September 5, 2023

**Agenda Item No.:** Workshop  
**Presenter:** Kim Foutz, Director of Development Services  
**Department:** Development Services  
**Legal Review:**

### AGENDA CAPTION

Presentation and Discussion regarding development code/zoning text amendment to City of Marble Falls Code of Ordinances, Appendix B, Development Code, Article 3 Land Use, Article 6, Subdivision Design and Land Development, Article 11, Administration, and Article 14, Definitions and Interpretations.

### BACKGROUND INFORMATION

Periodically, staff identifies and presents Development Code amendments through feedback from the community and stakeholders. This round of draft code amendments are in three areas: delegating most platting decision-making authority to the Planning and Zoning Commission; adding to and amending/clarifying definitions; adding Restrictions to various uses; and adding land use(s).

#### Platting authority and administration:

Over a period of time, the discussions have occurred that platting is primarily a ministerial activity. For several months now, the City Council has received Final Plats as a Consent Agenda item and none of these plats were removed for discussion. These amendments delegate preliminary and final plat decision-making authority to the City Council, including some waivers, with the exception of the following:

- Protection of Drainage and Creek Areas – Flood Plain Management Area dedication
- Appeals of Planning and Zoning Commission denials
- Plats involving Planned Development Districts
- Replats

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Please note that some additional substantive changes will be needed in the future to implement House Bill 3699, effective September 1 which made several changes to Chapter 212. These will be brought forth when we bring forward phase 2 of the amendments.

Definitions:

This amendment revises the following definitions: Warehouse and distribution, front yard, side yard, rear yard, bed and breakfast lodging, industrial services (light), outdoor display, outdoor storage, permitted use (moves it to alphabetical order), personal services, resource extraction (subsurface and surface), utility services, vehicle service (major), scrap and salvage yard.

This amendment adds the following definitions: apartment (attached), apartment (detached), automobile repair and service, limited, car wash full service, car wash self service, contractor services, hotel (extended stay), landscape supply/garden center, separating vehicle services into minor and major, separating resource extraction into surface and subsurface.

Adding Land Uses:

This amendment adds the following uses: apartment-attached, apartment-detached, car wash, hotel (extended stay), landscape supply & sales/garden center, utility service provider, vehicle services (minor and major).

Adding/Clarifying Restrictions:

This amendment adds restrictions to the following uses:

Crop production and sales, social service institution, utility service provider, landscape supply sales/garden center, carwash, personal services, retail sales and services for heavy equipment, vehicle gas or fueling station, vehicle sales and rentals, vehicle services (minor), vehicle services (major), research and development, resource extraction (surface), resource extraction (subsurface), self storage, bed and breakfast lodging, and home enterprise.

Note: Phase II amendments include the following topics:

**STAFF RECOMMENDATION**

The Planning and Zoning Commission recommended this item be forwarded to City Council for workshop. They will consider and make recommendations to City Council at their October meeting.

Based on feedback from residents, contractors, and stakeholders, City staff recommends moving forward with the amendments to Land Use, Article 6, Subdivision Design and Land Development, Article 11, Administration, and Article 14, Definitions and Interpretations and scheduling a public hearing and action item.

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## ATTACHMENTS

- Redlined Platting amendments – Subdivision Design and Land Development; Administration
  - Pages 4-28
- Redlined Miscellaneous amendments to the land use table, Restrictions tables and definitions
  - Pages 29-46-

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## DIVISION 6.2 SUBDIVISION DESIGN STANDARDS

### 6.2.1.B Adequacy of Streets and Thoroughfares

4(a). "Two (2) points of vehicular access" shall be construed to mean that the subdivision has at least two (2) improved roads accessing the subdivision from the City's improved thoroughfare system, and the subdivision has at least two (2) road entrances. The ~~City Council~~ Planning and Zoning Commission may, at its discretion and upon a finding that such will not compromise public safety or impede emergency access, accept a single median-divided entrance from the City's improved thoroughfare system provided that the median extends into the subdivision for an unbroken length of at least one hundred (100) feet to an intersecting internal street which provides at least two (2) routes to the interior of the subdivision. For example, the entrance street is not a dead-end or cul-de-sac, and it does not create a "bottleneck" allowing only one (1) emergency route into the interior of the subdivision. Residential lots may not front onto any median-divided street section, and residential driveways may not be located in front of a median. (Also see Subsection 6.2.1.O, Points of Access, below.)

9. *Phased Development.* Where a subdivision is proposed to occur in phases, the applicant, in conjunction with submission of the Preliminary Plat, shall provide a schedule of development. The schedule shall set forth the intended plan of development and dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision. The ~~City Council~~ Planning and Zoning Commission shall determine whether the proposed streets and street improvements are adequate pursuant to standards herein established and may require that a Traffic Impact Analysis be submitted for the entire project or such phases as the ~~City Council~~ Planning and Zoning Commission determines to be necessary to adjudge whether the subdivision will be adequately served by streets and thoroughfares.

### 6.2.1.C. Escrow Policies and Procedures.

1. *Request for Escrow.* Whenever these regulations require a property owner to construct a street or thoroughfare, or other type of public improvement, the property owner may, if there exists unusual circumstances, such as a timing issue due to pending roadway improvements by another agency such as TxDOT or the County, that would present undue hardships or that would impede public infrastructure coordination or timing, petition the City to construct the street or thoroughfare, usually at a later date, in exchange for deposit of escrow as established in this Section. If more than one street or thoroughfare must be constructed in order to meet adequacy requirements for roadways, as demonstrated by a Traffic Impact Analysis (TIA), the City Manager (or designee) may prioritize roadways for which escrow is to be accepted and require the deposit of all funds attributable to the development in escrow accounts for one or more of such affected roadways. The ~~City Council~~ Planning and Zoning Commission shall review the particular circumstances involved (a TIA may be required to facilitate the ~~City Council~~ Planning and Zoning Commission's deliberations on the matter), and shall determine, at its sole discretion, whether or not provision

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of escrow deposits will be acceptable in lieu of the property owner's obligation to construct the street or thoroughfare with his or her development.

2. *Escrow Deposit with the City.* Whenever the ~~City Council~~Planning and Zoning Commission agrees to accept escrow deposits in lieu of construction by the owner of the property under these regulations, the property owner or developer shall enter into an improvement agreement with the City and shall deposit in escrow with the City in an amount equal to his or her share of the costs of design, construction, permits, reviews and approvals, inspections, any additional land acquisition, and an appropriate (and realistic) inflation factor to ensure that the actual "future dollar" costs will be covered when actual construction occurs in the future. Such amount shall be reviewed and approved by the City Manager (or designee) and by the City Engineer and shall be paid prior to release of the Construction Plans by the City Engineer. The obligations and responsibilities of the property owner shall become those of the property owner's transferees, successors and assigns; and the liability therefore shall be joint and several. The City Manager (or designee) is authorized to sign an improvement agreement on behalf of the City.

6.2.1.D. Traffic Impact Analysis.

1. *Generally.* Any proposed development project or plat involving a significant change to a proposed roadway alignment from that shown on the City of Marble Falls Thoroughfare Plan (or involving a development of two hundred (200) or more dwelling units, or for developments generating two thousand (2,000) or more "one-way" trips per day) shall be preceded by submission, City staff review, and ~~Planning and Zoning Commission review, and City Council~~ approval of a Traffic Impact Analysis (TIA) as specified in Subsection 6.2.1.D.2, Required Components of Traffic Impact Analysis, below. Such a proposed roadway alignment change shall also be preceded by (or simultaneous with) an amendment to the City's Thoroughfare Plan showing the new proposed alignment. Failure to provide for such approvals prior to submission of a Preliminary Plat (or concurrently with the Preliminary Plat application) shall be grounds for denial of the plat application.
2. *Required Components of Traffic Impact Analysis.* Whenever these regulations (or the Planning and Zoning Commission~~City Council~~, in unique instances which do not necessarily meet the above criteria but which may significantly affect the public health, safety or welfare, such as a proposed subdivision that will only be accessed via substandard roadways which may pose an impediment to emergency response vehicles) require submission and Planning and Zoning Commission~~City Council~~ approval of a TIA, the following elements shall be included:

6.2.1.E. Arrangement of Streets Not Shown on the Thoroughfare Plan. For streets that are not shown on the City's Thoroughfare Plan, such as local residential streets, the arrangement of such streets within a subdivision shall:

2. Conform to a plan for the neighborhood approved or adopted by the Planning and Zoning Commission~~City Council~~ to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;

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**6.2.1.G. Subdivisions Abutting Arterial Streets.** Where a subdivision abuts or contains an existing or proposed arterial street, the ~~City Council~~Planning and Zoning Commission may require marginal access streets, reverse frontage (lots which back onto the arterial), deep lots with rear service alleys, or such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

**6.2.1.H. Reserve Strips Prohibited.** Reserve strips controlling access to streets shall be prohibited except where their control is required by the City and approved by the Planning and Zoning Commission ~~City Council~~.

**6.2.1.K. Half Streets.** Construction of half streets shall be prohibited, except when essential to the reasonable development of the subdivision in conforming with the other requirements of these regulations and the Thoroughfare Plan, and where the ~~City Council~~Planning and Zoning Commission makes a determination that there is no immediate benefit to be gained by constructing the full street section since no access from the street will be needed by the subdivision in question. The Planning and Zoning Commission~~City Council~~ may also find that it would be more practical, or cost effective, to delay construction of the other half of a street until when the adjoining property is developed. If the property owner is responsible for one-half (½) of the street, then the property owner shall either construct the facility along with his or her development or shall provide escrow for the construction cost of his or her share of the facility (including all applicable street appurtenances such as median openings, left turn lanes into the development, sidewalks with barrier-free ramps, drainage structures, etc.) unless the City participates in the construction of the facility. Whenever a partial street has been previously platted along a common property line, the other portion of the street right-of-way shall be dedicated such that the right-of-way is increased to the street's ultimate planned width. Improvements shall be made to all on-site facilities as defined herein.

**6.2.1.L. Street Length.**

3. **Overlength Streets or Cul-de-sacs.** The Planning and Zoning Commission~~Commission may recommend, and the City Council~~ may approve, waivers/suspensions for overlength streets or cul-de-sacs, whether temporary or permanent, upon considering the following:

**6.2.1.P. Points of Access.** All subdivisions shall have at least two (2) points of access from improved public roadways (also see Subsection 6.2.1.B.4, Approach Roads and Access, above). All residential developments shall provide no less than one (1) entrance for every seventy-five (75) lots, or portion thereof, including temporary dead-end stubbed streets that will eventually provide connections into adjacent future developments and thence to an arterial or collector street. Driveway access onto roadways shall be provided and designed in accordance with the City's TCSS and construction standards that are in effect at the time the Preliminary Plat application is officially submitted and deemed a complete application. Residential driveway cuts shall not be allowed on roadways that are larger than a residential collector street (sixty-foot right-of-way) unless specifically approved by ~~the -~~Planning and Zoning Commission~~City Council~~ with the Preliminary Plat application.

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## Section 6.2.2 Alleys

### C. General Design Standards for Alleys.

4. Alleys may not exceed a maximum length of one thousand six hundred (1,600) feet, as measured along the centerline of the alley and between intersections with other alleys or entrances onto streets (at the right-of-way line of the street at the alley entrance). The Commission may ~~recommend, and the City Council may approve,~~ waivers/suspensions for overlength alleys upon consideration of the following:

### Section 6.2.4.B. Intersections.

3. *Exceptions.* In cases where physical barriers or property ownership creates conditions where it is appropriate that these standards be varied, the length may be increased or decreased (through issuance of a waiver/suspension by the ~~Planning and Zoning Commission City Council~~ with plat approval) to meet the existing conditions having due regard for connecting streets, circulation of traffic and public safety.

## Section 6.2.5 Sidewalks

- A. *On Residential and Collector Streets.* Pedestrian concrete walkways (sidewalks) not less than five (5) feet wide shall be required within a residential subdivision on both sides of residential and collector streets, and sidewalks not less than six (6) feet wide shall be provided within all nonresidential developments and along all perimeter arterials, for both residential and nonresidential developments, as set forth in the City of Marble Falls TCSS. Root barriers will be required underneath, and along with the construction of, all public sidewalks per the City's TCSS, particularly in locations where trees are (or will be) in close proximity to the sidewalk. Barrier-free ramps shall be constructed at all street intersections and at any other locations deemed appropriate by the City due to anticipated pedestrian travel patterns. Sidewalks shall be constructed within the street right-of-way, one (1) foot away from the right-of-way line, and at least five (5) feet away from the street curb. In certain instances, the ~~Planning and Zoning Commission City Council~~ may, at its sole discretion, approve placement of the sidewalk adjacent or closer than five (5) feet to the curb provided that such placement benefits the general public by allowing more space for landscaping, such as for street trees, screening shrubs, and decorative walls and fences, and provided that the width is increased to a minimum of five (5) feet of sidewalk pavement or to such a width as may be needed in the interest of public safety.
- B. *On Perimeter Roadways or Arterials to Development.* All sidewalks along a perimeter roadway or arterial are considered part of the overall development's required public improvements and shall be installed prior to acceptance of the subdivision by the City and prior to Final Plat approval, unless surety is provided, per Division 6.4, Requirements for Acceptance of Subdivisions, of these regulations. In any event, a Certificate of Occupancy will not be issued for any lot within the subdivision until the required sidewalks are in place or appropriate surety is provided. The cost and provision of any perimeter sidewalks, such as along major thoroughfares, may be escrowed as a part of a developer's agreement, if approved by the ~~Planning and Zoning Commission City Council~~.



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The City has the right, but not the obligation, to refuse escrow and to require paving of the sidewalks if, in its sole opinion, immediate provision of the sidewalks is necessary for safe pedestrian circulation or if it would otherwise protect the public health, safety, convenience or welfare.

- C. *Fee in Lieu of Construction.* When the subdivision requirements are waived in accordance with Section 11.4.8, Subdivision Waiver and Suspension, the Planning and Zoning Commission may ~~recommend and the City Council may~~ require the payment of a fee-in-lieu of construction of the sidewalk(s) to the City of Marble Falls Sidewalk Fund. Payments ~~to~~ will be calculated based on the linear feet of sidewalk waived as set out in Appendix C, Master Fee Schedule, of the City Code of Ordinances and be used for the sole purpose of equipping public streets within the City with sidewalks. The fee in lieu of sidewalks shall be paid in full to the City prior to the recording of the Final Plat.

#### Section 6.2.9 Water and Wastewater Facility Design

- D. *Extensions Required Along Adjacent Streets or Thoroughfares.* Extension of water and wastewater lines shall be made along the entire frontage of the subdivision adjacent to a street or thoroughfare. If the subdivision is not adjacent to a thoroughfare, the extension of utilities shall be accomplished in such a manner as to allow future connections to said utilities by new subdivisions. If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the ~~Planning and Zoning Commission~~ City Council may waive the requirement for adjacent utility line construction at the time of Preliminary Plat approval and prior to construction of the subdivision.

#### Section 6.2.11 Areas for Public Use

Generally, the applicant shall give consideration to suitable and adequate sites for schools, parks, playgrounds, and other areas for public use or service so as to conform to the recommendations contained in the City's Comprehensive Plan; Park and Open Space Plan; and other applicable plans. Any provision for schools, parks or other public facilities shall be indicated on the Preliminary and Final Plats and shall be subject to approval by ~~the City Council~~ Planning and Zoning Commission.

#### Section 6.2.12 Protection of Drainage and Creek Areas

- C. *Areas Where an FMA is Required.* Lake Marble Falls, Whitman Creek and Backbone Creek and their related tributaries and streams and all other drainage areas or regulated floodways as referenced on the applicable floodway and flood boundary map (flood insurance rate map, or FIRM) shall be included in the FMA. If FEMA does not specify a floodway zone in any of the creeks or their tributaries, it shall be the developer's responsibility to establish and identify the FMA. The determination shall be made by a licensed professional engineer and approved by the City Engineer. Where improvements to a drainage area are required by other ordinances of the City for the purpose of safety or other reasons related to drainage, those ordinances shall also be observed. The FMA is intended to apply to a creek or channel which is to remain open or in its natural condition unless otherwise recommended by the Planning and Zoning Commission and

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approved by a two-thirds (2/3) majority vote of the full City Council. The creek shall remain in its natural state unless improvements are permitted or required by the City due to the pending development of properties adjacent to or upstream of the required improvements.

D. Ownership and Maintenance of the FMA

3. Certain recreational uses normally associated with or adjacent to flood prone areas (no structures allowed in the FMA), such as golf courses or certain types of parks. The uses allowed shall be in conformance with these regulations and approved by the Planning and Zoning Commission and City Council.

F. Design Criteria

3. Public streets may be approved in the FMA by the Planning and Zoning Commission and City Council (if they conform to applicable engineering standards).
4. Linear public streets may be required to be constructed adjacent to some (or all) portions of the FMA to allow access for maintenance or recreational opportunities, and/or to allow increased visibility into creek areas for public safety and security purposes.
5. Alternate designs to facilitate equal or better access may be permitted if approved by the Planning and Zoning Commission and City Council.

- G. *Altered Drainage Areas.* Drainage areas which have been altered and are not in a natural condition can be exempted from an FMA and this Section at the discretion of the City Council and upon recommendation by the Planning and Zoning Commission.

Section 6.3.1 General Requirements of Improvements Required by the City

- D. *Appeals.* The applicant may dispute the determination made by the engineer retained by the City and may submit a written appeal to the ~~Planning and Zoning Commission~~ City Council within thirty (30) calendar days from the date of the determination of the engineer. At the ~~Planning and Zoning Commission~~ City Council meeting, the applicant may present evidence and testimony under procedures adopted by the City Council. After hearing any testimony and reviewing the evidence, the ~~City Council~~ Planning and Zoning Commission shall make the applicable determination within 30 calendar days following the final submission of any testimony or evidence by the applicant.

Section 6.3.4 Street Names and Signs

- D. *Consistent Naming of Extended Streets.* New streets which extend existing streets shall bear the names of the existing streets. Streets crossing thoroughfares or other roadways shall bear the same name on both sides of the thoroughfare, wherever practical, unless otherwise approved by ~~the Planning and Zoning Commission~~ City Council.

Section 6.3.5 Street and Alley Improvements

- A. *Required by Developer.* All on-site, such as internal, streets and alleys shall be constructed by the developer at the developer's expense, unless otherwise allowed by this Article. If the subdivision is

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adjacent to a planned or future or substandard arterial or collector street, as shown on the City's Thoroughfare Plan, and derives access, whether direct or indirect, from said roadway, then the developer shall be required to design and construct a reasonable portion of the roadway as well as any required median openings and left turn lanes needed to serve their subdivision (see Section 6.3.9, Improvements to Adjacent (Perimeter) Streets and Utilities). The [City Council Planning and Zoning Commission](#) may, at its option, accept escrow funds in lieu of immediate roadway construction if the subdivision derives principal access from another improved roadway and if delaying construction or improvement of the road will not harm or otherwise inconvenience neighboring property owners or the general public.

### **Section 6.3.7 Screening and Landscaping Construction Regulations, Requirements, and Design Criteria**

#### **A. Screening.**

1. *Generally.* Where subdivisions are platted so that the rear and/or side yards of single-family or two-family residential lots are adjacent to an arterial thoroughfare (greater than sixty (60) feet in right-of-way width on the Thoroughfare Plan); a four (4) lane collector street; are separated from a thoroughfare by an alley; or back up to a collector or residential street (which is not allowed unless specifically approved by [the Planning and Zoning Commission City Council](#)), the developer shall provide, at his or her sole expense, a minimum six-foot tall masonry screening wall (also see Subsection 6.3.7.A.7 below), or some other alternative form of screening, if approved by [City Council the Planning and Zoning Commission](#), according to the following alternatives and standards. All screening shall be adjacent to the right-of-way or property line and fully located on the private lot(s), including columns and decorative features. All forms of screening shall conform to the requirements of City ordinances and policies that govern sight distance for traffic safety. Any required screening device that is wholly or partially destroyed or damaged shall be replaced or repaired with the same materials and shall be finished such that its appearance is restored to how it was before being destroyed or damaged.
2. *Screening Alternatives.* Screening shall be provided in accordance with, and shall be constructed to, standards and criteria as set forth in the City's TCSS and other related City code(s) and policy(s). An alternative form of screening, in lieu of the six- to eight-foot tall masonry wall, may be approved by [the Planning and Zoning Commission City Council](#) on a landscaping/screening wall plan submitted with the Construction Plans. Such possible alternatives may include, but may not be limited to, the following:
  - d. Some other creative screening alternative may be approved if it meets the spirit and intent of this Section, if it is demonstrated to be long-lasting and generally maintenance-free, and if the [City Council Planning and Zoning Commission](#) finds it to be in the public interest to approve the alternative screening device.
6. *Hardscaping Requirements.* All masonry, wrought iron, steel or aluminum screening wall or fence plans and details must be designed and sealed by a licensed professional engineer, and must be

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approved by the City Engineer. Masonry walls shall be in accordance with the City's design standards, and the use of "ThinWall" type of construction (i.e., that does not conform with the TCSS) shall be prohibited due to problems with inferior strength and the higher cost of long-term maintenance. Decorative metal fencing shall be solid stock, not tubular, and shall have masonry columns at a minimum spacing of forty (40) feet on center unless otherwise approved by the City Engineer and [Planning and Zoning Commission](#)~~City Council~~.

7. The height of required screening devices, including spans between columns, shall be a minimum of six (6) feet and shall be no more than eight (8) feet tall. Decorative columns, pilasters, stone caps, sculptural elements, and other similar features may exceed the maximum eight-foot height by up to two (2) feet for a total maximum height of ten (10) feet for these features, provided that such taller elements comprise no more than ten (10) percent of the total wall length in elevation view. Features that are taller than ten (10) feet in height shall require [Planning and Zoning Commission](#)~~City Council~~ approval on the landscaping/screening plans submitted with the Construction Plans.

B. *Entryway Features.*

1. *Generally.* Subdivisions may provide a low maintenance landscaped entryway feature at access points from streets and thoroughfares into the subdivision. The entryway feature shall be placed on private property and within an easement identified for such use (limited portions of the feature or landscaping may be placed within the right-of-way, but only with [Planning and Zoning Commission](#)~~City Council~~ approval on the landscaping/screening plans) and shall observe all sight visibility requirements. Most of the feature or landscaping shall be located on private property so that long-term maintenance responsibility will be borne by the property owner or an approved homeowners association (see Section 6.3.1, General Requirements of Improvements Required by the City). Entryway features that are located mostly or entirely within City right-of-way shall only be allowed with [Planning and Zoning Commission](#) ~~City Council~~ approval. Prior to [Planning and Zoning Commission](#)~~City Council~~ approval, the City may require the applicant to execute an agreement with the City that relieves the City of maintenance responsibility and that indemnifies and holds the City harmless for damage or injury incurred by or in conjunction with such features in the right-of-way.
2. *Design Requirements.*
  - a. The entryway feature shall include low maintenance, living landscaped materials as approved by the [Planning and Zoning Commission](#)~~City Council~~. The design of the entryway feature shall also include an automatic underground irrigation system that is equipped with moisture- and freeze-sensors, and may also include subdivision identification, such as signage located on the wall. All plants shall be living and in a sound, healthy, vigorous and growing condition, and they shall be of a size, fullness and height that is customary for their container or ball size, as per the latest edition of the "American Standard for Nursery Stock", by the American Association of Nurserymen, and the City approved tree list as may be amended. Any walls or structures used in the entryway feature must conform to the City's regulations pertaining to maximum height

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within the front yard of residential lots (see Section 4.6.4 of these regulations) wherever the adjacent lot sides onto the arterial street and the wall will be located within the front yard setback area.

- b. The design of the entryway shall be in accordance with design policies in the City's TCSS. The design of the entry shall be reflected on the landscape, screening and irrigation plans submitted along with the Construction Plans and the Preliminary Plat and shall be approved by the [Planning and Zoning Commission](#)~~City Council~~.

### **Section 6.3.9 Improvement of Adjacent (Perimeter) Streets and Utilities**

- B. *Calculating Proportionate Share.* The developer's proportionate share of improvements to a substandard perimeter road shall be determined in accordance with Section 6.3.1, General Requirements of Improvements Required by the City. Design and construction of the roadway shall be in accordance with the City's Thoroughfare Plan (with respect to right-of-way width and general location), the TCSS manual, and with any other applicable City codes and ordinances. Depending upon the specific roadway in question, the Traffic Impact Analysis results and the determination by the City Engineer, any oversizing shall be borne by the City, the county, and the state or by some other entity. Any participation in the cost of oversizing of the improvement by the City shall be in accordance with Section 6.3.1, General Requirements of Improvements Required by the City. The ~~City Council~~[Planning and Zoning Commission](#) may, at its option, accept escrow funds in lieu of immediate roadway construction if the subdivision derives principal access from another improved roadway and if delaying construction and improvement of the road will not harm or otherwise inconvenience neighboring property owners or the general public.

### **Section 6.4.2 Guarantee of Public Improvements**

- A. *Property Owner's Guarantee.* Before approving the Final Plat of a subdivision located all or partially within the City or its extraterritorial jurisdiction, the [Planning and Zoning Commission](#)~~City Council~~ must be satisfied that all required public improvements have been (or soon will be) constructed in accordance with the approved Construction Plans and with the requirements of these regulations.
- B. *Improvement Agreement and Guarantee.* The ~~City Council, upon~~ [Planning and Zoning Commission recommendation](#), may waive the requirement that the applicant complete and dedicate all public improvements prior to approval of the Final Plat, and may permit the property owner to enter into an improvement agreement by which the property owner covenants to complete all required public improvements no later than two (2) years following the date upon which the Final Plat is approved. The [Planning and Zoning Commission](#)~~City Council~~ may also require the property owner to complete or dedicate some of the required public improvements prior to approval of the Final Plat, and to enter into an improvement agreement for completion of the remainder of the required improvements during such two-year period. The improvement agreement shall contain such other terms and conditions as are agreed to by the property owner and the City.
- C. *Improvement Agreement Required for Oversize Reimbursement.* The City shall require an improvement agreement pertaining to any public improvement for which the developer shall

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request reimbursement from the City for oversized costs. The [Planning and Zoning Commission](#)~~City Council~~, as it deems appropriate, has the authority to authorize the approval of such agreement as meeting the requirements of the City, and the City shall not withhold approval as a means of avoiding compensation due under the terms herein. The City Manager (or designee) is authorized to sign an improvement agreement on behalf of the City.

- D. *Security.* Whenever the City permits an applicant to enter into an improvement agreement, it shall require the applicant to provide sufficient security, covering the completion of the public improvements. The security shall be in the form of cash escrow or, where authorized by the City, a performance bond or letter of credit or other security acceptable to the ~~City Council~~ [Planning and Zoning Commission](#) and the City Attorney, as security for the promises contained in the improvement agreement. Security shall be in an amount equal to one hundred (100) percent of the estimated cost of completion of the required public improvements and lot improvements. The issuer of any surety bond and letter of credit shall be subject to the approval of the City Manager and the City Attorney.
- E. *Performance Bond.* If the ~~City Council~~ [Planning and Zoning Commission](#) authorizes the applicant to post a performance bond as security for its promises contained in the improvement agreement, the performance bond shall comply with the following requirements:
- F. *Letter of Credit.* If the ~~City Council~~ [Planning and Zoning Commission](#) authorizes the applicant to post a letter of credit as security for its promises contained in the improvement agreement, the letter of credit shall:

#### **Section 6.4.6 Acceptance of Dedication Offers**

Acceptance of formal offers for the dedication of streets, public areas, easements or parks shall be by authorization of the City Manager (or designee). The approval by the [Planning and Zoning Commission](#)~~City Council~~ of ~~a Preliminary or Final Plat~~ [a Preliminary or Final Plat](#) shall not, in and of itself, be deemed to constitute or imply the acceptance by the City of any street, public area, easement or park shown on the plat. The City may require the plat to be endorsed with appropriate notes to this effect.

#### **Section 6.4.8 Construction Procedures**

- C. *Conditions Prior to Authorization.* Prior to authorizing release of a Site Development Permit, the City Engineer shall be satisfied that the following conditions have been met:
  - 1. The Preliminary Plat has been approved by the [Planning and Zoning Commission](#)~~City Council~~ (and any conditions of such approval have been satisfied);

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### Section 6.4.9 Inspection and Acceptance of Public Improvements

- C. *Transfer of Rights to Public Improvements.* Acceptance of the development shall mean that the developer has transferred all rights to all the public improvements to the City for use and maintenance. The ~~City Council~~Planning and Zoning Commission may, at its option, accept dedication of a portion of the required public improvements if the remaining public improvements are not immediately required for health and safety reasons, and if the property owner has posted a performance bond, letter of credit or cash bond in the amount of one hundred (100) percent of the estimated cost of those remaining improvements for a length of time to be determined by the ~~City Council~~Planning and Zoning Commission. If the remaining public improvements are greater than ten thousand dollars (\$10,000.00) and are not completed within the determined length of time, the City will impose a penalty that equals ten (10) percent of the performance bond, letter of credit, or cash bond. The obligation to complete the improvements remains with the developer, and all future Building Permits or Certificates of Occupancy will be withheld until the improvements are complete. If the remaining public improvements are less than ten thousand dollars (\$10,000.00), the developer shall pay the actual dollar amount. The length of time may be extended due to inclement weather or unforeseen delays by mutual agreement between the developer and the City.

### Section 6.4.10 Deferral of Required Improvements

- A. *Option to Defer.* The ~~City Council~~Planning and Zoning Commission may, upon petition of the property owner and favorable recommendation of the City Engineer, defer at the time of plat approval, subject to appropriate conditions, the provision of any or all public improvements as, in its judgment, are not required in the immediate interests of the public health, safety and general welfare.
- B. *Deferral Requirements.* Whenever a petition to defer the construction of any public improvements required under these regulations is granted by the ~~City Council~~Planning and Zoning Commission, the property owner shall deposit in escrow his or her share of the costs (in accordance with City participation and oversizing policies) of the future public improvements with the City prior to approval of the plat, or the property owner may execute a separate improvement agreement secured by a cash escrow or, where authorized, a letter of credit guaranteeing completion of the deferred public improvements upon demand of the City.

## ***DIVISION 11.1 REVIEW AND DECISION-MAKING AUTHORITY***

### Section 11.1.2 City Council

- A. *Generally.* The City Council shall have all the powers and duties as set out in the City's Home Rule Charter, the City's Code of Ordinances, and the constitution and the laws of the State of Texas.



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- B. *Role and Responsibilities.* As it relates to these regulations, the City Council shall act upon the permits and applications set out in Section 11.1.16, Summary of Decision-Making Authority. In addition, the City Council may take any other action not delegated to an appointed board, commission, or committee, or City staff, as the City Council may deem desirable and necessary to implement the provisions of these regulations, the Home Rule Charter, the City's Code of Ordinances, or other policies, rules, ordinances, or regulations established by the City.

[The City Council shall hear and decide appeals from decisions made by the Commission when such appeals are authorized by this ordinance.](#)

### **Section 11.1.3 Planning and Zoning Commission**

- A. *Generally.* The Planning and Zoning Commission is authorized by Chapter 211, Municipal Zoning Authority, of the Tex. Local Gov't Code, Article 9, Planning and Zoning, of the City's Home Rule Charter, and Chapter 17, Planning, of the City's Code of Ordinances.
- B. *Role and Responsibilities.* The Planning and Zoning Commission shall serve as an advisory board to the City Council ~~and~~. ~~As it relates to these regulations, t~~he ~~Planning and Zoning~~ Commission shall act ~~as act as a approval~~[deciding authority](#) upon the permits and applications ~~set out~~[as designated](#) in Section 11.1.16, Summary of Decision-Making Authority. In addition, the Planning and Zoning Commission shall exercise its authority in recommending plans for the physical development and redevelopment of the City and other duties as may be assigned by the City Council.
- C. *Joint Meetings.* Any public hearing required by these regulations or state law to be held by the Planning and Zoning Commission may be held jointly with any public hearing required to be held by City Council. Such joint meetings may be held after publication of notice as required by law.

### **Section 11.1.16 Summary of Decision-Making Authority**

- A. *Generally.* This Section establishes [and assigns responsibility under the subdivision ordinance for taking action with regard to the decision authority for](#) each application ~~for permit~~ or approval as either requiring administrative approval, requiring a public meeting or hearing, and/or requiring approval by an elected or appointed body.
- B. *Summary of Decision-Making Authority.* The deciding authority ([hereafter "Decision Maker"](#)) for each application ~~for permit~~ or approval [or other action](#) required by these regulations is identified in Table 11.1.16, Summary of Decision-Making Authority.



Table 11.1.16 Summary of Decision-Making Authority									
Application or Procedure	Elected and Appointed Authorities			Administrative Authorities					Section Cross-Reference
	City Council	Planning and Zoning Commission	Zoning Board of Adjustment	City Manager	Director	City Engineer	Building Official	Floodplain Administrator	
D = Decision Maker R= Recommending Body A = Appeal * = Public Hearing Required									
Administrative Exception	A*				D				11.5.5
Annexation (Voluntary)	D*								11.3.1
Certificate of Occupancy	A*						D		11.5.6
Conditional Use Permit	D*	R*							11.3.4
Floodplain Development Permit	A*							D	11.5.3
Floodplain Development Variance	D*								11.3.8
<u>Floodplain Management Area</u>	<u>D</u>	<u>R</u>							
Land Disturbance Permit	A*					D			11.5.2
Planned Development District	D*	R*							11.3.3
Special Exception	D*								11.3.7
Site Development Plan	A*				D				11.5.4
<u>Concept Plan/Site Development Plan for PD, CUP</u>	<u>D*</u>	<u>R*</u>							
<u>Concept Plan for Master Planned Community</u>					<u>D</u>				
Subdivision - Amending Plat					D				11.4.7
Subdivision - Development Plat	<del>D</del> <u>A</u>	<del>D</del> <u>R</u>							11.4.5
Subdivision - Final Plat	<del>D</del> <u>A</u>	<del>D</del> <u>R</u>							11.4.3
<u>Subdivision – Final Plat for PD</u>	<u>D</u>	<u>R</u>							
Subdivision - Minor Plat					D				11.4.4
Subdivision - Plat Vacation	<del>D</del> <u>A</u>	<del>D</del> <u>R</u>							11.4.9
Subdivision - Preliminary Plat	<del>D</del> <u>A</u>	<del>R</del> <u>D</u>							11.4.2
<u>Subdivision – Preliminary Plat for PD</u>	<u>D</u>	<u>R</u>							
Subdivision - Replat	D* <sup>1</sup>	R* <sup>1</sup>							11.4.6
Subdivision Waiver and Suspension	<del>A</del> <u>D</u>	<del>D</del> <u>R</u>							11.4.8
Text Amendment	D*	R*							11.3.9
Zoning Variance			D*						11.3.6
Zoning Map Amendment (Rezoning)	D*	R*							11.3.2
Table Notes: <sup>1</sup> If required by State Law.									

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## DIVISION 11.3 PERMITS AND APPROVALS

### Section 11.3.5 Concept Plan

- C. *Concept Plan Requirements.* The Director shall ensure that a completed application for which the Concept Plan is a component has been submitted by the applicant pursuant to Section 11.2.1, General Application Procedures, and includes the information and materials necessary for ~~the Decision Making Authority~~Decision Maker~~City Council~~ as provided for in Section 11.1.16 to render an informed decision. In addition to the requirements necessary for review of the associated application, a Concept Plan must also include the following:
- D. *Review Criteria.* In the review and consideration of a proposed Concept Plan, the ~~Decision Making Authority~~Decision Maker~~Director, Planning and Zoning Commission, and City Council~~ shall consider the following criteria:
- G. *Expiration of Approved Concept Plans.* Concept Plan approval shall expire as follows:
2. *Extension Procedure.*
    - a. Prior to the expiration of an approved Concept Plan, the applicant may petition the City, in writing, to extend the plan approval. Such petition shall be considered at a public meetings before the Planning and Zoning Commission ~~and the City Council~~ and an extension may be granted by the Planning and Zoning Commission~~City Council~~. For a Concept Plan for a Master Planned Community, the Director may approve an extension not to exceed two (2) years. Any such extension must be approved prior to the expiration of the approval and if not approved then the Concept Plan will expire as set out in Subsection 11.3.5.G.1 above, unless the applicant demonstrates that progress toward completion of the project has occurred as set out in herein.
    - b. In determining whether to grant a request for extension, the Planning and Zoning Commission~~City Council~~ shall take into account the requirements of Chapter 245 of the Texas Local Government Code and the reasons for the lapse, and the ability of the property owner to comply with any conditions attached to the original approval. The ~~City Council~~Planning and Zoning Commission shall either extend the approval of the Concept Plan or deny the request. The Planning and Zoning Commission~~City Council~~ may extend the approval subject to additional conditions as are necessary to ensure compliance with the original conditions of approval and to protect the public health, safety and welfare. The ~~City Council~~Planning and Zoning Commission may also specify a shorter time for extension of the approval than the original approval period.

## DIVISION 11.4 SUBDIVISION PERMITS AND APPROVALS

### Section 11.4.1 General Procedures

- B. *Statutory Procedures.*

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1. *Approval Required.* Before any land is filed for record with the county clerk, the property owner shall apply for and secure ~~Decision Making Authority~~Decision Maker ~~City Council~~ approval of the required subdivision plat, in accordance with the following procedures, unless otherwise provided within these regulations.

b. Major subdivisions may be approved for residential or nonresidential properties. The procedure for approval of a major subdivision typically involves two (2) steps: Preliminary Plat and a Final Plat. Section 11.4.2, Preliminary Plat, and Section 11.4.3, Final Plat, provide the requirements for each. Major plat approval shall be in accordance with Section 11.4.2, Preliminary Plat, and Section 11.4.3, Final Plat. Upon completion of the required public improvements, or upon submission and City approval of the appropriate surety for public improvements, the property owner may submit the Final Plat for approval. All major subdivision plats shall be ~~approved~~reviewed by the Planning and Zoning Commission, ~~and in some cases, pursuant to Section 11.1.16, City Council, and approved by the City Council,~~ pursuant to the applicable plat approval procedures established by these regulations. Lots may be sold only when the Final Plat has been approved and filed with the appropriate county. If the land is required to be platted, no conveyance or sale of any portion or lot of the property may occur until the Final Plat is approved and filed with the appropriate county.

5. *Submission Procedures and City Review Process for All Types of Plats.*

b. *Submission Materials.* The Director shall ensure that an administratively complete application has been submitted by the applicant pursuant to Section 11.2.1, General Application Procedures, and includes the information and materials necessary for ~~the Decision Making Authority~~Decision Maker ~~City Council~~ to render an informed decision.

d. *Action by the Commission and City Council.*

- i. All subdivision plat applications (except Minor Plats and Amending Plats) shall be ~~reviewed~~approved by the ~~Decision Making Authority~~Decision Maker(s) ~~Planning and Zoning Commission and approved by the City Council~~ if in complete conformance with the provisions of these regulations and with all other applicable regulations of the City.
- ii. The ~~Decision Making Authority~~Decision Maker(s) ~~Planning and Zoning Commission~~ shall review each plat application and shall take action to either ~~recommend approval of~~ the plat application, ~~recommend approval of~~ the plat application subject to certain conditions, or ~~recommend denial of~~ the plat application, within thirty (30) calendar days following the date the application was deemed administratively complete unless the applicant has submitted a written waiver of the thirty-day review/approval time pursuant to Subsection 11.4.1.B.5.c, Technical Review, above.
- iii. When the City Council is the Decision Maker for a particular application or permit under this ordinance, it shall review and take action on ~~the plat application the application or permit involving a Planned Development District, ???, and ????~~ the plat application the application or permit involving a Planned Development District, ???, and ???? within thirty (30) calendar days following the Commission's action unless a shorter time is required by law. ~~Approval of, or minor modifications to, the Commission's~~

recommendation shall require a simple majority vote of the City Council members present and voting.

6. *Simultaneous Submission of Plats.* In the event that an applicant submits Preliminary and Final Plat applications simultaneously, as provided in Subsection 11.2.1.I, Concurrent Applications, the City Manager (or designee) shall schedule both plat applications for action by the Commission within thirty (30) calendar days following the date the applications are deemed administratively complete, unless the applicant has executed a written waiver of the thirty-day review period for one or both plats. If the Preliminary Plat has not received ~~a recommendation of~~ approval by the ~~Decision Making Authority~~Decision Maker~~Commission~~ prior to consideration of the Final Plat by the ~~Decision Making Authority~~Decision Maker~~Commission~~, then the ~~Decision Making Authority~~Decision Maker~~Commission~~ shall deny the Final Plat application (unless withdrawn by the applicant) and such denial shall be final unless appealed to the City Council. ~~The City Council shall take action on either one (1) or both plat applications, as applicable, within thirty (30) calendar days following the Commission's action. Affirmation of, or minor modifications to, the Commission's recommendation to approve the plat(s) shall require a simple majority vote of the City Council members present and voting.~~
7. *Lapse of Plat Approval.* The approval of any type of plat shall be effective for a period of two hundred and seventy (270) calendar days beyond the date that the plat was approved by the ~~City Council~~Decision Making Authority~~Decision Maker~~, except as otherwise provided herein. By 12:01 a.m. on the two hundred seventieth day following ~~Decision Making Authority~~Decision Maker~~City Council~~ approval of the plat, the applicant shall have completed the next City-required "progress benchmark" as set forth below. If this is not accomplished, then the approved plat shall be deemed to have expired and shall become null and void and a new plat application (along with all other required paperwork, plans, fees, etc.) shall be submitted, reviewed and approved by the City in order to proceed with development of the property. The series of "progress benchmarks" for a project, pursuant to the provisions of this Section, are as follows in Table 11.4.1, Progress Benchmarks of Approved Plats or Plans, below:

Table 11.4.1 Progress Benchmarks of Approved Plats or Plans	
Approved Plat or Plan	Next "Progress Benchmark"
Preliminary Plat	All of the following shall occur within one hundred and eighty-three (183) calendar days following Preliminary Plat approval:
	a) City Engineer's approval of Construction Plans for all proposed public improvements; and
	b) Payment of all applicable Site Development related fees that are traditionally collected prior to release for site construction.

	In addition to the above, an application for approval of the Final Plat shall also be submitted to the City within three hundred and sixty-five (365) calendar days following actual commencement of site construction in order to avoid lapse of the approved Preliminary Plat (unless such is extended or reinstated pursuant to provisions in these regulations).
Final Plat	<p>Final Plat <del>reviewed by the Planning and Zoning Commission and</del> approved by the <del>Decision Making Authority</del> <u>Decision Maker</u> <del>City Council</del> but not yet filed with the county: Submission of the plat mylars, filing fees and other materials necessary to file the plat at the county shall be submitted to the City within thirty (30) calendar days of the date of Final Plat approval. The Final Plat shall be recorded with the appropriate county within two hundred and seventy (270) calendar days following the date of Final Plat approval in order to avoid lapse of the approved Final Plat unless such approval is extended or reinstated pursuant to provisions in these regulations.</p> <p>Final Plat that has been filed with the county: Valid in perpetuity unless the filed plat is properly amended or vacated pursuant to the provisions of these regulations.</p>

8. *Extension Procedure.*

- a. Prior to the lapse of approval for a plat, the property owner may request in writing to the City to extend the plat approval. Such petition shall be considered at a public meeting before the ~~Decision Making Authority~~ Decision Maker ~~Commission~~, which shall ~~recommend approval or denial of the petition. The petition shall then be considered by the City Council at its next regularly scheduled meeting (if possible), and an extension may be granted by the City Council at such meeting.~~ If no petition for extension of plat approval is submitted by the property owner prior to the expiration date, then the plat shall be deemed to have expired and shall become null and void.
- b. In considering whether to grant a request for extension, the ~~Decision Making Authority~~ Decision Maker ~~Commission, and ultimately City Council~~, shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which newly adopted subdivision regulations would apply to the plat at that point in time. The ~~Decision Making Authority~~ Decision Maker ~~City Council~~ shall either extend the plat (either with or without conditions) or shall deny the request, in which instance the originally approved plat shall be deemed to be null and void. The property owner shall thereafter submit a new plat application for approval and shall conform to the subdivision regulations then in effect.
- c. The ~~Decision Making Authority~~ Decision Maker ~~City Council~~ may extend the plat approval subject to additional conditions based upon newly enacted city regulations or state legislation, or such as are necessary to ensure compliance with the original conditions of approval or to protect the public health, safety and welfare. The ~~Decision Making~~

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~~Authority Decision Maker City Council~~ may also specify a shorter time for extension of the plat than the original two hundred seventy-day approval period.

9. *Lapse of Approval of Construction Plans.* The approved Construction Plans shall be valid for a period of three hundred and sixty-five (365) calendar days following approval by the City Engineer. The ~~Decision Making Authority Decision Maker City Council~~ may, upon written request by the applicant, grant an extension of up to an additional three hundred and sixty-five (365) calendar days, after which the Construction Plans shall be subject to re-approval by the City Engineer if no construction has occurred. Construction Plans may be submitted after Preliminary Plat approval only with approval of the Director, but in no case shall be submitted later than one hundred eighty-three (183) calendar days of that approval.

### **Section 11.4.2 Preliminary Plat**

#### **B. Procedures.**

3. *Concurrent Submittals Allowed.* The applicant may choose to submit a Final Plat for review concurrently with the Preliminary Plat. In such case, the City may schedule concurrent review of both plats, provided that all required information and other items are submitted for both plats, including full Construction Plans and the appropriate assurances for the completion of all improvements, as per Division 6.4, Requirements for Acceptance of Subdivisions by the City of Marble Falls, and provided that adequate review can be achieved by the City. If the City, due to staff resources or other factors, cannot complete its review of both plats, and other associated materials, prior to the applicable Commission and, if applicable City Council meeting(s), then only the Preliminary Plat shall be considered for approval and the Final Plat shall be denied unless the thirty-day review requirement is waived in writing by the applicant.
4. *Effect of Approval.* Approval of a Preliminary Plat by the ~~Decision Making Authority Decision Maker City Council~~ shall be deemed general approval of the street and lot layout shown on the Preliminary Plat (approval for construction of the necessary streets, water lines, sewer lines, and other required improvements and utilities shall be authorized only through the City Engineer's approval of the Construction Plans), and to the preparation of the engineering drawings and Final Plat when construction of all required public improvements is nearing completion (or when appropriate surety for completion is provided to the City). Except as provided for herein, approval of the Preliminary Plat shall constitute conditional approval of the Final Plat when all conditions of approval and when all procedural requirements set forth in these regulations have been met, and when the Construction Plans have been approved and construction of all improvements (or surety provided) are satisfactorily completed.
5. *Standards for Approval.* No Preliminary Plat shall be approved by the ~~Decision Making Authority Decision Maker City Council~~ unless the following standards have been met:
  - a. The plat substantially conforms to other studies and plans, as applicable;
  - b. The layouts and Construction Plans for required public improvements and City utilities have been submitted by the applicant for approval by the City Engineer (whether specifically stated or not, Preliminary Plat approval shall always be subject to any

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additions or alterations to the Construction Plans as deemed necessary by the City Engineer, as needed, to ensure the safe, efficient and proper construction of public improvements within the subdivision); and

- c. The plat conforms to the Comprehensive Plan and to applicable zoning and other City regulations.

#### 7. *Construction Plans.*

- f. After approval of the Preliminary Plat by the ~~Decision Making Authority~~[Decision Maker](#)~~City Council~~, approval of the Construction Plans by the City Engineer, and following procurement of all applicable permits from other appropriate agencies (such as TxDOT, TCEQ, U.S. Army Corps of Engineers, FEMA and/or Burnet County), the applicant shall cause a contractor(s) to install or construct the public improvements in accordance with the approved plans and the City's standard specifications, and at the applicant's expense (also see Division 6.4, Requirements for Acceptance of Subdivisions by the City of Marble Falls). The applicant shall employ engineers, surveyors or other professionals as necessary to design, stake, supervise, perform and complete the construction of such improvements, and shall cause his or her contractor to construct the said improvements in accordance with these regulations and with the City's and any other applicable agency's design standards. If the project will require a FEMA map revision, then the proposed plans shall also be reviewed for compliance with the City's Flood Damage Prevention Code (Division 5.2, Flood Damage Prevention, as amended) prior to approval of the Preliminary Plat and prior to any construction activities (including but not limited to grading, clearing, grubbing, brush removal, etc.) on the site.

#### **Section 11.4.3 Final Plat**

- B. *Accordance with Preliminary Plat.* The Final Plat shall be in accordance with the Preliminary Plat, as approved, and shall incorporate all applicable conditions, changes, directions and additions imposed by the ~~Decision Making Authority~~[Decision Maker](#)~~Planning and Zoning Commission and City Council~~ upon the Preliminary Plat. The Final Plat shall not be ~~approved~~~~reviewed~~ by the ~~Planning and Zoning Commission~~~~Decision Making Authority~~[Decision Maker](#) until all utilities, infrastructure, and other required improvements have been constructed in conformance with City standards and the Construction Plans, as approved by the City Engineer, unless provisions are made for the completion of the improvements in accordance with Division 6.4, Requirements for Acceptance of Subdivisions by the City of Marble Falls. The Final Plat shall not be submitted prior to approval of the Preliminary Plat (see Subsection 11.4.1.B.6, Simultaneous Submission of Plats, for exception).
- C. *Determination of Completion.* Final Plat applications which do not include the required data, completed application form, submission fee, number of copies of the plat, record drawings, "Letter of Satisfactory Completion" (of the public improvements) from the City, and other required information, including documentation that all required public improvements have been constructed and installed in accordance with City standards, letters from utility companies verifying their easements, and submission of the proper assurances or escrow funds for the completion of the improvements (per Division 6.4, Requirements for Acceptance of Subdivisions by



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the City of Marble Falls) will be considered incomplete, and shall not be accepted for submission by the City, and shall not be scheduled on a Planning and Zoning Commission or City Council agenda until the proper information is provided to City staff.

D. *Standards for Approval.* No Final Plat shall be approved by the ~~Decision Making Authority~~Decision Maker~~City Council~~, unless the following standards have been met:

F. *Timing of Public Improvements.*

1. The ~~Decision Making Authority~~Decision Maker~~City Council~~ may permit all or some of the public improvements to be installed, offered for dedication, or accepted by the City after approval of the Final Plat by the ~~Decision Making Authority~~Decision Maker~~City Council~~ if there exists a compelling reason that is consistent with the public health, safety or welfare to do so (also see Division 6.4, Requirements for Acceptance of Subdivisions by the City of Marble Falls) and proper assurance is provided.
2. The ~~Decision Making Authority~~Decision Maker~~City Council~~ may permit or require the deferral of the construction of public improvements if, in its judgment, deferring the construction would not result in any harm to the public or would offer significant advantage in coordinating the site's development with adjacent properties and off-site public improvements. The deferred construction of any required public improvement(s) shall be approved by the ~~Decision Making Authority~~Decision Maker~~City Council~~ at the time of Preliminary Plat approval, and the necessary assurances for completion of the improvements, in accordance with Division 6.4, Requirements for Acceptance of Subdivisions by the City of Marble Falls, shall be a stipulation, or condition, of approval of the Preliminary or Final Plat, as appropriate.
3. If the ~~Decision Making Authority~~Decision Maker~~City Council~~ does not require that all public improvements be installed, offered for dedication, or accepted by the City prior to approval of the Final Plat, the applicant shall provide assurances or security for the completion of the improvements or escrowed funds, as provided in Division 6.4, Requirements for Acceptance of Subdivisions by the City of Marble Falls.

G. *Effect of Approval.* Approval of a Final Plat authorizes the property owner, upon fulfillment of all requirements and conditions of approval and upon completion of construction of all required improvements (or submission of the proper assurances for construction of same, per Division 6.4, Requirements for Acceptance of Subdivisions by the City of Marble Falls), to submit the final copies, or mylars, of the plat for filing at the appropriate county. Lots may be sold only when the Final Plat has been approved by ~~the Decision Making Authority~~Decision Maker, ~~the City Council~~ and the plat has been filed with the county. No conveyance or sale of any portion or lot of the property may occur until after the Final Plat is approved by the ~~Decision Making Authority~~Decision Maker~~City Council~~ and filed at the county.

H. *Revisions to Approved Final Plat Prior to Filing at the County.* Occasionally, minor revisions are needed before the Final Plat can be filed at the county. Such minor revisions as correction of bearings or distances, correction of minor labeling errors, addition of erroneously omitted informational items and labels, etc. may occur on the Final Plat prior to filing it without ~~the City Council~~ having to receive re-approval ale the Final Plat. Determination of whether or not revisions are "minor" in nature is subject to the judgment of the Director and City Engineer. Major revisions, such as obvious corrections or reconfiguration of lot lines or easements, relocation of driveways or



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access easements or fire lanes, any modification to the perimeter or boundary of the property, and relocation or addition or deletion of any public improvement (including corresponding easement), shall necessitate re-submission and re-approval of the plat as a "revised Final Plat" unless otherwise approved by the Director and the City Engineer, as applicable. The procedures for such re-approval shall be the same as for a Final Plat, and such re-approval may constitute a new project thus necessitating submission of a new application form, payment of new fees, compliance with amendments to these regulations which occurred since original Final Plat approval, and other requirements.

- I. *Filing the Final Plat at the County.* Subsequent to Final Plat approval by the ~~Decision Making Authority~~Decision Maker~~City Council~~, the applicant shall return copies of the Final Plat, as approved, along with any other required documents and necessary fees, to the Director within thirty (30) calendar days following approval, in accordance with requirements established by the City. All easements shall be included on the Final Plat, including the recording information for those easements that are filed or recorded as separate instruments, as required by utility companies and the City of Marble Falls prior to filing the Final Plat, and a copy of letters from each applicable utility company shall be submitted to the City Manager (or designee), and a copy of same shall be submitted to the Director and the City Engineer, stating that the plat contains the proper easements. All necessary filing materials as required by the county clerk of the appropriate county, in addition to the appropriate number of mylar copies and a digital copy of the plat file(s) required by the City Manager (or designee), shall be returned to the Director with the required filing fees. If the required copies and materials are not returned to the City within the specified thirty-day time frame, the approval of the Final Plat shall be null and void unless an extension is granted by the ~~Decision Making Authority~~Decision Maker~~City Council~~. The City secretary shall cause the Final Plat to be filed at the office of the county clerk within thirty (30) calendar days following receipt of all filing materials, including filing fees.

#### **Section 11.4.4 Minor Plat**

- C. *Criteria for Approval.* The Director may approve a Minor Plat, or may, for any reason, elect to present the Minor Plat to the Planning and Zoning Commission for consideration and approval. Any decision made on the Minor Plat by the Director shall be approval of the plat. Should the City Manager (or designee) refuse to approve the Minor Plat, then the plat shall be referred to the Planning and Zoning Commission for ~~review and City Council for~~ approval within the time period required by state law.

#### **Section 11.4.5 Development Plat**

- E. *Prohibition on Development.* No development shall commence, nor shall any Building Permit, utility connection permit, electrical connection permit or similar permit be issued, for any development or land division subject to this Section, until a Development Plat has been approved by the ~~Decision Making Authority~~Decision Maker~~City Council~~ and submitted to the City for filing at the county. Notwithstanding the provisions of this Section, the City shall not require Building Permits or

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otherwise enforce the City's building code in the City's extraterritorial jurisdiction in relation to any Development Plat required by this subdivision ordinance.

- G. *Conditions.* The ~~Decision Making Authority~~Decision Maker~~City Council~~ may impose such conditions on the approval of the Development Plat as are necessary to assure compliance with the standards in Subsection 11.4.5.F, Standards of Approval, above.
- H. *Approval Procedure.* The application for a Development Plat shall be submitted to the City in the same manner as a Final Plat (see Section 11.4.2, Preliminary Plat, and Section 11.4.3, Final Plat), and shall be approved, conditionally approved, or denied by the ~~Decision Making Authority~~City Council in a similar manner as a Final Plat. Upon approval, the Development Plat shall be filed at the county by the Director in the same manner as prescribed for a Final Plat (see Section 11.4.3, Final Plat), and approval of a Development Plat shall expire if all filing materials are not submitted to the City Manager (or designee) and if the plat is not filed at the county within the time periods specified for a Final Plat.

#### **Section 11.4.6 Replat**

- C. *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 vacation of that plat if the Replat:
  - 2. Is approved, after a public hearing (if required by state law) on the matter at which parties in interest and citizens have an opportunity to be heard, by the Planning and Zoning Commission and by the City Council; and
- F. *Protest of Replatting.* If the property owner(s) of twenty (20) percent or more of the total land area of lots to whom notice is required to be given under Subsection 11.4.6.C, Replatting Without Vacating Preceding Plat, above file with the City a written protest of the replatting before or at the public hearing, or if the Replat requires a waiver/suspension as defined in Section 11.4.8, Subdivision Waiver and Suspension, then approval of the Replat will require the affirmative vote of at least three-fourths ( $\frac{3}{4}$ ) of the full City Council. For a legal protest, written instruments signed by the owners of at least twenty (20) percent of the total land area of the lots or land immediately adjoining the area covered by the proposed Replat and extending two hundred (200) feet from that area, but within the original subdivision, shall be filed with the City prior to the close of the public hearing. In computing the percentage of land area subject to the "20% rule" described above, the area of streets and alleys shall be included.

#### **Section 11.4.7 Amending Plat**

- C. *Criteria for Approval.* The Director may approve an Amending Plat, which may be recorded and is controlling over the preceding or Final Plat without vacation of that plat if the Amending Plat is signed by the applicants only and if the Amending Plat is for one (1) or more of the purposes set forth in this Section. The procedures for Amending Plats shall apply only if the sole purpose of the Amending Plat is to:

- 10. To make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:

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- a. ~~The changes do not affect applicable zoning and other regulations of the City;~~
  - b. ~~The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and~~
  - c. The area covered by the changes is located in an area that the ~~City Council~~Planning and Zoning Commission has approved, after a public hearing, as a residential improvement area.
- D. ~~Consideration by Planning and Zoning Commission or City Council.~~ The City Manager (or designee) may, at his or her discretion and for any reason, elect to present the Amending Plat to the Planning and Zoning Commission ~~and City Council~~ for consideration and approval. Any decision made on the Amending Plat by the Director shall be approval of the plat. Should the City Manager (or designee) refuse to approve the Amending Plat, then the plat shall be referred to the Commission for ~~review and the City Council for~~ approval, within the time period required by state law.

#### Section 11.4.8 Subdivision Waiver and Suspension

- A. *General.* Where the Planning and Zoning Commission ~~recommends~~ (also see Subsection 11.4.8.C, Procedures, below), ~~and the City Council~~ finds, that undue hardships will result from strict compliance with a certain provision(s) of these regulations, or where the purposes of these regulations may be served to a greater extent by an alternative proposal, the Commission ~~and City Council~~ may approve a waiver/suspension from any portion of the subdivision regulations as prescribed in Article 6, Subdivision Design and Land Development, so that substantial justice may be done and the public interest is secured, provided that the waiver/suspension shall not have the effect of nullifying the intent and purpose of these regulations, and further provided that the ~~Planning and Zoning Commission~~City Council shall not approve a waiver/suspension unless it shall make findings based upon the evidence presented to it in each specific case that:
- B. *Criteria for Waivers/Suspensions from Development Exactions.* Where ~~the Planning and Zoning Commission~~the City Council finds that the imposition of any development exaction pursuant to the regulations prescribed in Article 6, Subdivision Design and Land Development, exceeds reasonable benefit to the property owner, or is so excessive as to constitute confiscation of the tract to be platted, it may approve a full or partial, at its discretion, waiver/suspension to such requirements, so as to prevent such excess.
- C. *Procedures.*
1. A petition for a waiver/suspension shall be submitted in writing by the property owner before the plat is submitted for the consideration of the Planning and Zoning Commission. The petition shall state fully the grounds for the application, and all of the facts relied upon by the petitioner.
  2. Where a hardship is identified during Preliminary Plat plan review pursuant to these regulations which requires issuance of a waiver/suspension from a provision in these regulations, the Commission may ~~recommend~~approve a conditional (or temporary) waiver/suspension from that provision in conjunction with the Preliminary Plat approval ~~by the City Council. All~~

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~~waivers/suspensions shall have final approval or disapproval by the City Council.~~ Any waiver or suspension ~~recommended for denial~~denied by the Planning and Zoning Commission may be appealed and shall require a three-fourths (¾) majority for approval by the City Council.

3. Such findings of the Planning and Zoning Commission, and if appealed the City Council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the Planning and Zoning Commission and as applicable City Council meeting at which a waiver/suspension is considered. A waiver/suspension from any provision of these regulations may be granted only when in harmony with the general purpose and intent of these regulations so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the property owner or developer, standing alone, shall not be deemed to constitute undue hardship.
- D. *Criteria for Waivers/Suspensions for Street Exactions.* Where the Planning and Zoning Commission City Council finds that the imposition of any dedication or construction requirement for streets pursuant to these regulations exceeds reasonable benefit to the property to be platted, it may approve waivers/suspensions for such requirements so as to prevent such excess. In order to qualify for a waiver/suspension under this Section, the property owner shall demonstrate that the costs of right-of-way dedication and construction of other than streets classified as local streets imposed pursuant to these regulations substantially exceeds the incremental costs of providing land and transportation improvements necessary to offset the additional traffic impacts generated by, or attributable to, the development upon the transportation network serving the property, including that which may be generated by or attributed to other phases to be platted in the future.
- E. *Conditions.* In approving a waiver/suspension, the Planning and Zoning Commission and City Council as applicable may require such conditions as will, in its judgment, secure substantially the purposes described in Section 6.1.1, Subdivision of Property.

#### Section 11.4.9 Plat Vacation

- B. *By Property Owner.* The property owner of the tract covered by a plat may vacate, upon ~~review by the Commission and~~ approval by the Planning and Zoning Commission~~City Council~~, the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat (instrument language is available from the City, upon request).
- D. *Criteria.* The Planning and Zoning Commission ~~shall review, and the City Council~~ may approve, the petition for vacation on such terms and conditions as are in accordance with Section 212.013 of the Texas Local Government Code (as amended), and as are reasonable to protect the public health, safety and welfare. As a condition of vacation of the plat, the Planning and Zoning Commission~~City Council~~ may direct the petitioners to prepare and seek approval of a revised Final Plat in accordance with these regulations such that the property does not become "unplatted".
- E. *Effect of Action.* On the execution and recording of the vacating instrument, the vacated plat shall have no effect. Regardless of the Commission's ~~and City Council's~~ action on the petition, the property owner will have no right to a refund of any monies, fees or charges paid to the City nor to

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the return of any property or consideration dedicated or delivered to the City except as may have previously been agreed to by the Commission ~~and City Council~~.

F. *City-Initiated Plat Vacation.*

1. *General Conditions.* The ~~Planning and Zoning Commission~~ City Council, on its motion, may vacate the plat of an approved subdivision or addition when:
2. *Procedure.* The Commission ~~shall recommend approval, and the City Council~~ shall approve, the Plat Vacation only if the criteria and conditions cited above are satisfied.
3. *Record of Plat Vacation.* If the ~~Planning and Zoning Commission~~ City Council approves vacating a plat, the Director shall cause a copy of the Plat Vacation instrument to be recorded in the office of the county clerk along with an exhibit showing a drawing of the area or plat vacated. The county clerk shall write legibly on the vacated plat the word "vacated" and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded. If the ~~Planning and Zoning Commission~~ City Council vacates only a portion of a plat, it shall cause a revised Final Plat drawing to also be recorded which shows that portion of the original plat that has been vacated and that portion that has not been vacated. On the execution and recording of the vacating instrument the vacated plat (or the vacated portion of the plat) has no effect.

A. [Appendix B, Development Code](#), is amended as follows:

1. [That Article 3, Land Use, Division 3.1, Land Uses by District, Section 3.1.2 Agricultural Uses, Table 3.1.2, Agricultural and Ranch Uses by Zoning District](#) is amended as follows:

Table 3.1.2 Agricultural and Ranch Uses by Zoning District																		
Land Use	ZONING DISTRICTS P=Permitted R=Restricted E=Existing C=Conditional MP=Master Planned Community —=Prohibited																Reference to Supplemental Use Standards	
	Ag	Residential					ENZ Subdistrict					Nonresidential						
	FR	RE	NR	TR	DR	MR	ENZ.1	ENZ.2	ENZ.3	ENZ.4	ENZ.5	NC	GC	DN	DT	BP		IN
Crop Production and Sales	P	—	—	—	—	—	—	—	—	—	—	—	—	—	—	<del>R</del>	R	Table 3.2.1.A

2. [That Article 3, Land Use, Division 3.1, Land Uses by District, Section 3.1.3 Residential and Neighborhood Uses, Table 3.1.3 Residential and Neighborhood Uses by Zoning District](#) is amended as follows:

Table 3.1.3 Residential and Neighborhood Uses by Zoning District																		
Land Use	ZONING DISTRICTS P=Permitted R=Restricted E=Existing C=Conditional MP=Master Planned Community —=Prohibited																Reference to Supplemental Use Standards	
	Ag	Residential					ENZ Subdistrict					Nonresidential						
	FR	RE	NR	TR	DR	MR	ENZ.1	ENZ.2	ENZ.3	ENZ.4	ENZ.5	NC	GC	DN	DT	BP		IN
Single-Family Detached	P	P	P	P	P	MP	P	P	P	P	P	<del>E</del>	—	—	—	—	—	Table 3.2.1.B
Duplex	—	—	MP	P	P	MP	—	C	P	P	P	<del>E</del>	—	—	—	—	—	Table 3.2.1.B
Townhouse	—	—	MP	P	P	P	—	—	P	P	—	<del>E</del>	—	R	R	—	—	Table 3.2.1.B
Apartment - Attached	—	—	—	C/MP	C	P	—	—	—	P	—	<del>E</del>	—	R	R	—	—	Table 3.2.1.B
Apartment - Detached	<u>—</u>	<u>—</u>	<u>—</u>	<u>C/MP</u>	<u>C</u>	<u>P</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>P</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>R</u>	<u>R</u>	<u>—</u>	<u>—</u>	<u>Table 3.2.1.B</u>

3. [That Article 3, Land Use, Division 3.1, Land Uses by District, Section 3.1.4 Civic Uses, Table 3.1.4 Civic Uses by Zoning District is amended as follows:](#)

Table 3.1.4 Civic Uses by Zoning District																		
Land Use	ZONING DISTRICTS P=Permitted R=Restricted E=Existing C=Conditional MP=Master Planned Community —=Prohibited															Reference to Supplemental Use Standards		
	Residential						ENZ Subdistrict					Nonresidential						
	FR	RE	NR	TR	DR	MR	ENZ.1	ENZ.2	ENZ.3	ENZ.4	ENZ.5	NC	GC	DN	DT		BP	IN
Social Service Institution	—	—	—	—	C	—	—	—	—	—	—	—	<u>PR</u>	<u>P</u>	<u>P</u>	<u>P</u>	—	Table 3.2.1.C
Utilities, Major	P	—	—	—	—	—	—	—	—	—	—	—	—	—	<u>PR</u>	P	—	<del>N/A-Table 3.2.1C</del>

4. [That Article 3, Land Use, Division 3.1, Land Uses by District, Section 3.1.5 Commercial Uses, Table 3.1.5 Commercial Uses by Zoning District is amended with regard to car washes, hotels, landscape supply and garden centers, vehicle services as follows:](#)

Table 3.1.5 Commercial Uses by Zoning District																				
Land Use	ZONING DISTRICTS P=Permitted R=Restricted E=Existing C=Conditional MP=Master Planned Community —=Prohibited															Reference to Supplemental Use Standards				
	Residential						ENZ Subdistrict					Nonresidential								
	FR	RE	NR	TR	DR	MR	ENZ.1	ENZ.2	ENZ.3	ENZ.4	ENZ.5	NC	GC	DN	DT		BP	IN		
<u>Car Wash</u>																	<u>C</u>	<u>R</u>	<u>R</u>	<u>Table 3.2.1.D</u>
<u>Hotel</u>																	<u>P</u>			







6. [That Article 3, Land Use, Division 3.2, Supplemental Use Regulations, Section 3.2.1 Restricted and Conditional Uses, Table 3.2.1.A Agricultural and Ranch Restricted and Conditional Use Standards is amended as follows:](#)

Table 3.2.1.A Agricultural and Ranch Restricted and Conditional Use Standards			
Land Use	District	Development Standards	Operational/Other Standards
Crop Production and Sales	<del>BP</del> IN	Crop production shall be entirely within an enclosed building <u>and shall only be an ancillary use-*</u>	N/A

Table Notes: N/A means Not Applicable.

\*ordinance changes required

7. [That Article 3, Land Use, Division 3.2, Supplemental Use Regulations, Section 3.2.1 Restricted and Conditional Uses, Table 3.2.1.B Residential and Neighborhood Restricted and Conditional Use Standards is amended as follows:](#)

Table 3.2.1.B Residential and Neighborhood Restricted and Conditional Use Standards			
Apartment - <del>Attached</del> and <del>Detached</del>	DR	Limited to a maximum of 20 units per acre.	N/A
	TR	Limited to a maximum of 14 units per acre.	
	<del>NC</del>	<del>Limited to a maximum of 14 units per acre.</del>	
	DN DT	Limited to a maximum of 44 units per acre. Buildings must be designed to create an urban character, required parking is accessed via an alley and accommodated in a parking structure or a parking lot which uses the building to screen it from the public right-of-way. In the DN district, the first floor of the building shall be dedicated to nonresidential uses permitted within the district. No apartment units shall be located on the first floor in the DN District.	
MR ENZ.4	Must be licensed by the State of Texas. In addition to the group or community homes described in this code it is the intent of the City to authorize any other group or community home use in residential districts if required by federal or state fair housing requirements.	N/A	

Table 3.2.1.B Residential and Neighborhood Restricted and Conditional Use Standards			
	<del>NC</del> GC DT	In addition to the requirement for approval of a Conditional Use Permit, the facility must be licensed by the State of Texas and set up to house seven or more residents.	N/A

8. [That Article 3, Land Use, Division 3.2, Supplemental Use Regulations, Section 3.2.1 Restricted and Conditional Uses, Table 3.2.1.C Civic Restricted and Conditional Use Standards is amended with regard to social service institutions and major utility services as follows:](#)

Table 3.2.1.C Civic Restricted and Conditional Use Standards			
Land Use	District	Development Standards	Operational/Other Standards
Social Service Institution	DR GC DN DT BP	There are no specific restrictions applicable to the Conditional Use Permit requirement. <u>A Conditional Use Permit is required if food service or showering facilities are included.</u>	
<u>Utility Services, Major</u>	<u>BP</u>	<u>All above-ground structures and equipment must be screened from public view by a masonry wall with a minimum height of twelve (12 feet or two (2) feet above the height of the structure of equipment, whichever is less. The use is set back a minimum of 25 feet from the right -of-way of all streets bounding the property.</u>	
Table Notes: N/A means Not Applicable.			

9. [That Article 3, Land Use, Division 3.2, Supplemental Use Regulations, Section 3.2.1 Restricted and Conditional Uses, Table 3.2.1.D Commercial Restricted and Conditional Use Standards is amended as follows:](#)

Table 3.2.1.D Commercial Restricted and Conditional Use Standards			
Land Use	District	Development Standards	Operational/Other Standards
<u>Car wash</u>	<u>GC</u> <u>BP</u> <u>IN</u>	<u>There shall be no more than four (4) self-service bays; all mechanical equipment, excluding vacuum and air units is enclosed within a building; all facilities are designed and configured such that any outdoor spraying preparation or</u>	<u>All _____ full-service vehicle wash facilities must be equipped with, operate, and maintain in</u>

	<p><u>drying activities are directed away from any abutting residential district; bay access is designed to prevent headlights from shining onto any street or abutting a residential district.</u></p> <p><u>If self-service vacuums are provided, a minimum of one (1) parking space per vacuum is required, which will not interfere with site circulation, driveways, or fire lanes. Access is taken from a collector or higher classification roadway.</u></p> <p><u>Car washes in all districts is a Restricted Use and must operate in compliance with the City's Drought Contingency Plan.</u></p> <p><u>In GC, in addition to a Conditional Use Permit, a car wash must meet the Restrictions listed herein.</u></p>	<p><u>operation, a water recycling system that will recycle not less than 50 percent of the water being used by the facility, and for existing automobile wash facilities, such system is required as a condition of any permit to:</u></p> <p><u>i. Cumulatively expand the floor area of the vehicle wash facility building by more than 49 percent of the area of the vehicle wash facility building as it existed on the effective date of this Chapter;</u></p> <p><u>ii. Demolish, destroy or remove and then replace more than a cumulative 49 percent of the floor area of the vehicle wash facility building as it existed on the effective date of this Chapter, except for the purpose of replacing or repairing water recycling equipment; or</u></p> <p><u>iii. Enlarge the water tap, meter, or service line.</u></p> <p><u>Proximity to other developed or entitled car wash facilities shall be examined as part of the Conditional Use Permit process to avoid clustering of uses along a corridor, intersection, or neighborhood.</u></p>	
<p><u>Landscape Supply Sales/ Garden Center</u></p>	<p><u>GC</u></p>	<p><u>Landscape and material display must be located to the side and/or rear of building. Chain link fencing shall not be</u></p>	

		<u>located in a front setback or street setback.</u>	
<u>Personal Services</u>	<u>BP</u>	<u>Personal services are allowed as an ancillary use for up to 25% of primary use or gross floor area shall not exceed 2500 s.f. whichever is less.</u>	
Retail Sales and Services, Heavy Equipment	FR	In addition to approval of a Conditional Use Permit, any storage of equipment shall be set back at least 150 feet from the right-of-way and shown on the Site Development Plan. A Fire Lane shall be shown within the storage area.	The use shall be limited to sales and services of heavy equipment for Agricultural uses.
	GC BP	Any storage of equipment shall be set back at least 150 feet from the right-of-way and shown on the Site Development Plan. A Fire Lane shall be shown within the storage area.	<u>N/A Liquids, gels, and pastes (e.g., paints, sealers, etc.) must only be stored in enclosed buildings; no storage of explosives; there is storage of no more than 50 gallons of motor fuel; no disposal of inoperable machines or wastes on-site.</u>
Vehicle Gas or Fueling Station	<u>NC</u>	<u>There are no specific restrictions applicable to the Conditional Use Permit requirement.</u>	
	<u>NC</u> <u>GC</u>	<u>The property on which the</u>	Vehicle fueling stations shall only be allowed in

	BP	<p><u>station is located is situated no less than 300 feet from the boundary or a property line of a residential use. N/A</u></p> <p><u>No above-grade equipment for the service of gasoline, oil, air, or water (except irrigation systems) is closer than 10 feet to any public right-of-way.</u></p> <p><u>Canopies shall be connected to or integrated into the architectural design of the building in terms of color, cladding, roofing and roof pitch, if provided. In the event the use is abandoned, all underground storage tanks and pumps</u></p>	<p>the BP district as an accessory use for the fueling of vehicles associated with the primary use.</p> <p><u>No overnight storage of material, merchandise, or equipment unless it is stored within the principal building. Refuse and trash is stored in closed containers and in an area screened from view at all points on any public or private property or street.</u></p>
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		<p><u>are removed. Car washes, if accessory to the service station, shall be limited to one stall and shall direct vehicular circulation for the car wash facility away from the circulation for the rest of the site and a stacking lane for the car wash includes a 12-foot wide "escape lane" to bypass the car wash. Proximity to other developed or entitled fuel sales facilities shall be examined as part of the Conditional Use Permit process to avoid clustering of uses along a corridor, intersection or neighborhood.</u></p>	
Vehicle Sales and Rentals	DN <u>GC</u>	<u>In DN, sales or rental offices only are</u>	<u>N/A In GC, outdoor display shall follow an</u>

		<p>allowed with one vehicle display example located inside the building. No other display or storage of vehicles shall be permitted on the premises or parking areas.</p> <p><u>In GC, non-commercial moving trucks shall only be stored and parked in the rear yard behind the principal building. Permanent and temporary tent canopies may be erected over areas used for automobile sales display and shall not be considered buildings, but may not encroach into building setbacks, required parking spaces, drive</u></p>	<p><u>approved layout plan with parking striping. No outdoor storage. Outdoor display of commercial vehicles shall be set back a minimum of 25 feet from all lot lines abutting residentially zoned or developed property.</u></p>
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		<u>aisles or bufferyards. All necessary building permits shall be required, but a revision to an existing Site Plan shall not be required if the tent canopy is located over an existing display area. All safety issues regarding fire and building codes shall be addressed.</u>	
<u>Vehicle Services, Minor</u>	<u>GC</u> <u>BP</u>	<u>All service and repairs are performed within a fully enclosed building. No outdoor storage. Vehicle bay doors are located perpendicular to the public right-of-way and are not visible from abutting residentially zoned districts. Primary access is taken from a collector or</u>	N/A

			<u>higher roadway classification.</u>	
<u>Vehicle Services, Major</u>	<u>GC BP</u>	<u>In GC, all vehicle and outdoor storage areas shall be screened with Type C Bufferyard and located to the rear of the principal building.</u>  <u>In BP, all vehicle and outdoor storage areas shall be screened with Type D Bufferyard and located to the side and/or rear of the principal building.</u>	<u>Temporary outdoor storage of vehicles shall follow an approved layout plan with paving and parking striping. No long-term vehicle outdoor storage allowed.</u>	

10. That Article 3, Land Use, Division 3.2, Supplemental Use Regulations, Section 3.2.1 Restricted and Conditional Uses, Table 3.2.1.E Industrial Restricted and Conditional Use Standards is amended as follows:

Table 3.2.1.E Industrial Restricted and Conditional Use Standards			
Land Use	District	Development Standards	Operational/Other Standards
Contractor Services	GC	When located adjacent to a major arterial level street, the facility shall be set back at least 150 feet from the right-of-way. Additionally, unit doors shall not be visible from public rights-of-way nor residentially zoned or used properties. Outdoor storage shall be limited to 25% of the square footage	The use shall be conducted entirely within an enclosed building.

		of the indoor use area and shall be completely screened from view from the street and adjacent properties by a wall or fence at least eight feet in height and a Type <del>B-C</del> landscape buffer. All loading spaces and docks shall be screened from public right-of-way.	
	BP	Outdoor storage shall be completely screened from view from the street by a wall or fence at least eight feet in height and a Type B landscape buffer.	
<u>Research and Development</u>	<u>BP</u>	<u>Outdoor storage shall be completely screened from view from the street by a wall or fence at least eight feet in height and a Type B landscape buffer.</u>	
<u>Resource Extraction</u>	<u>IN</u>	<u>There are no specific restrictions applicable to the Conditional Use Permit requirement.</u>	
<u>Resource Extraction – Surface</u> <u>Resource Extraction – Subsurface</u>	<u>IN</u>	<p><u>No blasting or use of explosives shall be permitted within an IN unless a City Council Conditional Use Permit approval for such activity is granted within the IN. The issuance of a specific City Council approval use permit is subject to the applicable provisions of this Code; provided, however, the city shall set a date of expiration for the permit. If such approval is granted, blasting may be used within the boundaries of the IN provided such use complies with the applicable requirements of the Unified Fire Code, or the International Fire Code as amended and adopted by the City Council.</u></p> <p><u>A minimum buffer zone of 1,000 feet shall be maintained between the blasting area and the nearest residence or educational facility and shall be screened by a minimum 30-foot vegetated berm.</u></p> <p><u>The extraction use must be setback 300+ feet from an arterial or collector street. The site is not within the cone of influence around a wellhead.</u></p>	<p><u>All quarrying, blasting drilling, and other resource extraction will be conducted in such a manner and on such scale as to minimize dust, noise and vibration and to prevent adversely affecting the surrounding neighborhood.</u></p> <p><u>All equipment used in these operations shall be constructed, maintained and operated in such a manner as to eliminate as far as practicable, noise, vibration or dust which would injure or annoy persons living in the vicinity, and accessways or roads within the premises shall be maintained in a dust-free condition through surfacing or such other treatment as may be necessary.</u></p> <p><u>Noise limits shall not exceed 85 decibels at any time of day in IN.</u></p> <p><u>Blasting shall be permitted only during the following time periods:</u></p> <p style="text-align: center;"><u>(1) Monday through Friday (no Saturdays, Sundays, or legal holidays).</u></p>

			<p><u>(2) 80 percent between the hours of 3:00 p.m. and 5:00 p.m.</u></p> <p><u>(3) 20 percent between the hours of 10:00 a.m. and 11:00 a.m.</u></p> <p><u>Crushing operations shall be permitted only during the following time periods:</u></p> <p><u>(1) Monday through Saturday (no Sundays or legal holidays).</u></p> <p><u>(2) 8:00 a.m. to 5:00 p.m.</u></p> <p><u>Ground vibration shall be limited to a maximum of 0.28 PPV (peak particle velocity) as measured at 3,000 feet from the quarry property line or the nearest residence, whichever is closest.</u></p> <p><u>Air overpressure (air shock) shall not exceed 127 dB (decibels).</u></p>
Self-Storage	GC	<p><u>Self storage facilities shall be limited to storage use only, with the exception of an accessory leasing office, accessory retail sales, and/or single living quarters for security purposes.</u></p> <p>When located adjacent to a major arterial level street, the facility shall be set back at least 150 feet from the right-of-way.- <u>Maximum height is 30 feet. Additionally, unit doors shall not be visible from public rights-of-way nor residentially zoned or used properties. A six (6) foot privacy fence constructed of masonry construction must enclose the entire area that includes the self-storage use with exception of the office and customer/employee parking. The outer wall of the building when constructed of brick, stone, split face or tiltwall may serve as that portion of the fence; setbacks remain. Chain link fencing shall not be located in a front setback or street setback.</u></p>	<p>The use will be conducted entirely within an enclosed building. All units shall be accessed from an interior hallway and not contain an interior electrical outlet. Self-storage units shall be used solely for the purpose of storage and shall not be used to live in or for conducting or operating a business. <u>Garage sales are prohibited.</u></p>
	IN	<p><u>Self storage facilities shall be limited to storage use only, with the exception of</u></p>	<p>Outdoor storage areas shall comply with Section 4.6.5, Outdoor Storage and Display of Merchandise. Self-</p>

		<p><u>an accessory leasing office, and accessory retail sales.</u></p> <p>When located adjacent to a major arterial level street, the facility shall be set back at least 150 feet from the right-of-way. Additionally, unit doors shall not be visible from public rights-of-way nor residentially zoned or used properties. Outdoor storage areas shall be completely screened from view from the street by a <u>masonry</u> wall or fence at least eight feet in height.</p>	<p>storage units shall be used solely for the purpose of storage and shall not be used to live in or for conducting or operating a business. <u>Outdoor storage shall not include the storage of wrecked or inoperable vehicles. No outdoor storage shall be permitted within a required setback or required off-street parking.</u></p>
<p><u>Utility Service Provider</u></p>	<p><u>GC</u></p>	<p><u>When located adjacent to a major arterial level street, the facility shall be set back at least 150 feet from the right-of-way. Additionally, unit doors shall not be visible from public rights-of-way nor residentially zoned or used properties. Outdoor storage shall be limited to 25% of the square footage of the indoor use area and shall be completely screened from view from the street and adjacent properties by a wall or fence at least eight feet in height and a Type C landscape buffer. All loading spaces and docks shall be screened from public right-of-way.</u></p>	<p><u>The use shall be conducted entirely within an enclosed building.</u></p>
	<p><u>BP</u></p>	<p><u>Outdoor storage shall be completely screened from view from the street by a wall or fence at least eight feet in height and a Type B landscape buffer.</u></p>	
<p><u>Warehouse and Distribution</u></p>	<p><u>BP</u></p>	<p>The parcel proposed for development shall take access from an arterial or collector street.</p>	<p>The use will be conducted entirely within an enclosed building.</p>

11. That Article 3, Land Use, Division 3.2, Supplemental Use Regulations, Section 3.2.1 Restricted and Conditional Uses, Table 3.2.1.F Home Enterprise Restricted and Conditional Use Standards is amended as follows:

Table 3.2.1.F Home Enterprise Restricted and Conditional Use Standards			
Land Use	District	Development Standards	Operational/Other Standards
Bed and Breakfast Lodging	FR RE NR TR DR	In addition to approval of a Conditional Use Permit, the owner/operator of the bed and breakfast shall be a full-time resident of the main dwelling on the	No food preparation, except beverages, is allowed within individual guestrooms and preparation and service of food shall conform to all

	<p>ENZ.1 ENZ.2 ENZ.3 ENZ.4</p>	<p>property in which the use is located. No more than four guestrooms per property shall be allowed. On-site parking (except driveways) shall not be located in the front yard and shall be screened by a wall or fence at least six feet in height and a five-foot landscape buffer. <u>Each guest room has access to a hall or exterior door;</u></p>	<p>applicable regulations of the State of Texas and Burnet County. <u>No meals may be served to the general public.</u></p> <p>Guestroom rentals shall not be allowed for more than 21 consecutive days.</p>
	<p>NC DN DT</p>	<p>No more than six guestrooms per property shall be allowed. On-site parking (except driveways) shall not be located in the front yard and shall be screened by a wall or fence at least six feet in height and a five-foot landscape buffer. <u>Each guest room has access to a hall or exterior door;</u></p>	
<p>Home Enterprise</p>	<p>FR RE NR TR DR MR ENZ.1 ENZ.2 ENZ.3 ENZ.4 ENZ.5</p>	<p>The home enterprise shall be clearly incidental and secondary to its principal use as a dwelling unit by its occupants (<u>non-resident employees are not permitted</u>). The property <u>and buildings</u> must remain residential in appearance; this includes no external alterations to the dwelling unit; no outdoor storage <u>including but not limited to equipment, materials, supplies, and vehicles with more than two (2) axles</u>; no visible display of goods, products, services; and no signage. In addition, home enterprises may be located within the principal structure or a permitted accessory structure in accordance with the following:</p> <ol style="list-style-type: none"> <li>1. Principal Structure. The area dedicated to the use shall not be greater than 20 percent of the livable floor area of the first floor of the principal structure, or 500 square feet, whichever is less.</li> <li>2. Accessory Structure. The area dedicated to the use shall not exceed the maximum square footage allowed for all accessory buildings or structures</li> </ol>	<p>A home enterprise shall not generate sound, smell, vibration, light, or dust that is offensive or that creates a nuisance; nor generate traffic between the hours of 8:00 p.m. and 6:00 a.m. In addition, no hazardous materials may be manufactured, stored, processed, or disposed of on the premises. All vehicle parking related to the home enterprise shall occur on the residential driveway or permitted on-street parking, provided that on-street parking is allowed.</p> <p>If the home enterprise includes on-site instructional services (e.g., music, dance, or educational tutoring), no more than five students shall be allowed at one time.</p> <p><u>Deliveries by commercial vehicle are limited to the hours of 8:00 a.m. to 6:00 p.m.; however deliveries by a regular carrier such as USPS, UPS, and FedEx may be delivered during their typical hours.</u></p> <p>The following home enterprises are not allowed: child-care facilities with greater than 10 children, retail sales, vehicle sales and services, including</p>

		as set out in Section 4.6.1, Accessory Buildings and Structures, and any other applicable standards of these regulations.	the painting of vehicles, <u>contractor yards, animal breeding, animal hospitals, pet grooming, commercial kennels, commercial stables, veterinary offices, clinics, hospitals, barbershops and beauty parlors exceeding one chair, contractor's yards, junkyards, lodging houses, massage parlors/therapy clinics, rental outlets, adult oriented businesses or vehicle repair shops.</u>
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12. That Article 14, Definitions and Interpretations, Division 14.3, Definitions, is amended as follows:

i. ARTICLE 14 DEFINITIONS AND INTERPRETATIONS

- **Apartment, Attached** means a multifamily building type that is comprised of five or more independent dwelling units, for individuals and/or families living independently of each other and is located on a single lot. Apartments may be leased, rented, or owned in a condominium style of ownership.
- **Apartment, Detached** means a multifamily development that is comprised of five or more independent dwelling units, for individuals and/or families living independently of each other and is located on a single lot. Apartments may be leased, rented, or owned in a condominium style of ownership. Detached apartment developments are developed in a similar form as attached apartments and provide same community common services including but not limited to waste and parking and common amenities.
- **Automobile Repair and Service, Limited** means minor repair or replacement services for automobiles, light trucks, motorcycles, trailers, recreational vehicles, and similar non-commercial motor vehicles not exceeding one and one-half ton capacity. Services include engine tune-ups, oil changes and lubrication, wheel alignment or balancing, sales and installation of batteries or tires, transmission, drive train, radiator, fuel, electrical or muffler repairs, servicing of brakes, air conditioning or exhaust systems, incidental upholstery or similar servicing or repairs not part of collision repair and

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normally not requiring any significant disassembly or overnight on-site storage of vehicles. No outdoor storage of materials such as tires, auto parts, etc. is allowed.

- **Bed and Breakfast Lodging** means ~~a residential structure providing overnight accommodations to guests~~ an owner-occupied residence or commercial operation that offers sleeping accommodations with up to five (5) bedrooms available for overnight guests and serves breakfasts at no extra cost to its lodgers. A bed-and-breakfast shall not include restaurants, banquet facilities, or similar services.
- **Car Wash, Full-Service** means a facility for the washing, waxing, or cleaning of automobiles, recreational vehicles, motorcycles or light duty trucks where the owner of the vehicle does not actually wash the vehicle. The owner either leaves the vehicle and comes back to retrieve it later or the owner waits in a designated area while employees of the car wash facility vacuum, wash, dry, wax, and/or detail the vehicle for a fee.
- **Car Wash, Self-Service** means a facility for the washing, waxing, or cleaning of automobiles, recreational vehicles, motorcycles or light duty trucks where the owner of the vehicle causes the vehicle to become washed. This term includes a wash facility providing automated self-service (drive-through/rollover) wash bays and apparatus in which the vehicle owner inserts money or tokens into a machine, drives the vehicle into the wash bay, and waits in the vehicle while it is being washed and a wash facility providing wand-type self-service (open) wash bays in which the vehicle owner drives the vehicle into the wash bay, gets out of the vehicle, and hand washes the vehicle with a wand-type apparatus by depositing coins or tokens into a machine.
- **Contractor Services** means an establishment primarily engaged in construction or related activities off-premises. This use includes offices associated with the business and indoor or outdoor storage of supplies, and operable equipment, machinery, and vehicles.
- **Hotel, Extended Stay** means a hotel offering for rent individual guest rooms or suites intended to be used for stays which may exceed 30 consecutive days. Meeting rooms, a clubhouse, and recreational facilities for the use of residents and their guests are permitted and suites may contain complete kitchen facilities.
- 1. • **Industrial Services, Light** means uses that involve assembly, compounding, packaging, or treatment of products from previously prepared materials, with limited outside storage and limited external impacts or risks. The phrase "industrial services, light" includes, but is not limited to, such uses as:



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10. Canning or bottling of food or beverage for human consumption including brewery and distillery plants

- Landscape Supply/Garden Center means an establishment primarily engaged in the retail sale of trees, shrubs, seeds, fertilizers, pesticides, plants, pots, and other indoor or outdoor planting or gardening materials to the general public. Such establishments typically sell products purchased from others, but may sell some material which they grow themselves. Typical uses include plant nurseries, greenhouses, plant stores, and lawn and garden centers.

- “Permitted Use” - move up in alphabet order

- **Personal Services** means an establishment or place of business primarily engaged in the provision of frequently or recurrently needed services of a personal nature. Accessory uses may include drive-in or drive-through facilities, which may be further limited in certain zoning districts. The phrase "personal services" includes, but is not limited to, such uses as:

11. Other - weight loss centers, photography studios, driving schools, licensed massage therapy, medical spa, bicycle repair, appliance repair, retail bakeries, and catering.

- Resource Extraction, Subsurface means the extraction of sub-surface mineral products or natural resources including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. Typical extraction uses are quarries, borrow pits, sand and gravel operations, oil and gas extraction, and mining operations and may include milling, such as crushing screening, washing, and floatation; and other preparation customarily done at the extraction site or as part of the extractive activity.
- Resource Extraction, Surface means the extraction of surface mineral products or natural resources including solids, such as coal and ores. Typical extraction uses are quarries, borrow pits, sand and gravel operations, and mining operations and may include milling, such as crushing screening, washing, and floatation; and other preparation customarily done at the extraction site or as part of the extractive activity.
- 2. • Scrap and Salvage Yard means an establishment where junk, waste, discarded, or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, processed, handled, or recycled including such as inoperable vehicles, house materials, appliances, and structural steel equipment. The use does not include the purchase, sale, or storage of used furniture and household equipment.

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- **Utility Services Provider** means facilities of any person, firm or corporation providing electric, natural gas, telephone, cable television, fiber optic or any other such item or service for public use approved but not provided by the City of Marble Falls.
  
  - **Vehicle Sales and Rentals** means a place that sells or leases new and used automobiles, trucks, boats, construction equipment, all-terrain vehicles, non-commercial moving trucks, and motorcycles, and where such inventory is stored and/or displayed on-site for any length of time. The phrase "vehicle sales and rentals" may also include accessory uses such as vehicle fueling or charging stations, inventory vehicle washing stations, and general vehicle services. Does not include body shops (e.g., collision repair), paint booths, or reupholstering unless they are approved as principal uses on the same site.
  
  - **Vehicle Services (major)** means a place designed, used or intended to be used for the purpose of providing general repair and servicing of all types of motor vehicles, including commercial. Such repair or servicing may include reconditioning of engines, air conditioning systems and transmissions; wrecker service; collision services, including body, frame or fender straightening or repair; painting, undercoating and rust proofing; replacement or repair of brakes, shock absorbers, tires, batteries, mufflers, or upholstery; and other similar services that may require overnight on-site storage of vehicles, excluding dismantling, wrecking, or salvage.
  
  - **Vehicle Services (minor)** means any repair that does not require the removal of the engine head or pan, engine transmission, or differentia, incidental body work, rebuilding or reconditioning of engines, framework, welding, and major painting service. Examples of minor services include, but are not limited to, the changing of fluids, tires, batteries, shock absorbers, mufflers, brakes, lights, wipers, inspection, and tinting.
  
  - 3. **Warehouse and Distribution** means a facility storing goods, materials, and equipment either within an enclosed building or structure or in containers or terminals for subsequent distribution to off-site wholesalers, retailers, or consumers. The term "warehouse" includes the storage of general freight storage, food, parcels, furniture and appliances but does not include self-storage, wholesale, or warehousing that is accessory to an industrial facility, nor parcel service drop-off locations that are not accessory to a parcel service processing facility. Warehouse includes:
    1. General warehousing and distribution, open-air storage, distribution and handling of materials, goods, and equipment. ~~Typical uses include monument or stone yards, or open storage yards.~~
    2. Limited warehousing and distribution, wholesaling, storage and warehousing services within enclosed structures. Typical uses include moving companies,

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~~and~~ general freight -storage firms , cold storage plants or frozen food lockers, major wholesale distribution, parcel services and ~~now~~ retail mail order distribution centers.

- **Yard, Front** means the area extending across the full width of a lot that lies between the front lot line and the front line of a building or if there is no principal building, between the front lot line and the required front setback line. A through lot shall have a front yard on each of the opposing streets.
- **Yard, Side** means the area that lies between the front line and rear line of the principal building and the side lot line.
- **Yard, Rear** means the area extending across the full width of the lot between the principal building and the rear lot line. “