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Article 1, Enactment and Legal Status Provisions

DIVISION 1.1 ENACTMENT

Section 1.1.1 Title

- A. **Generally.** This document shall be officially known as the Development Code of the City of Marble Falls, Texas.
- B. **Short Title.** The Marble Falls Development Code may hereinafter be called “these regulations.”

Section 1.1.2 Purpose

- A. **Generally.** These regulations have been created in order to achieve the general purpose of protecting and promoting the public health, safety, morals, and general welfare of the residents, business owners, employees, property owners, and visitors of the City and by preserving places and areas of historical, cultural, or architectural importance and significance. Furthermore, these regulations are intended to be consistent with and implement City-adopted master plans and promote policies of the City.
- B. **Purposes.** In addition to the general purposes identified in Subsection 1.1.2.A, above, these regulations are intended to lessen congestion in the streets, secure safety from fire, panic and other dangers, promote the health and general welfare, provide adequate light and air, prevent the overcrowding of land, avoid undue concentration of population and facilitate the adequate provision of transportation, water, sewer, schools, parks and other public requirements.

Section 1.1.3 Authority

- A. **Generally.** These regulations are adopted and enforced in accordance with the authorities contained in the constitution and laws of the State of Texas, including Chapters 211 and 212 of the Texas Local Government Code, the City’s Home Rule Charter and other applicable statutes and law.
- B. **Comprehensive Plan.** These regulations are enacted to be consistent with and implement the policies, objectives, and other strategic actions of the City’s Comprehensive Plan.

Section 1.1.4 Jurisdiction

- A. **Generally.** These regulations apply to all land, development, and the use of all land, buildings, and structures, unless specifically exempted herein or preempted by state or federal law.
- B. **City Limits.** These regulations apply to all areas within the City limits of the City of Marble Falls, Texas.
- C. **Extraterritorial Jurisdiction (ETJ).** In order to promote the health, safety, morals, and general welfare of the City and the safe, orderly, and healthful development of the City, it is the intent of the City to exercise full authority in all or portions of the ETJ as allowed by state law, including but not limited to the following:
 - 1. The City will exercise full authority in the entire designated ETJ or portions of the ETJ (as applicable) as follows:
 - a. Plats, Development Plats and subdivision approvals.
 - b. Access to public roads.
 - c. Regulation of ground water.
 - d. The definition and prohibition of nuisances, including the power to summarily abate and remove nuisances, in the ETJ within 5,000 feet of the City limits.

- e. The regulation of non-point source pollution.
- 2. In addition to the matters listed in Subsection 1.1.4.C.1, the City will apply the following provisions related to the use and development of property in the entire designated ETJ, generally through the requirement of a subdivision plat or Development Plat and/or Site Development Plan:
 - a. Any and all portions of the City’s Code of Ordinances that specifically state their application to the ETJ;
 - b. All standards of the following regulations:
 - i. All standards of Article 5, *Environmental Protection*.
 - ii. All standards of Article 6, *Subdivision Design and Land Development*.
 - iii. All standards of Article 7, *Access, Driveways, and Circulation*.

DIVISION 1.2 LEGAL STATUS

Section 1.2.1 Relationship to Existing Applications and Development

- A. **Pending Applications for Development Approvals.** Any application for a development approval or permit submitted to the City prior to the adoption date of these regulations shall be processed and considered for approval in accordance with the regulations in effect on the date the application was submitted.
- B. **Existing Development Agreements.** Executed development agreements shall be subject to the regulations described in the Development Agreement.
- C. **Prior Conditions of Approval.** Conditions on development approvals granted prior to the effective date of these regulations remain in effect. However, conditions on development approvals granted prior to the effective date may be modified or eliminated for new applications that meet the procedures and standards of these regulations.
- D. **Private Restrictions/Deed and Covenant Restrictions.** These regulations do not affect private restrictions, nor do private restrictions affect these regulations. The City has no duty to search for the existence of private restrictions that may affect the use, development, or maintenance of a property. The City will only enforce the provisions of these regulations and other applicable City ordinances. Enforcement of private restrictions is at the sole discretion and responsibility of the parties of the private restrictions, unless such restrictions are created to provide compliance with a requirement of these regulations.

Section 1.2.2 Conflicting Provisions

- A. **Generally.** In the event that one or more of these regulations are in conflict with each other or other lawfully adopted rules, regulations, or ordinances, the requirement that is most restrictive or that imposes the higher standard shall govern.
- B. **State and Federal Law.** No part of these regulations relieves any applicant or recipient of any permit, certificate, or approval from the responsibility of complying with all other applicable requirements of any other county, state, or federal agency having jurisdiction over the structures or land uses for which the permit, certificate, or approval was issued. Likewise, compliance with state or federal law does not relieve the applicant or recipient of any permit, certificate, or approval from the responsibility of complying with these regulations, unless the application of these regulations is legally preempted.

Article 2, Zoning Districts

DIVISION 2.1 ZONING DISTRICTS

Section 2.1.1 Zoning Districts Established

- A. **Generally.** The establishment of zoning districts in the City of Marble Falls, Texas, are intended to promote compatible patterns of land use and site development consistent with the City’s Comprehensive Plan.
- B. **Districts Established.** The City of Marble Falls is hereby divided into 13 zoning districts that are established by Table 2.1.1.A, *Zoning Districts Established*. Additionally, the Existing Neighborhood Zone (ENZ) district is further divided into five sub-districts as set out in Table. 2.1.1.B, *ENZ Sub-Districts Established*. All land within the City limits shall be classified into one of the following zoning districts.

Table 2.1.1.A Zoning Districts Established			
District Type	Name	Symbol	Purpose
Agricultural	Farm and Ranch District	FR	The Farm and Ranch District is intended to protect the urban fringe from incompatible development and unplanned development by allowing the continuation of farming and ranching activities and remaining rural in character through a large minimum lot size and rural roadway cross-section. A cluster development option allows for smaller lot sizes with larger amounts of open space. As the City grows over time, this land is intended to transition in accordance with the community vision set out in the Future Land Use Plan of the City’s Comprehensive Plan.
Residential	Rural Estate District	RE	The Rural Estate District is intended to provide the opportunity to develop a large lot subdivision prior to public utilities being available. It is intended to remain rural in character, suited for larger lot, higher end housing. To remain rural in character, the lot width and setbacks are large, a minimum subdivision area is established, and roads are designed with a rural roadway cross-section. A cluster development option allows for smaller lot sizes with larger amounts of open space.
	Neighborhood Residential District	NR	The Neighborhood Residential District is intended to be the default single-family detached district and suburban in character. It includes various flexible lot size configurations, but is tied to an overall development density. Although it will be comprised of predominantly single-family detached housing, different development options (developed as a Master Planned Community) could allow a small percentage of new development to be denser, attached housing types. These areas are developed with an urban roadway cross-section.
	Transitional Residential District	TR	The Transitional Residential District is intended to provide areas of higher density and different housing types than in the Neighborhood Residential District. It is tied to an overall development density and is intended to provide an area of transition between the lower density Neighborhood Residential District and higher density districts (e.g., multifamily, commercial, etc.). These areas are developed with an urban roadway cross-section.
	Downtown Residential District	DR	The Downtown Residential District is intended to promote infill development and redevelopment while also preserving the older, and sometimes historic, pattern and character of Old Town Marble Falls. The intent of this district is to provide areas of housing adjacent to downtown as a transitional area between the nonresidential areas of the Downtown District and the residential areas more typical of the Marble Falls area. This area would be similar to the Transitional Residential District in that it would provide for higher density and different housing types than in the Neighborhood Residential District; however, it is intended that the Downtown Residential District would respect and even enhance the residential culture of the overall Downtown area and urban center of Marble Falls. In this regard, it is intended that this area will redevelop with an urban character and an urban roadway cross-section.

**Table 2.1.1.A
Zoning Districts Established**

District Type	Name	Symbol	Purpose
Residential	Multifamily Residential District	MR	The Multifamily Residential District is intended to provide areas of even higher density than in the Transitional Residential District. It is tied to an overall development density and is intended to provide an area of transition between the lower density Transitional Residential District and higher density districts (e.g., commercial). These areas will be developed with an urban roadway cross-section.
	Existing Neighborhood Zone District	ENZ	The Existing Neighborhood Zone District is intended to protect the established development pattern and character of existing neighborhoods while also providing opportunities for infill development and improvements to existing homes. Generally, existing neighborhoods are divided into sub-districts based on their existing and intended development character (see also Section 4.2.7, <i>Special Design Standards for Existing Neighborhood Zone District</i>).
Non-residential	Neighborhood Commercial District	NC	The Neighborhood Commercial District is intended for nonresidential development that is of an appropriate use, scale, and design that is compatible with abutting or nearby residential development. Accordingly, these areas are intended to take on the semi-residential appearance of their abutting residential areas. These developments typically occupy smaller footprints, have lower levels of signage, and de-emphasized parking.
	General Commercial District	GC	The General Commercial District is primarily intended for nonresidential development along the City's major thoroughfares in accordance with the vision set out in the Future Land Use Plan of the City's Comprehensive Plan. These areas are intended to be developed with an auto-oriented character, which means that the view of the automobile is the predominant view from the street right-of-way. Additional design considerations, such as building orientation, form, architecture, and materials; front- and street-side landscaping; parking lot landscaping; and access management are used to improve the quality of development consistent with the vision set out in the City's Comprehensive Plan.
	Downtown District	DN	The Downtown District is intended to serve the central core of the general area identified as Downtown on the Future Land Use Plan of the City's Comprehensive Plan. It is envisioned that this area will be developed with a higher intensity urban character, which means high lot coverages, build-to lines and limited setbacks, low to no landscaping, and a focus on on-street parking (when applicable). It is also intended to include a mix of both residential (e.g., apartments, lofts, etc.) and nonresidential uses.
	Downtown Transition District	DT	The Downtown Transition District is intended to serve the area surrounding the Downtown District and within the outer edges of the general area identified as Downtown on the Future Land Use Plan of the City's Comprehensive Plan. It is envisioned that this area will also be developed with a higher intensity urban character, but not as intense as the Downtown District, and will include higher lot coverages, build-to lines and limited setbacks, limited landscaping, and an intent to hide parking behind the building or locate on-street (when applicable). It is also intended to include a mix of both residential and nonresidential uses.
	Business/Industrial Park District	BP	The Business/Industrial Park District is intended to support various employment opportunities predominantly related to light manufacturing, light industry, or warehousing. It is intended that these uses will be undertaken entirely within an enclosed building. Additional landscaping and screening requirements will help to protect areas of outdoor storage from public rights-of-way and abutting properties.
	General Industrial District	IN	The General Industrial District is intended for areas of greater intensity than the Business/Industrial Park District. These areas are to provide a range of development opportunities including such uses as manufacturing, fabrication, and/or warehousing. These areas have the potential to involve heavy truck traffic, as such they require direct access to a principal arterial. Additionally, since the operations of these uses could occur both indoors and outdoors, these areas require larger buffers against abutting development.
Mixed	Planned Development District	PD	A Planned Development District is intended for developments with a well-planned mix of integrated land uses and densities. The district is provided to facilitate new and innovative development concepts that cannot be accommodated as a master-planned community or by other zoning districts.

- C. **ENZ Sub-Districts Established.** The ENZ district is further divided into five sub-districts which are established in Table 2.1.1.B, *ENZ Sub-Districts Established*. Any overall reference in these regulations to the “ENZ district” also includes references to each ENZ subdistrict.

Table 2.1.1.B ENZ Sub-Districts Established		
District Type	Symbol	Purpose
Existing Neighborhood Zone District	ENZ.1	The ENZ.1 sub-district primarily consists of single-family estate homes on larger lots using the previous RE-1 zoning district which pre-dated the effective date of these regulations.
	ENZ.2	The ENZ.2 sub-district primarily consists of single-family detached homes using the previous R-1 zoning district which pre-dated the effective date of these regulations.
	ENZ.3	The ENZ.3 sub-district primarily consists of single-family detached, single-family attached, duplex, and townhouse homes using the previous R-2, RA-1, and RT-3 zoning districts which pre-dated the effective date of these regulations.
	ENZ.4	The ENZ.4 sub-district primarily consists of duplexes, townhouses and apartments using the previous R-3 and R-4 zoning districts which pre-dated the effective date of these regulations.
	ENZ.5	The ENZ.5 sub-district primarily consists of manufactured housing using the previous MH-1 and MH-2 zoning districts which pre-dated the effective date of these regulations.

Section 2.1.2 Official Zoning Map

- A. **Generally.** The boundaries of all zoning districts are shown on the map entitled the “Official Zoning Map of Marble Falls, Texas,” which may be referenced herein as the “Official Zoning Map.” The Official Zoning Map and a record of all amendments thereto shall be kept on file by the City and shall constitute the original record. A copy of the currently effective Official Zoning Map may also be distributed to other City departments to facilitate inspection during regular business hours.
- B. **Force and Effect.** The Official Zoning Map, together with all legends, symbols, references, notations, boundaries, and other information, is adopted as a part of these zoning regulations, and has the full force and effect of these zoning regulations. The Official Zoning Map, with a record of all amendments that are on file with the City Secretary shall be the controlling document in the event of a conflict between the map that is on file and any other reproduction of the Official Zoning Map.
- C. **Effective Date.** The Official Zoning Map shall show the “Effective Date” and the “Last Revision Date.” Any changed, amended, replaced, or otherwise new Official Zoning Map shall supersede the prior zoning map. However, the effective date of a rezoning ordinance shall be the date specified in the ordinance itself, and not the date when the revision was made to the Official Zoning Map.
- D. **Maintenance.**
1. *Responsibility for Maintenance.* The Official Zoning Map shall be maintained by the City, which shall use all reasonable means to protect the Official Zoning Map and ensure its accuracy.
 2. *Distribution.* The City is authorized to distribute paper and digital copies of the Official Zoning Map, provided that they include the title Official Zoning Map and the Effective Date and Last Revision Date.
 3. *Notification.* The City is not required to provide individual notification of changes to the Official Zoning Map except for what is required by public notice as set out in Section 11.2.3, *Public Notice*, and as otherwise required by law.
 4. *Damaged or Destroyed Official Zoning Map.* In the event that the Official Zoning Map becomes damaged or destroyed, the City Council may adopt a new Official Zoning Map by ordinance. However, such adoption shall not amend or otherwise change district boundaries or classifications from the prior Official Zoning Map.

E. Interpreting Boundaries.

1. *Generally.* The boundaries of zoning districts are shown on the Official Zoning Map and shall adhere to the provisions of this subsection for the purposes of the administration, interpretation, and enforcement of these regulations.
2. *City Limits.* Where district boundaries are indicated as approximately following the boundaries of the City limits, the district boundary shall be construed to follow such City limit boundaries.
3. *Property Lines or Platted Lot Lines.* Where district boundaries are indicated as approximately following property lines or platted lot lines, the district boundary shall be construed to follow such property lines or platted lot lines.
4. *Rights-of-Way or Easements.* Where district boundaries are indicated as approximately following streets, roads, highways, alleys, railroads, utility lines, or similar rights-of-way or easements, the district boundary shall be construed to follow the centerline of the right-of-way or easement.
 - a. Where the location of these rights-of-way or easements differ from that shown on the Official Zoning Map, the features on the ground shall control.
 - b. Where a public right-of-way or easement is officially vacated or abandoned, the regulations applicable to the abutting property shall apply equally to each half of such vacated or abandoned right-of-way or easement unless a specific conveyance specifically states otherwise.
5. *Waterbodies, Watercourses, and Similar Geographic Features.* Where district boundaries are indicated as approximately following the centerline of waterbodies (e.g., ponds, lakes), watercourses (e.g., drainageways, streams, creeks, rivers), or other similar geographical features, the centerline of such geographical feature shall be construed to be the district boundary.
6. *Undetermined Features.* Where a parcel proposed for development is divided by a zoning district boundary not otherwise following a feature described in this Section, the regulatory provisions applicable within each district shall apply to each portion of the parcel proposed for development. In the absence of any identifiable boundaries, the district boundaries shall be clearly defined by an official survey.
7. *Interpretation Responsibility.* Should any uncertainty remain regarding the exact location of the boundaries of a zoning district as displayed on the Official Zoning Map, the Director shall make a determination based on the criteria established in this subsection.
 - a. The determination of such district boundary shall be included on the Official Zoning Map pursuant to Section 11.3.2, *Zoning Map Amendment*.
 - b. Any such administrative determination is subject to appeal in accordance to Division 11.8, *Appeals*.

F. Amendments. The Official Zoning Map may be amended, which shall supersede the prior zoning map.

1. *Generally.* Any changes or amendments to the zoning district boundaries or zoning classification of a property shall be made by ordinance pursuant to Section 11.3.2, *Zoning Map Amendment*. Amendments shall be incorporated into the Official Zoning Map promptly after the amendment has been approved by the City Council.
2. *Recordkeeping.* A descriptive record of all amendments shall be maintained and kept with the Official Zoning Map filed with the City.
3. *Effect.* Any changes or amendments to the Official Zoning Map shall not have the effect of amending these regulations or any subsequent amendment.

G. Corrections and Errors. The Director may determine that the identification of zoning of property or other characteristics of the Zoning Map are in error and shall have the authority to make corrections accordingly.

- H. **Un-Zoned Land.** All land within the City limits shall have a zoning designation. If it is determined that land has not been zoned, that land shall be zoned Farm and Ranch (FR) until affirmatively rezoned to another district.

Section 2.1.3 Zoning of Annexed Land

- A. **Generally.** It is intended that when land is annexed into the City limits, it will ultimately be zoned using the guidance of the Future Land Use Plan set out in the City's Comprehensive Plan.
- B. **Annexation and Zoning.** Upon completion of the annexation of land into the City limits, land annexed into the City shall automatically be zoned Farm and Ranch (FR) until proceedings to establish zoning may be commenced. If the land is designated on the Future Land Use Plan in a manner that is consistent with the Farm and Ranch District, the zoning shall remain FR and additional zoning actions are not needed unless otherwise required by these regulations. If the Future Land Use Plan designates the land to be for uses other than those allowed in the FR District, the City may commence the zoning process upon its own initiative at any time, including at time of annexation, or property owners may submit an application for a zoning designation. Zoning designation of newly annexed land shall follow the procedures set out in Article 11, *Administration*.

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Article 3, Land Use

DIVISION 3.1 LAND USES BY ZONING DISTRICT

Section 3.1.1 General Parameters for Determining Permitted Land Uses

- A. **Generally.** This Division identifies the land uses that may be allowed within each of the specified zoning districts established in Section 2.1.1, *Zoning Districts Established*, and sets out supplemental use regulations. Uses shall not be permitted, and buildings and structures associated with such use shall not be erected, structurally altered, or enlarged on a property, unless said use is permitted within the zoning district applicable to the property located within the City limits of Marble Falls, and in accordance to the provisions of these regulations.
- B. **List of Permitted Land Use Tables.** Permitted land uses are set out in the following sections:
1. Section 3.1.2, *Agricultural and Ranch Uses*;
 2. Section 3.1.3, *Residential and Neighborhood Uses*;
 3. Section 3.1.4, *Civic Uses*;
 4. Section 3.1.5, *Commercial Uses*;
 5. Section 3.1.6, *Industrial Uses*; and
 6. Section 3.1.7, *Home Enterprise Uses*.
- C. **Interpretation.** Land uses are classified for each zoning district as either permitted by-right (P), permitted subject to restrictions (R), allowed if existing on the effective date of these regulations (E), permitted as a conditional use (C), permitted within a Master Planned Community (MP), or prohibited (--), as set out in this subsection and as shown in the land use tables in Section 3.1.2, *Agricultural and Ranch Uses*, through Section 3.1.7, *Home Enterprise Uses*.
1. *Permitted Uses (P).* The use is permitted by-right in the specified zoning district, subject to the standards for permitted uses that are established by these regulations and any applicable City ordinance. Permitted uses do not require additional approval to be authorized within the applicable district.
 2. *Restricted Uses (R).* The use is allowed in the specified zoning district, subject to the standards for permitted uses that are established by these regulations and any applicable City ordinance, and any use-specific requirements set out in Section 3.2.1, *Restricted and Conditional Uses*. Restricted Uses may be administratively approved by the Director provided all requirements are met.
 3. *Existing Uses (E).* The use is only allowed in the specified zoning district if it existed at that location on the effective date of these regulations.
 4. *Conditional Uses (C).* The use requires approval by the City Council to be allowed within the specified zoning district, in addition to the standards for permitted uses that are established by these regulations and any applicable City ordinance, and any use-specific requirements which are set out in Section 3.2.1, *Restricted and Conditional Uses*. Conditional uses must be reviewed by the Planning and Zoning Commission after a public hearing and then approved by the City Council after a public hearing as set out in Section 11.3.4, *Conditional Use Permit*, and other applicable sections of these regulations.
 5. *Master Planned Community Uses (MP).* The use is allowed in the specified zoning district only with approval of a Master Planned Community as set out in Section 4.4.2, *Master Planned Communities*, and any applicable City ordinance. A Master Planned Community must be a minimum of 25 acres and allows administrative approval of a Concept Plan providing for a mix of new residential and non-residential uses within the specified zoning district (cannot include existing residential or other development).

6. *Prohibited Uses* (--). The use is prohibited in the specified zoning district.

D. **Principal and Accessory Uses.** The City recognizes that multiple uses may occasionally occupy a property. These uses can be classified as Principal or Accessory, as follows:

1. *Principal Uses.* The primary activity on a parcel of property is considered the Principal Use. Land uses listed in the land use tables of Section 3.1.2, *Agricultural and Ranch Uses*, through Section 3.1.6, *Industrial Uses*, shall be inferred to be a “principal use” as defined by these regulations. At times, however, a principal use identified in Section 3.1.2 through Section 3.1.6 may be secondary to another principal use (e.g., a drive-in or drive-through to a food and drink establishment) and may be subject to further use restrictions in Section 3.2.1, *Restricted and Conditional Uses*. When more than one principal use exists or is proposed on a parcel proposed for development, each shall be permitted in the zoning district and subject to any subsequent use restrictions and development standards.
2. *Accessory Uses.* Uses that are typically incidental to and subordinate to but customarily associated with a specific principal use located on the same parcel of property are considered an Accessory Use. For example, a storage facility for light industrial services, a cafeteria within a hospital, or a car wash at a vehicle fueling station. The relationship among principal and accessory uses shall be determined either by definition of the principal use in these regulations or by customary association with the principal use, as determined by the Director. Accessory uses shall not be allowed without a principal use. Accessory uses shall be subject to the same regulations that apply to the principal uses in each district, except as otherwise provided in these regulations.

E. **Unlisted Uses.** It is recognized that new types of land uses may emerge and forms of land use not presently anticipated may seek to locate to the City. The Director shall make a determination as to whether a particular unlisted use may be reasonably classified as adhering to a listed use as set out in this Division.

1. *Consideration of an unlisted use.* The Director shall consider an unlisted use on a case-by-case basis and either determine that the proposed unlisted use is materially similar to an existing listed use as defined in these regulations (see Division 13.2, *Definitions*), or determine that the unlisted use is not materially similar.
 - a. If the Director determines an unlisted use is materially similar to an existing listed use, such use will be authorized similar to the listed use and is subject to all of the same standards and requirements as set out in these regulations.
 - b. If the Director determines that an unlisted use is not materially similar to an existing listed use, the unlisted land use shall be considered incompatible and a prohibited use from being located within the City. If desired, a text amendment to consider the land use can be subsequently initiated by the City Council, as set out in Section 11.3.9, *Text Amendment*.
 - c. The Director may elect not to make a determination and request that the Planning and Zoning Commission interpret the unlisted use at their next regularly scheduled meeting. If the Planning and Zoning Commission renders an interpretation upon request of the Director, the Director shall adhere to and enforce the determination provided.
2. *Unlisted Use Determination Criteria.* In considering an unlisted use, the Director, or in the event of referral, the Planning and Zoning Commission, shall take into consideration all the land development impacts the unlisted use may have including, but not limited to, parking demand, trip generation, impervious surface, regulated air or water emissions, noise, lighting, dust, odors, solid waste generation, potentially hazardous conditions, use and storage of materials, character of building and structures, nature and impacts of operation, hours of operation, volume and frequency of deliveries, utility impact, and compatibility with surrounding land uses.

Section 3.1.2 Agricultural and Ranch Uses

The agricultural and ranch uses allowed in each zoning district are set out in Table 3.1.2, Agricultural and Ranch Uses by Zoning District.

Table 3.1.2 Agricultural and Ranch Uses by Zoning District																		
Land Use	ZONING DISTRICTS																Reference to Supplemental Use Standards	
	P=Permitted R=Restricted E=Existing C=Conditional MP=Master Planned Community --=Prohibited																	
	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		
Animal Raising or Production	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	N/A
Commercial Stables	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	N/A
Crop Production and Sales	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	R	Table 3.2.1.A
Game Ranch	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	N/A

Section 3.1.3 Residential and Neighborhood Uses

The residential and neighborhood uses allowed in each zoning district are set out in Table 3.1.3, Residential and Neighborhood Uses by Zoning District.

Table 3.1.3 Residential and Neighborhood Uses by Zoning District																		
Land Use	ZONING DISTRICTS																Reference to Supplemental Use Standards	
	P=Permitted R=Restricted E=Existing C=Conditional MP=Master Planned Community --=Prohibited																	
	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		
Cottage	--	--	MP	P	P	MP	--	--	--	--	--	--	--	--	--	--	--	N/A
Single-Family Detached	P	P	P	P	P	MP	P	P	P	P	C	--	--	--	--	--	--	Table 3.2.1.B
Single-Family Attached	--	--	MP	P	P	MP	--	C	P	P	P	--	--	--	--	--	--	
Single-Family Zero Lot Line	--	--	R	R	R	MP	--	R	R	R	R	--	--	--	--	--	--	
Industrialized Housing	R	R	R	R	R	MP	R	R	R	R	R	--	--	--	--	--	--	
Manufactured Home	R	--	C	--	--	C	--	--	--	--	P	--	--	--	--	--	--	
Manufactured Home Park	C	--	C	--	--	C	--	--	--	--	R	--	--	--	--	--	--	
Tiny House Development	C	--	C	--	C	C	--	--	--	--	R	--	--	--	--	--	--	
Duplex	--	--	MP	P	P	MP	--	C	P	P	P	--	--	--	--	--	--	
Townhouse	--	--	MP	P	P	P	--	--	P	P	--	--	--	R	R	--	--	
Triplex	--	--	MP	P	C	P	--	--	P	P	--	--	--	--	--	--	--	
Quadplex	--	--	MP	P	C	P	--	--	P	P	--	--	--	--	--	--	--	
Apartment	--	--	--	MP	C	P	--	--	--	P	--	C	--	R	R	--	--	
Live-Work Unit	--	--	--	--	--	--	--	--	--	--	--	P	--	R	R	--	--	
Loft Apartment	--	--	MP	MP	--	MP	--	--	--	--	--	C	--	P	P	--	--	
Group Home	R	R	R	R	R	R	R	R	R	R	R	C	C	--	C	--	--	

Section 3.1.4 Civic Uses

The civic uses allowed in each zoning district are set out in Table 3.1.4, *Civic Uses by Zoning District*.

Table 3.1.4 Civic Uses by Zoning District																		
Land Use	ZONING DISTRICTS																	Reference to Supplemental Use Standards
	P=Permitted R=Restricted E=Existing C=Conditional MP=Master Planned Community --=Prohibited																	
	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		
Aviation Uses, Fixed Wing	C	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
Aviation Uses, Rotary Wing	C	--	--	--	--	--	--	--	--	--	--	C	C	C	C	C		
Cemetery	P	R	C	--	--	--	E	E	E	E	E	R	R	--	--	--	--	Table 3.2.1.C
Child-care Facility, Day-Care Center	R	--	MP	MP	C	R	C	C	C	--	C	R	R	C	C	C	--	
Child-care Facility, Residential	--	--	R	R	R	C	R	R	R	--	R	C	--	--	--	--	--	
College / University	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	--	N/A	
Community Assembly / Amenity	C	C	C	C	C	C	C	C	C	C	C	R	P	P	P	C	--	
Education	R	R	R	R	R	R	--	--	--	--	--	R	R	R	R	--	--	
Government	P	P	R	R	R	P	C	C	C	C	C	P	P	P	P	P	P	
Housing & Services for the Aging	--	C	C	C	C	C	E	E	E	C	C	C	C	--	--	--	--	
Hospital	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--	--	N/A	
Neighborhood Amenity	R	R	R	R	R	R	R	R	R	R	R	--	--	--	--	--	--	
Passive Outdoor Recreation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Provisional Housing	--	--	--	--	--	C	--	--	--	--	--	C	C	--	--	--	--	
Religious Assembly	P	P	R	R	R	R	R	R	R	R	R	P	P	R	R	P	P	
Social Service Institution	--	--	--	--	C	--	--	--	--	--	--	--	P	P	P	P	--	
Transportation Facilities	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	P	
Utilities, Local / Neighborhood	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Utilities, Major	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	
Wireless Transmission Facilities	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	

Section 3.1.5 Commercial Uses

The commercial uses allowed in each zoning district are set out in Table 3.1.5, *Commercial Uses by Zoning District*.

Table 3.1.5 Commercial Uses by Zoning District																		
Land Use	ZONING DISTRICTS																	Reference to Supplemental Use Standards
	P=Permitted R=Restricted E=Existing C=Conditional MP=Master Planned Community --=Prohibited																	
	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		
Animal Clinic or Services	P	--	--	--	--	--	--	--	--	--	C	R	--	--	--	R		Table 3.2.1.D
Bar or Night Club	--	--	--	--	--	--	--	--	--	--	R	R	P	R	--	--		Table 3.2.1.D
Brewery / Distillery / Winery	--	--	--	--	--	--	--	--	--	--	R	R	R	R	R	R		
Business / Trade School	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P		N/A
Campground	C	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--		Table 3.2.1.D
Commercial Recreation/ Entertainment	C	--	--	--	--	--	E	E	E	E	R	P	C	C	--	--		
Food and Drink Establishment (general)	--	--	--	--	--	--	--	--	--	--	R	P	R	R	--	--		
Food and Drink Establishment (neighborhood)	--	--	MP	MP	--	MP	E	E	E	E	R	P	P	P	--	--		
Hotel / Lodging, Full Service	--	--	--	--	--	--	--	--	--	--	--	P	P	C	--	--		
Hotel / Lodging, Limited Service	--	--	--	--	--	--	--	--	--	--	C	P	P	C	--	--		
Hotel / Lodging, Resort	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--		N/A
Medical Clinic	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	--		
Office	--	--	MP	C/MP	C	C/MP	E	E	E	E	E	P	P	P	P	P	--	Table 3.2.1.D
Office, Medical	--	--	MP	C/MP	C	C/MP	E	E	E	E	E	P	P	P	P	P	--	
Office, Showroom	--	--	--	--	--	--	--	--	--	--	--	R	C	--	R	P		
Parking, Commercial	--	--	--	--	--	--	--	--	--	--	C	R	R	R	--	--		
Pawn Shop	--	--	--	--	--	--	--	--	--	--	--	R	--	--	--	R		
Personal Services	--	--	MP	MP	--	MP	E	E	E	E	E	P	P	P	P	R	--	
Recreational Vehicle (RV) Park	C	--	--	--	--	C	--	--	--	--	C	--	--	--	--	--		
Retail Sales, General	--	--	MP	MP	--	MP	E	E	E	E	E	P	P	P	P	R	--	
Retail Sales and Services, Heavy Equipment	C	--	--	--	--	--	--	--	--	--	--	R	--	--	R	P		
Retail Sales and Services, Large Scale	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--	--		
Shopping Center	--	--	MP	MP	--	MP	--	--	--	--	P	P	--	--	--	--		
Special Event Venue	C	--	--	--	--	--	--	--	--	--	C	R	C	C	--	--		Table 3.2.1.D
Vehicle Gas or Fueling Station	--	--	--	--	--	--	--	--	--	--	C	P	--	--	R	P		
Vehicle Sales and Rentals	--	--	--	--	--	--	--	--	--	--	--	P	R	--	--	P		
Vehicle Services	--	--	--	--	--	--	--	--	--	--	--	P	--	--	R	P		

Section 3.1.6 Industrial Uses

The industrial uses allowed in each zoning district are set out in Table 3.1.6, *Industrial Uses by Zoning District*.

Table 3.1.6 Industrial Uses by Zoning District																		
Land Use	ZONING DISTRICTS																Reference to Supplemental Use Standards	
	P=Permitted R=Restricted E=Existing C=Conditional MP=Master Planned Community --=Prohibited																	
	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		
Contractor Services	--	--	--	--	--	--	--	--	--	--	--	--	R	--	--	R	P	Table 3.2.1.E
Industrial Services, Heavy	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	N/A
Industrial Services, Light	--	--	--	--	--	--	--	--	--	--	--	--	R	--	--	R	P	Table 3.2.1.E
Research & Development	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	N/A
Resource Extraction	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	Table 3.2.1.E
Scrap and Salvage Yard	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	
Storage, Self	--	--	--	--	--	--	--	--	--	--	--	--	R	--	--	--	R	
Storage Yard	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	R	
Warehouse	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	R	P	
Waste Related Services	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	R	

Section 3.1.7 Home Enterprise Uses

Home enterprise uses are considered accessory uses to the principal residential use of the residential structure. The home enterprise uses allowed in each zoning district are set out in Table 3.1.7, *Home Enterprise Uses by Zoning District*.

Table 3.1.7 Home Enterprise Uses by Zoning District																		
Land Use	ZONING DISTRICTS																Reference to Supplemental Use Standards	
	P=Permitted R=Restricted E=Existing C=Conditional MP=Master Planned Community --=Prohibited																	
	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		
Bed and Breakfast Lodging	C	C	C	C	C	--	C	C	C	C	--	R	--	R	R	--	--	Sec. 3.2.1.F
Child-care, Family Home	R	R	R	R	R	R	C	C	C	C	--	--	--	--	--	--	--	
Home Enterprise	R	R	R	R	R	R	R	R	R	R	R	--	--	--	--	--	--	

Section 3.1.8 Prohibited Uses in All Districts

- A. **Generally.** The following uses are prohibited in all areas of the City.
- B. **Prohibited Uses.**
1. Hazardous waste management facilities;
 2. Mobile Homes;
 3. Rendering plants; and

- 4. All uses that are prohibited by local ordinance, state, or federal law, or involve the sale of materials prohibited by local ordinance, state, or federal law.

DIVISION 3.2 SUPPLEMENTAL USE REGULATIONS

Section 3.2.1 Restricted and Conditional Uses

- A. **Generally.** Pursuant to the land use tables of Section 3.1.2, *Agricultural and Ranch Uses* through Section 3.1.7, *Home Enterprise Uses*, certain uses may be permitted in certain zoning districts as a permitted use with restrictions (R) or as a conditional use (C) subject to use-specific supplemental regulations.
- B. **Intent.** The intent of permitting uses with restrictions or as a conditional use is to allow development to occur provided that certain compatibility considerations are met. In this regard, additional compatibility standards are integrated as part of the approval process.
- C. **Applicability.** This Section applies to all new development, and redevelopment when there is a proposed change of use.
 - 1. *Restricted Uses (R).* A Restricted Use may be administratively approved provided that it meets the standards for all permitted uses as set out in these regulations, other applicable City ordinances and regulations, and the standards set out in Subsection 3.2.1.D, *Standards for Specific Restricted and Conditional Uses*, of this Section.
 - 2. *Conditional Uses (C).* A Conditional Use may be approved after a public hearing and favorable decision by the City Council provided that it meets the standards for all permitted uses as set out in these regulations, other applicable City ordinances and regulations, and the standards set out in Subsection 3.2.1.D, *Standards for Specific Restricted and Conditional Uses*, of this Section.
- D. **Standards for Specific Restricted and Conditional Uses.** The following additional development and operational standards shall apply to Restricted Uses and Conditional Uses as identified in Division 3.1, *Land Uses by Zoning District*, of this Article.

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	IN	Crop production shall be entirely within an enclosed building.	N/A
Table Notes: N/A means Not Applicable.			

Table 3.2.1.B Residential and Neighborhood Restricted and Conditional Use Standards			
Land Use	District	Development Standards	Operational/Other Standards
Single-Family Detached	NC	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
Single-Family Attached	ENZ.2	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
Single-Family Zero Lot Line	NR TR DR ENZ.2 ENZ.3 ENZ.4 ENZ.5	Single-Family Zero Lot Line development shall only be allowed when included in a plat designating the lots for Zero Lot Line development. All Single-Family Zero Lot Line development must follow the development standards specified in Subsection 4.2.3, <i>Single-Family Zero Lot Line Development</i> .	N/A

**Table 3.2.1.B
Residential and Neighborhood Restricted and Conditional Use Standards**

Land Use	District	Development Standards	Operational/Other Standards
Industrialized Housing	FR RE NR TR DR ENZ.1 ENZ.2 ENZ.3 ENZ.4 ENZ.5	All single-family detached or duplex industrial housing units shall be required to have similar exterior siding, roofing, roofing pitch, foundation fascia, fenestration, and a value equal to or greater than the median taxable value for each single-family detached dwelling unit located within 500 feet of the parcel proposed for development on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for the county.	A complete set of designs, plans, and specifications shall be submitted to the Director with the Building Permit bearing a stamp of approval from the Texas Industrialized Building Code Council and confirmation that each module or modular component bears an approved decal or insignia by the Texas Department of Licensing and Regulation signifying that each module or modular component has received a post-construction inspection in conformance with state-mandated building codes. This requirement is in addition to general Building Permit requirements for all housing.
Manufactured Home	FR NR MR	Manufactured Homes not otherwise located within a Manufactured Home Park shall be located within a Manufactured Home Subdivision as set out in Subsection 4.2.3.C, <i>Manufactured Home Subdivisions</i> . Manufactured Homes in the NR and MR districts also require approval of a Conditional Use Permit.	Manufactured homes shall comply with minimum building standards as set out in Subsection 4.2.3.B, <i>Manufactured Home Building Unit Standards</i> .
Manufactured Home Park	FR NR MR	Manufactured Home Parks in the FR, NR, and MR districts are subject to approval of a Conditional Use Permit and the requirements of Subsection 4.2.3.D, <i>Manufactured Home Parks</i> .	Manufactured homes shall comply with minimum building standards as set out in Subsection 4.2.3.B, <i>Manufactured Home Building Unit Standards</i> .
	ENZ.5	Manufactured Home Parks in the ENZ.5 district shall be subject to the requirements of Subsection 4.2.3.D, <i>Manufactured Home Parks</i> .	
Tiny House Development	FR NR MR ENZ.5	Tiny House Developments are subject to the requirements of Section 4.2.4, <i>Tiny House Development</i> . Tiny House Developments in the FR, NR, and MR districts are also subject to approval of a Conditional Use Permit.	All tiny houses shall be connected to utilities as set out in Subsection 4.2.4.C.6, <i>Utilities</i> and Subsection 4.2.4.C.7, <i>Solid Waste Disposal</i> , and shall comply with minimum building standards as set out in Subsection 4.2.4.B, <i>Tiny House Building Unit Standards</i> .
Duplex	ENZ.2	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
Townhouse	DN DT	Buildings must be designed to create an urban character with pedestrian interface. Entrances are required to face the street and must include a porch or stoop. Required parking must be accessed via an alley.	N/A
Triplex	DR	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
Quadplex	DR	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
Apartment	DR	Limited to a maximum of 20 units per acre.	N/A
	NC	Limited to a maximum of 14 units per acre.	
	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.	
Live-work unit	DN DT	Live-work units must be designed with a residential external appearance in the form of a townhouse. Customer parking must be provided on street, in a parking structure, or via alley access. The area devoted to work cannot exceed 50 percent of the total floor area.	N/A
Loft Apartment	NC	Limited to maximum of 14 units per acre.	N/A

Table 3.2.1.B Residential and Neighborhood Restricted and Conditional Use Standards			
Land Use	District	Development Standards	Operational/Other Standards
Group Home	FR RE NR TR DR ENZ.1 ENZ.2 ENZ.3 ENZ.5	Must be licensed by the State of Texas. Limited to a maximum of six residents and two supervisors. 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
	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
	NC 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
Table Notes: N/A means Not Applicable.			

Table 3.2.1.C Civic Restricted and Conditional Use Standards			
Land Use	District	Development Standards	Operational and Other Standards
Aviation Uses, Fixed-Wing	FR	Development of a new airport shall comply with Chapter 241, Municipal and County Zoning Authority Around Airports, of the Tex. Local Gov't Code.	Approval of an aviation-related use may not be granted until the applicant obtains an airport use operating agreement for the subject facility.
Aviation Uses, Rotary Wing	FR GC DN DT BP IN	Development of heli-facility or heliport uses shall be designed according to the applicable design standards set out in the U.S. Department of Transportation Advisory Circular NO. 150/5390-2C, dated April 24, 2012, as may be amended.	Application for construction of a heli-facility, heliport, or helistop shall demonstrate compliance with 14 CFR § 157.7, FAA Determination.
Cemetery	RE NR NC GC	New cemeteries shall take access from an arterial or collector street, be setback from any residentially used or zoned property by 100 feet, and enclosed by a wall or fence.	N/A
Child-Care Facility, Day-Care Center	FR DR MR NC GC DN DT BP	Approval of a Conditional Use Permit is required for operation within the DR, DN, DT, or BP districts. The parcel proposed for development shall take access from an arterial or collector street. Access to the site shall be designed in a manner to facilitate safe and expedient pick-up and drop-off circulation without otherwise interfering with the parking lot. Outdoor activities shall be setback from any residentially used or zoned property by 100 feet and enclosed by a wall or fence.	The owner/operator shall maintain all certification and licensing requirements by the state.
Child-Care Facility, Residential	NR TR DR	N/A	Limited to no more than six unrelated children.
	MR NC	There are no specific restrictions applicable to the Conditional Use Permit requirement.	

**Table 3.2.1.C
Civic Restricted and Conditional Use Standards**

Land Use	District	Development Standards	Operational and Other Standards
Community Assembly/ Amenity	FR RE NR TR DR MR ENZ.1 ENZ.2 ENZ.3 ENZ.4 ENZ.5	In addition to the requirement for approval of a Conditional Use Permit, the parcel proposed for development shall take access from an arterial or collector street.	Parking shall be accommodated on-site. Alternately, off-site parking can be established through a shared parking agreement provided the off-site parking lot is within 250 feet of the parcel proposed for development and connected via a sidewalk.
	NC	The parcel proposed for development shall take access from an arterial or collector street.	
	BP	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
Education	FR RE NR TR DR MR NC GC DN DT	Parking shall be accommodated on site. Access to the site shall be designed to facilitate safe and expedient pick-up and drop-off circulation without otherwise interfering with the parking lot. Access to secondary schools shall be located on a collector or arterial level roadway. Outdoor activities shall be setback from any residentially used or zoned property by 25 feet and enclosed by a wall or fence.	The queuing of vehicles shall comply with Section 8.3, <i>Off-Street Stacking</i> .
Government Facilities	NR TR DR	The parcel proposed for development shall be screened by a landscaped Type C Bufferyard from any residentially used or zoned property.	N/A
	ENZ.1 ENZ.2 ENZ.3 ENZ.4 ENZ.5	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
Housing & Services for the Aging	RE NR TR DR MR NC GC ENZ.4 ENZ.5	In addition to the requirement for approval of a Conditional Use Permit, facilities designed to accommodate more than 10 residents shall take access from an arterial or collector street. No facilities shall be permitted at the intersection of two arterial streets.	The owner/operator shall maintain all certification and licensing requirements by the state.
Neighborhood Amenity	FR RE NR TR DR MR ENZ.1 ENZ.2 ENZ.3 ENZ.4 ENZ.5	N/A	The property shall be owned and managed by a property owner's association and required parking shall be accommodated on-site.
Provisional Housing	MR NC GC	In addition to the requirement for approval of a Conditional Use Permit, a provisional housing facility may not be located within 1,000 feet of a residentially zoned property, a primary or secondary school, a public park, or a religious assembly facility.	N/A

Table 3.2.1.C Civic Restricted and Conditional Use Standards			
Land Use	District	Development Standards	Operational and Other Standards
Religious Assembly	NR TR DR MR	Facilities over 20,000 square feet shall take access from an arterial or collector street.	Parking shall be accommodated on-site.
	ENZ.1 ENZ.2 ENZ.3 ENZ.4 ENZ.5	The parcel proposed for development shall take access from an arterial or collector street.	
	DN DT	Facilities in the DN and DT districts must provide an on-site parking garage for parking requirements.	N/A
Transportation Facilities	GC DN DT BP	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
Wireless Transmission Facility	All Districts	Wireless Transmission Facility subject to Section 4.6.6 of these regulations. Height is limited to 80' in residential zoning districts and limited to 160' in the nonresidential zoning districts.	
Table Notes: N/A means Not Applicable.			

Table 3.2.1.D Commercial Restricted and Conditional Use Standards			
Land Use	District	Development Standards	Operational/Other Standards
Animal Clinic or Services	NC	N/A	The use will be conducted entirely within an enclosed building and no livestock or large animals (e.g., a horse) will be boarded, treated, or otherwise kept on the premises.
	GC IN	Outdoor dog runs and animal exercise areas will be set back at least 100 feet from any residentially used or zoned property and be screened by a wall or fence.	No livestock or large animals (e.g., a horse) will be boarded, treated, or otherwise kept on the premises.
Bar or Nightclub	NC	The parcel proposed for development shall take access from an arterial or collector street. Outdoor seating areas, if present, and parking shall be set back at least 100 feet and physically separated from any residentially used or zoned property and screened by a wall or fence.	No outdoor live music or entertainment is allowed.
	GC DT	Outdoor seating areas, if present, and parking shall be set back at least 100 feet and physically separated from any residentially used or zoned property and screened by a wall or fence.	Outdoor live music and entertainment is allowed provided that it is setback at least 100 feet from any residentially used or zoned property and screened by a wall or fence.
Brewery/ Distillery/ Winery	NC	Maximum building size is 10,000 square feet. The parcel proposed for development shall take access from an arterial or collector street. Outdoor seating areas, if present, and parking shall be set back at least 100 feet and physically separated from any residentially used or zoned property and screened by a wall or fence.	Facility must provide a customer component which may include a retail storefront, a tasting room, or a food or beverage servicing area. No outdoor live music or entertainment is allowed.
	GC	Any outdoor seating, live music, and/or entertainment areas shall be set back at least 100 feet from any residentially used or zoned property and screened by a wall or fence. Facilities over 40,000 gross square feet shall provide truck loading areas located to the rear of the building with direct access to an arterial or collector level street.	N/A
	DN DT	Any outdoor seating, live music, and/or entertainment areas shall be set back at least 100 feet from any residentially used or zoned property and screened by a wall or fence.	Facility must provide a customer component which may include a retail storefront, a tasting room, or a food or beverage servicing area.

**Table 3.2.1.D
Commercial Restricted and Conditional Use Standards**

Land Use	District	Development Standards	Operational/Other Standards
	BP IN	A maximum of 25% of the establishment area may be dedicated for customer components. Any outdoor seating, live music, and/or entertainment areas shall be set back at least 100 feet from any residentially used or zoned property and screened by a wall or fence.	N/A
Campground	FR	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
Commercial Recreation/ Entertainment	FR	In addition to the requirement for approval of a Conditional Use Permit, the facility must be located a minimum of 600 feet from any residentially zoned or used property; access to any service and parking areas for over 50 vehicles must be taken from a collector or higher classification street; and after hours lighting shall be limited to that necessary only for security purposes.	N/A
	NC	The facility must be located a minimum of 600 feet from any residentially zoned or used property; access to any service and parking areas for over 50 vehicles must be taken from a collector or higher classification street; and after hours lighting shall be limited to that necessary only for security purposes.	N/A
	DN DT	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
Food or Drink Establishment (general)	NC	Restaurant shall not include drive-through or drive-up or similar services. The parcel proposed for development shall take access from an arterial or collector street. Outdoor seating areas, if present, shall be set back at least 100 feet and physically separated from any residentially used or zoned property and screened by a wall or fence.	No outdoor live music or entertainment is allowed.
	DN DT	Restaurant shall not include drive-through or drive-up or similar services.	N/A
Food or Drink Establishment (neighborhood)	NC	The parcel proposed for development shall take access from an arterial or collector street. Outdoor seating areas, if present, shall be set back at least 100 feet and physically separated from any residentially used or zoned property and screened by a wall or fence.	No outdoor live music or entertainment is allowed.
Hotel / Lodging, Full Service	DT	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
Hotel / Lodging, Limited Service	NC	In addition to the requirement for approval of a Conditional Use Permit, the building may be no more than two stories in height, and direct access to all rooms shall be interior. In addition, all hotel operations, including parking, shall be setback at least 100 feet and physically separated from any residentially used or zoned property and screened by a wall or fence.	N/A
	DT	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
Office	TR DR MR	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
Office, Medical	TR DR MR	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
Office, Showroom	GC	Product warehousing shall be incidental and not exceed 50% of the total floor area. Outdoor storage shall be limited to 25% of the square footage of the indoor use area and shall be completely screened by a wall or fence at least eight feet in height and a Type B landscape buffer. All loading spaces and docks shall be screened from public right-of-way.	N/A

**Table 3.2.1.D
Commercial Restricted and Conditional Use Standards**

Land Use	District	Development Standards	Operational/Other Standards
	DN	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
	BP	Incidental retail sales of products associated with the primary products and/or services is permitted but shall not exceed 25% of the total floor area. Outdoor storage shall be limited to 125% of the square footage of the indoor use area and shall be completely screened by a wall or fence at least eight feet in height and a Type B landscape buffer. All loading spaces and docks shall be screened from public right-of-way.	N/A
Parking, Commercial	NC GC DN DT	The parcel proposed for development shall be limited to two acres in size and consist of a surface, structured, or combination parking lot. In the DN and DT districts, a surface parking facility shall have a maximum of 95 percent of impervious surface coverage.	The use may be used as part of shared parking requirements.
Pawn Shop	GC IN	The parcel proposed for development shall be located no closer than 200 feet from any residentially used or zoned property.	The owner/operator shall maintain compliance with Chapter 371, Pawnshops, of the Tex. Finance Code.
Recreational Vehicle (RV) Park	FR MR ENZ.5	<p>Recreational vehicles shall only be located within an RV Park subject to approval of a Conditional Use Permit and in accordance with the following:</p> <ul style="list-style-type: none"> • An RV park shall be planned cohesively through a Site Development Plan. • All RV parks shall take access from an arterial or collector street with a driveway width of at least 32 feet. • A single recreational vehicle is allowed per space. • RVs shall be placed on a permanent parking pad at least 10 feet in width and 24 feet in depth constructed of concrete, asphalt, or similar material approved by the City Engineer. • Each RV space shall have adequate frontage width on an access drive to allow for loading/unloading maneuvering space. • RV parks may include sanitary facilities, storage buildings, or management offices. • Common area amenities shall be required based on the number of units allotted per the Site Development Plan. • All spaces shall provide connections to potable water, sanitary sewer, and electrical power. • The RV park shall provide a centralized solid waste collection facility. • A permanent marker identifying the space number is required to be clearly visible day and night for emergency vehicles. 	N/A
Retail Sales and Services, General	BP	N/A	The proposed use is an accessory use to an otherwise permitted principal use. Any retail sales or services shall be materially related to something that is manufactured on site or primarily intended to serve employees on the site (e.g., cafeteria).
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.	N/A

Table 3.2.1.D Commercial Restricted and Conditional Use Standards			
Land Use	District	Development Standards	Operational/Other Standards
Special Event Venue	FR NC GC DN DT	Any outdoor seating, live music, and/or entertainment areas shall be set back at least 100 feet from any residentially used or zoned property and screened by a wall or fence. For large event venues, the City Engineer may approve an alternative parking material for overflow parking in addition to the minimum required by these regulations if the parking area is screened from view from the street and adjacent properties. Approval of a Conditional Use Permit is also required in the FR, NC, DN, and DT districts.	N/A
Vehicle Gas or Fueling Station	NC	There are no specific restrictions applicable to the Conditional Use Permit requirement.	
	BP	N/A	Vehicle fueling stations shall only be allowed in the BP district as an accessory use for the fueling of vehicles associated with the primary use.
Vehicle Sales and Rentals	DN	Sales or rental offices only are 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.	N/A
Vehicle Services	BP	All vehicle and outdoor storage areas shall be screened and located to the side and/or rear of the principal building.	N/A
Table Notes: N/A means Not Applicable.			

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 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 B landscape buffer. All loading spaces and docks shall be screened from public right-of-way.	The use shall be conducted entirely within an enclosed building.
	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.	
Industrial Services, Light	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 of the indoor use area, shall be located to the rear or side of the primary building 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 B landscape buffer. All loading spaces and docks shall be screened from public right-of-way.	The use shall be conducted entirely within an enclosed building.
	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.	
Resource Extraction	IN	There are no specific restrictions applicable to the Conditional Use Permit requirement.	

Table 3.2.1.E Industrial Restricted and Conditional Use Standards			
Land Use	District	Development Standards	Operational/Other Standards
Scrap and Salvage Yard	IN	The parcel proposed for development shall be located no closer than 600 feet from any residentially used or zoned property and take access from an arterial or collector street. All outdoor areas used for scrap and salvage storage shall be completely screened by a wall or fence at least eight feet in height and a 15-foot landscape buffer.	Wrecked cars, junk, salvage, scrap, or other materials shall not be visible from adjacent properties or public rights-of-way above the required wall or fence.
Self-Storage	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 areas shall be completely screened from view from the street by a wall or fence at least eight feet in height.	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 for conducting or operating a business.
	IN		Outdoor storage areas shall comply with Section 4.6.5, <i>Outdoor Storage and Display of Merchandise</i> .
Storage Yard	BP	In addition to the requirement for approval of a Conditional Use Permit, 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.	N/A
	IN	When located adjacent to a major arterial level street, the facility shall be set back at least 150 feet from the right-of-way. The use shall be completely screened by a wall or fence at least eight feet in height and a Type B landscape buffer.	Outdoor storage areas shall comply with Section 4.6.5, <i>Outdoor Storage and Display of Merchandise</i> .
Warehouse	BP	The parcel proposed for development shall take access from an arterial or collector street.	The use will be conducted entirely within an enclosed building.
Waste Related Services	BP IN	The facility shall be set back at least 100 feet from residentially zoned or used properties. Any outdoor recycling storage (bins) or activities shall be visually screened from any adjacent roadways, residentially zoned or used properties, and any other nonindustrial uses by an eight-foot perimeter fence constructed of brick, stone or similar masonry product. Approval of a Conditional Use Permit is also required within the BP district.	All solid, liquid or sanitary waste collected shall be stored and all manufacturing or production of goods or energy from solid, liquid or sanitary waste or recycled materials shall be conducted in an enclosed building.
Table Notes: N/A means Not Applicable.			

Table 3.2.1.F Home Enterprise Restricted and Conditional Use Standards			
Land Use	District	Development Standards	Operational and Other Standards
Bed and Breakfast Lodging	FR RE NR TR DR ENZ.1 ENZ.2 ENZ.3 ENZ.4	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 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.	No food preparation, except beverages, is allowed within individual guestrooms and preparation and service of food shall conform to all applicable regulations of the State of Texas and Burnet County. Guestroom rentals shall not be allowed for more than 21 consecutive days.
	NC DN DT	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.	

**Table 3.2.1.F
Home Enterprise Restricted and Conditional Use Standards**

Land Use	District	Development Standards	Operational and Other Standards
Child-care, Family Home	FR RE NR TR DR MR ENZ.1 ENZ.2 ENZ.3 ENZ.4	There shall be at least 100 square feet of outdoor open space per child, which is entirely enclosed by a building, fence, or wall with a height of at least six feet. Approval of a Conditional Use Permit is also required within the ENZ.1, ENZ.2, ENZ.3, and ENZ.4 districts.	The owner/operator for the use meets all certification, licensing, and/or monitoring requirements of the state, and no more than one person, other than members of the immediate family residing in the dwelling unit, shall be employed to operate the facility.
Home Enterprise	FR RE NR TR DR MR ENZ.1 ENZ.2 ENZ.3 ENZ.4 ENZ.5	The home enterprise shall be clearly incidental and secondary to its principal use as a dwelling unit by its occupants. The property must remain residential in appearance; this includes no external alterations to the dwelling unit; no outdoor storage; 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: 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. 2. Accessory Structure. The area dedicated to the use shall not exceed the maximum square footage allowed for all accessory buildings or structures as set out in Section 4.6.1, <i>Accessory Buildings and Structures</i> , and any other applicable standards of these regulations.	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 pm and 6:00 am. 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. 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. The following home enterprises are not allowed: child-care facilities with greater than 10 children, retail sales, vehicle sales and services, including the painting of vehicles.

Table Notes:
N/A means Not Applicable.

Article 4, General Development Regulations

DIVISION 4.1 GENERAL USE PROVISIONS

Section 4.1.1 Use of Land and Water, Generally

A. **Generally.**

1. This Article establishes development regulations appropriate to the purpose of each district and to the uses allowed therein.
2. The use of all land or water, and any buildings or structures located upon the land or water, and the construction, reconstruction, alteration, expansion, or relocation of any building or structure upon the land or water, shall conform to all regulations applicable to the district in which it is located. No land, water, building, or structure shall be used for any purpose or in any manner other than is permitted in the district in which such land, water, building, or structure is located, and in accordance to the provisions of these regulations
3. All parcels proposed for development must be approved for demonstrating compliance with the density, open space, and applicable setback requirements of this Article; the subdivision requirements of Article 6, *Subdivision Design and Land Development*; and any other applicable standards of these regulations.

B. **Applicability.** This Article applies to all land, water, building, and structure within the City limits of the City of Marble Falls or within its extraterritorial jurisdiction.

Section 4.1.2 Lot of Record

A. **Generally.** No building or structure shall be erected, or use established, unless upon a lot of record.

B. **Exemption.** Lots of record that exist on the effective date of these regulations that do not conform to the lot standards required in this Article shall comply with the provisions set out in Division 12.4, *Nonconforming Lots*.

Section 4.1.3 One Single-Family Detached Dwelling per Lot of Record

A. **Generally.** Only one principal single-family detached dwelling unit shall be permitted on a lot of record.

B. **Exemption.** This Section shall not be construed to prevent the location of more than one single-family detached dwelling under a condominium or alternate form of ownership, provided that the parcel proposed for development is in conformance with Section 4.1.4, *Condominiums and Alternative Forms of Ownership*.

Section 4.1.4 Condominiums and Alternative Forms of Ownership

A. **Generally.** The standards of this Article apply to the new development, redevelopment, or substantial improvement of residential, nonresidential, and mixed-use lots and buildings and set out a framework as if all development occurred on conventional lots owned in a fee-simple ownership arrangement. However, the standards are not intended to preclude other ownership types including condominiums (i.e., in which the land is owned in common by the owners of the condominium units) or common maintenance communities (i.e., in which fee simple ownership is predominantly limited to the land under the building). The standards set out in this Section are intended to allow such alternative forms of ownership, provided that the parcel proposed for development could be approved pursuant to these regulations using conventional fee-simple ownership arrangements.

- B. **Demonstration of Compliance.** Alternate forms of ownership will be allowed if it is demonstrated that the proposed pattern of development complies with the density or intensity, lot area, lot width, open space, and setback requirements of these regulations as if it were platted with lots that meet the minimum requirements of this Article and other applicable standards of these regulations. Once demonstration of compliance is determined, the owner/operator may proceed with the applicable provisions of these regulations and the development process which best fits the intended alternative final ownership arrangement of the parcel proposed for development (e.g., condominium plat for condominiums).

Section 4.1.5 Property Owners' Associations, Covenants, Conditions and Restrictions

- A. **Generally.** A property owners' association (POA) and a recorded declaration of covenants, conditions, and restrictions (CC&Rs) are required for any new development for which compliance with the standards of these regulations necessitate a continuing obligation to operate, improve, or otherwise maintain common open space, streets or drives, utilities, drainage infrastructure, or some other commonly held land or structure.
- B. **Required POA and CC&Rs.**
1. *Property Owners' Association.* If a POA is required as set out in Subsection 4.1.5.A, above, then the developer, subdivider, or owner/operator shall establish and incorporate the POA which shall bear responsibility of ensuring continual compliance with these regulations.
 2. *Covenants, Conditions, and Restrictions.* A plat, plat notation, and written CC&Rs are required for any POA for which the compliance of these regulations is required. The CC&Rs shall clearly define the boundary of the property subject to the CC&Rs, restrictions as to what may or may not be done on the property and specify on-going maintenance responsibilities and inspections rights. The CC&Rs shall also specify mandatory and automatic membership of all lot/unit owners; establish required dues to fund operations, insurance, taxes, or maintenance (as may be applicable); and require that all responsibilities are ongoing and perpetual even to successors in title.
 3. *Limited Exception.* Developments may be approved without the establishment of a POA or CC&Rs provided that common property or on-going maintenance responsibilities are kept under unified ownership and control by a single property owner, developer, or owner/operator. If ownership is transferred to another single authority, such on-going maintenance responsibilities shall also be transferred. Development which is approved using this exception may not be transferred to multiple entities/owners without the establishment of CC&Rs (e.g., transferring maintenance responsibilities for common open space to individual lot owners) without coming into compliance with Subsection 4.1.5.B.1 and Subsection 4.1.5.B.2, above.
- C. **Timing and Notation.** The POA and CC&Rs shall be established prior to the approval of the first Final Plat for the development. A note shall be added to the plat and any subsequent plats indicating that all lots/units are part of the POA and subject to compliance in accordance with the established CC&Rs.
- D. **Perpetual.** POAs and CC&Rs established under these regulations shall not be dissolved without the consent of the City Council.
- E. **City Review.** The City Attorney shall review the POA incorporation documents and CC&Rs as part of the development approval process. The City may withhold approval of a Final Plat until the POA incorporation documents and CC&Rs include the following:
1. Compliance with the provisions of these regulations or specific conditions of approval;
 2. Details on the POA's roles and responsibilities;
 3. Mandatory and automatic membership;

4. A mechanism for the payment of dues to the POA;
 5. POA authority to place liens on member properties for unpaid dues or violations; and
 6. Declaration of on-going and perpetual existence.
- F. **Enforcement.** The City’s right of enforcement shall only extend to those matters which are violations of these regulations and the City’s other ordinances and regulations. The City is not responsible for intervening between private disputes between the POA and lot/unit owners or between individual lot/unit owners.

DIVISION 4.2 NEW RESIDENTIAL DEVELOPMENT DESIGN

Section 4.2.1 New Residential Development Options and Yield

- A. **Intent.** The intent of this Division is to establish minimum standards for new residential neighborhoods. As such, the minimum area of development (see Table 4.2.1, *Development Options and Yield for New Residential Development*, below) shall be the minimum acreage required for the zoning district to provide adequate size for the development of a new neighborhood accounting for a minimum number of residential lots or units while still being able to meet the gross density and open space requirements.
- B. **Generally.** These standards apply to all subdivision, resubdivisions or any development of new residential lots or units.
- C. **Development Yield.** New residential developments or subdivisions shall demonstrate compliance with this Section using the entire parcel proposed for development regarding the calculation of gross density and minimum open space area. Multi-phased projects seeking to distribute density or open space on areas outside of the proposed subdivision shall demonstrate compliance by submitting a Concept Plan set out in Section 11.3.5, *Concept Plan*.
- D. **New Residential Development Options.**
1. *Development Options.* The development options and yield for new residential development are set out in Table 4.2.1, *Development Options and Yield for New Residential Development*.
 2. *Lot and Building Standards.* The development options per district set out in Table 4.2.1, *Development Options and Yield for New Residential Development*, are intended to be used in conjunction with the corresponding lot and building standards set out in Table 4.2.2, *Lot and Building Standards for New Residential Development*, to determine the appropriate density yield and required standards.

Table 4.2.1 Development Options and Yield for New Residential Development					
Development Option	Min. Area of Development	Min. Lot Size/ Area Per Dwelling Unit	Max. Gross Density per Acre	Min. Open Space Area	Min. Dwelling Unit Size
Farm and Ranch (FR) District					
Farm and Ranch (Single-Family Detached)	5.0 ac.	5.0 ac.	0.20	0%	N/A
Farm and Ranch Cluster (Single-Family Detached)	16.0 ac.	2.5 ac.	0.35	13%	900 sf
Conservation (Single-Family Detached)	12.0 ac.	1.5 ac.	0.45	30%	900 sf
Manufactured Home Subdivision ¹	12.0 ac.	1.5 ac.	0.45	30%	900 sf
Manufactured Home Park ^{1,4}	10.0 ac.	6,000 sf	2.80	60%	900 sf
Tiny House Development ^{2,4}	10.0 ac.	5,000 sf	3.00	60%	140 sf ⁷

**Table 4.2.1
Development Options and Yield for New Residential Development**

Development Option	Min. Area of Development	Min. Lot Size/ Area Per Dwelling Unit	Max. Gross Density per Acre	Min. Open Space Area	Min. Dwelling Unit Size
Rural Estate (RE) District					
Estate (Single-Family Detached)	6.0 ac.	32,670 sf	1.10	15%	1,400 sf
Estate Cluster (Single-Family Detached)	5.0 ac.	21,780 sf	1.50	25%	1,400 sf
Neighborhood Residential (NR) District					
Suburban (Single-Family Detached)	10.0 ac.	12,000 sf	3.00	10%	900 sf
Neighborhood (Single-Family Detached)	5.0 ac.	5,000 sf	6.25	11%	900 sf
Neighborhood (Rear-Loaded) (Single-Family Detached)	6.0 ac.	4,200 sf	6.30	18%	800 sf
Single-Family Zero Lot Line ⁸	5.0 ac.	5,000 sf	6.25	11%	900 sf
Cottage ³	3.0 ac.	3,600 sf	7.25	20%	600 sf ⁵
Manufactured Home Subdivision ^{1,4}	5.0 ac.	4,600 sf	7.25	25%	900 sf
Manufactured Home Park ^{1,4}	5.0 ac.	3,600 sf	5.25	40%	900 sf
Tiny House Development ^{2,4}	5.0 ac.	3,600 sf	5.25	40%	140 sf ⁷
Transitional Residential (TR) District					
Neighborhood (Single-family Detached)	5.0 ac.	5,000 sf	6.25	11%	900 sf
Neighborhood (Rear-Loaded) (Single-family Detached)	6.0 ac.	4,200 sf	6.30	18%	800 sf
Single-Family Zero Lot Line ⁸	5.0 ac.	5,000 sf	6.25	11%	900 sf
Single-Family Attached	5.0 ac.	5,000 sf	6.25	11%	900 sf
Single-Family Attached (Rear-Loaded)	6.0 ac.	4,200 sf	6.30	18%	800 sf
Cottage	3.0 ac.	3,600 sf	7.25	20%	600 sf ⁵
Duplex	5.0 ac.	6,000 sf	10.00	14%	800 sf
Townhouse (Front-Loaded Single-Entry)	2.0 ac.	2,000 sf	11.00	25%	N/A
Townhouse (Rear-Loaded)	2.0 ac.	2,000 sf	11.30	15%	N/A
Triplex ⁴	10,500 sf	10,500 sf	12.00	25%	N/A
Quadplex ⁴	14,500 sf	14,500 sf	12.00	25%	N/A
Apartment ^{4,6}	5.0 ac.	N/A	14.00	25%	N/A
Multifamily Residential (MR) District					
Manufactured Home Subdivision ^{1,4}	5.0 ac.	4,600 sf	7.25	25%	900 sf
Manufactured Home Park ^{1,4}	5.0 ac.	3,600 sf	5.25	40%	900 sf
Tiny House Development ^{2,4}	5.0 ac.	3,600 sf	5.25	40%	140 sf ⁷
Townhouse (Front-Loaded Single-Entry)	2.0 ac.	2,000 sf	11.00	25%	N/A
Townhouse (Rear-Loaded)	2.0 ac.	2,000 sf	11.30	15%	N/A
Triplex	10,500 sf	10,500 sf	12.00	25%	N/A
Quadplex	14,500 sf	14,500 sf	12.00	25%	N/A
Apartment ⁶	7.5 ac.	N/A	24.00	30%	N/A

Table 4.2.1 Development Options and Yield for New Residential Development					
Development Option	Min. Area of Development	Min. Lot Size/ Area Per Dwelling Unit	Max. Gross Density per Acre	Min. Open Space Area	Min. Dwelling Unit Size
Downtown Residential (DR) District					
Cottage ⁵	Residential development in the Downtown Residential (DR) district is subject to the standards set out in Section 4.2.6, <i>Special Design Standards for Downtown Residential (DR) District</i> .				
Single-Family Detached					
Single-Family Zero Lot Line ⁸					
Single-Family Attached					
Duplex					
Townhouse					
Triplex ⁴					
Quadplex ⁴					
Apartment ^{4,6}					
Tiny House Development ^{2,4}					
Downtown (DN) and Downtown Transition (DT) Districts					
Apartment ⁶	N/A	N/A	40.00	N/A	N/A
Loft Apartment ⁶	N/A	N/A	40.00	N/A	N/A
Table Notes:					
¹ Manufactured Home Subdivisions and Parks must also comply with Section 4.2.3, <i>Manufactured Homes</i> .					
² Tiny House Developments must also comply with the standards of Section 4.2.4, <i>Tiny House Development</i> .					
³ Allowed only in conjunction with a Master Planned Community as set out in Section 4.4.2, <i>Master Planned Communities</i> .					
⁴ Allowed only with approval of a Conditional Use Permit as set out in Section 3.2.1, <i>Restricted and Conditional Uses</i> , and 11.3.4, <i>Conditional Use Permits</i> .					
⁵ Maximum Cottage unit size is 899 square feet.					
⁶ Apartments and lofts are subject to the standards set out in Section 4.3.1, <i>Nonresidential and Mixed-Use Lot and Building Standards</i> , Section 4.3.2, <i>Nonresidential, Mixed-Use and Apartment Design Standards</i> , and Section 4.3.4, <i>Special Design Standards for Downtown (DN) and Downtown Transition (DT) Districts</i> , as may be applicable.					
⁷ Maximum Tiny House size is 599 square feet.					
⁸ Single-Family Zero Lot Line developments must also comply with the standards of Subsection 4.2.3, <i>Single-Family Zero Lot Line Development</i> .					

Section 4.2.2 New Residential Lot and Building Standards

- A. **Generally.** Once maximum gross density, minimum open space requirements, and allowable development options are determined for the parcel proposed for development, the individual lot and building standards can be determined using this Section.
- B. **New Residential Lot and Building Standards.** The lot and building standards of this Section are intended to be used in conjunction with the development options and yield for new residential development as set out in Table 4.2.1, *Development Options and Yield for New Residential Development*.

Table 4.2.2 Lot and Building Standards for New Residential Development										
Development Option	Min. Lot Size/ Area Per Unit	Min. Lot Width	Min. Lot Frontage	Min. Setbacks					Max. Height Building/ Structure	Max. Lot Coverage
				Front	Interior Side	Street Side	Rear	Garage		
Farm and Ranch (FR) District										
Farm and Ranch (Single-Family Detached)	5 ac.	275'	200'	90'	50'	75'	150'	N/A	35'	10%
Farm and Ranch Cluster (Single-Family Detached)	2.5 ac.	200'	175'	90'	45'	55'	125'	N/A	35'	15%

**Table 4.2.2
Lot and Building Standards for New Residential Development**

Development Option	Min. Lot Size/ Area Per Unit	Min. Lot Width	Min. Lot Frontage	Min. Setbacks					Max. Height Building/ Structure	Max. Lot Coverage
				Front	Interior Side	Street Side	Rear	Garage		
Conservation (Single-Family Detached)	1.5 ac.	160'	120'	75'	35'	35'	90'	N/A	35'	20%
Manufactured Home Subdivision ⁵	1.5 ac.	160'	120'	75'	35'	35'	90'	N/A	35'	20%
Manufactured Home Park ^{5,8}	6,000 sf	50'	20'	15'	5'	10'	15'	N/A	25'	40%
Tiny House Development ^{6,8}	5,000 sf	50'	20'	15'	5'	10'	15'	N/A	25'	40%
Rural Estate (RE) District										
Estate (Single-Family Detached)	32,670 sf	110'	75'	50'	25'	35'	75'	N/A	35'	30%
Estate Cluster (Single-Family Detached)	21,780 sf	90'	45'	45'	20'	30'	50'	N/A	35'	35%
Neighborhood Residential (NR) District										
Suburban (Single-Family Detached)	12,000 sf	65'	25'	30'	10'	20'	20'	25'/7.5' ²	35'	45%
Neighborhood (Single-Family Detached)	5,000 sf	50'/60' ¹	20'	25'	5'	15'	15'	25'/7.5' ²	35'	50%
Neighborhood (Rear-Loaded) (Single-Family Detached) ³	4,200 sf	42'/52' ¹	20'	15'	5'	15'	15'	7.5' ²	35'	60%
Single-Family Zero Lot Line ¹⁰	5,000 sf	50'/65' ¹	20'	25'	0'/10' ¹¹	15'	15'	25'/7.5' ²	35'	50%
Cottage ⁷	3,600 sf	30'/40' ¹	20'	10'	5'	10'	10'	25'/7.5' ²	25'	60%
Manufactured Home Subdivision ^{5,8}	4,600 sf	46'/56' ¹	20'	15'	5'	15'	15'	N/A	25'	50%
Manufactured Home Park ^{5,8}	3,600 sf	40'	20'	15'	5'	10'	15'	N/A	25'	50%
Tiny House Development ^{6,8}	3,600 sf	40'	20'	15'	5'	10'	15'	N/A	25'	50%
Transitional Residential (TR) District										
Neighborhood (Single-family Detached)	5,000 sf	50'/60' ¹	20'	25'	5'	15'	15'	25'/7.5' ²	35'	50%
Neighborhood (Rear-Loaded) (Single-family Detached) ³	4,200 sf	42'/52' ¹	20'	15'	5'	15'	15'	7.5' ²	35'	60%
Single-Family Zero Lot Line ¹⁰	5,000 sf	50'/65' ¹	20'	25'	0'/10' ¹¹	15'	15'	25'/7.5' ²	35'	50%
Single-Family Attached	5,000 sf	50'/60' ¹	20'	25'	5'/0' ⁴	15'	15'	25'/7.5' ²	35'	50%
Single-Family Attached (Rear-Loaded) ³	4,200 sf	42'/52' ¹	20'	15'	5'/0' ⁴	15'	15'	7.5' ²	35'	60%
Cottage	3,600 sf	30'/40' ¹	20'	10'	5'	10'	10'	25'/7.5' ²	25'	60%
Duplex	6,000 sf	50'/60' ¹	20'	25'	5'	15'	15'	25'	35'	50%
Townhouse (Front-Loaded Single-Entry)	2,000 sf	24'/34' ¹	20'	20'	5'/0' ⁴	10'	15'	25'	40'	65%
Townhouse (Rear-Loaded) ³	2,000 sf	24'/34' ¹	20'	10'	5'/0' ⁴	10'	15'	7.5' ²	40'	70%
Triplex ⁸	12,000 sf	50'	50'	25'	10'	15'	15'	25'	40'	70%
Quadplex ⁸	14,500 sf	50'	50'	25'	10'	15'	15'	25'	40'	70%
Apartment ⁸	N/A	60'	60'	25'	15'	20'	15'	N/A	40'	70%
Multifamily Residential (MR) District										
Manufactured Home Subdivision ^{5,8}	4,600 sf	46'/56' ¹	20'	15'	5'	15'	15'	N/A	25'	50%
Manufactured Home Park ^{5,8}	3,600 sf	40'	20'	15'	5'	10'	15'	N/A	25'	50%

**Table 4.2.2
Lot and Building Standards for New Residential Development**

Development Option	Min. Lot Size/ Area Per Unit	Min. Lot Width	Min. Lot Frontage	Min. Setbacks					Max. Height Building/ Structure	Max. Lot Coverage
				Front	Interior Side	Street Side	Rear	Garage		
Tiny House Development ^{6,8}	3,600 sf	40'	20'	15'	5'	10'	15'	N/A	25'	50%
Townhouse (Front-Loaded Single-Entry)	2,000 sf	24'/ 34' ¹	20'	20'	5'/ 0' ⁴	10'	15'	25'	40'	65%
Townhouse (Rear-Loaded) ³	2,000 sf	24'/ 34' ¹	20'	10'	5'/ 0' ⁴	10'	15'	7.5' ²	40'	70%
Triplex	12,000 sf	50'	50'	25'	10'	15'	15'	25'	40'	70%
Quadplex	14,500 sf	50'	50'	25'	10'	15'	15'	25'	40'	70%
Apartment (5-14 units/ac.)	N/A	60'	60'	25'	15'	20'	15'	N/A	40'	70%
Apartment (15-24 units/ac.)	N/A	60'	60'	25'	15'	25'	25'	N/A	45'	70%
Downtown Residential (DR) District										
Cottage	Residential development in the Downtown Residential (DR) district is subject to the standards set out in Section 4.2.6, <i>Special Design Standards for Downtown Residential (DR) District</i> .									
Single-Family Detached										
Single-Family Zero Lot Line ¹⁰										
Single-Family Attached										
Duplex										
Townhouse										
Downtown Residential (DR) District (Cont'd.)										
Triplex ⁸	Residential development in the Downtown Residential (DR) district is subject to the standards set out in Section 4.2.6, <i>Special Design Standards for Downtown Residential (DR) District</i> .									
Quadplex ⁸										
Apartment ^{8,9}										
Tiny House Development ^{6,8}										
Downtown (DN) and Downtown Transition Districts										
Apartment ⁹	Apartments and lofts are subject to the standards set out in Section 4.3.1, <i>Nonresidential and Mixed-Use Lot and Building Standards</i> , Section 4.3.2, <i>Nonresidential, Mixed-Use and Apartment Design Standards</i> , and Section 4.3.4, <i>Special Design Standards for Downtown (DN) and Downtown Transition (DT) Districts</i> , as may be applicable.									
Loft Apartment ⁹										
Table Notes:										
¹ The second number is the lot width for corner lots.										
² The second number is the garage setback for lots taking direct access from a rear alley.										
³ Rear-loaded means that parking must be located at the rear of the site and access must be taken from an alleyway at the rear of the property. Does not require an enclosed or covered garage.										
⁴ The second number is the side setback for the side attached to an adjacent unit.										
⁵ Manufactured Home Subdivisions and Parks must also comply with Section 4.2.3, <i>Manufactured Homes</i> .										
⁶ Tiny House Developments must also comply with the standards of Section 4.2.4, <i>Tiny House Development</i> .										
⁷ Allowed only in conjunction with a Master Planned Community.										
⁸ Allowed only with approval of a Conditional Use Permit.										
⁹ Apartments and lofts are subject to the standards set out in Section 4.3.1, <i>Nonresidential and Mixed-Use Lot and Building Standards</i> , Section 4.3.2, <i>Nonresidential, Mixed-Use and Apartment Design Standards</i> , and Section 4.3.4, <i>Special Design Standards for Downtown (DN) and Downtown Transition (DT) Districts</i> , as may be applicable.										
¹⁰ Single-Family Zero Lot Line developments must also comply with the standards of Subsection 4.2.3, <i>Single-Family Zero Lot Line Development</i> .										
¹¹ For Single-Family Zero Lot Line development, one interior side lot line minimum setback may be 0' and the opposite interior side lot line must be a minimum of 10' in conformance with the approved subdivision plat for the development.										

- C. **Lot Balancing.** Lot balancing is a design technique that provides predictable variation in the design of lots which allows a developer greater flexibility in offering multiple house plan options without decreasing overall gross density.

1. *Applicability.* Lot balancing is allowed in the Neighborhood Residential (NR) district for any single-family detached development option.
2. *Standards.*
 - a. The lot area and lot width shall be calculated and documented for each lot, and the average shall be equal or greater than the minimum lot area or lot width as required per the total number of residential lots.
 - b. The lot area or lot width of any individual lot may not be less than 90 percent of the minimum lot area or lot width as set out in Section 4.2.2, *New Residential Lot and Building Standards*.

Section 4.2.3 Single-Family Zero Lot Line Development

A. Generally.

1. This Section provides design standards for Single-Family Zero Lot Line developments in addition to the minimum standards of the zoning district in which it is located.
2. Single-Family Zero Lot Line development must be included in a plat designating the lots for Zero Lot Line development.

B. Single-Family Zero Lot Line Development Additional Design Standards.

1. The lot line with the zero-setback requirement shall not be a lot line adjacent to a lot not within the platted development or not otherwise containing or planned for zero-lot line dwellings.
2. At time of subdivision platting, a perpetual easement, a minimum of five feet in width, is required to be established on any lot line in which the adjacent lot is allowed a zero-setback for the purposes of structural overhang and to allow the adjacent property owner access for maintenance of the structure.
3. There shall be a minimum separation of ten feet between dwellings.
4. A masonry wall at least six feet in height shall be constructed on the zero-setback side from the front building line to a point within six feet of the rear property line. Said wall shall be required for any structure which has a setback of less than five feet on the designated zero setback side. This wall may include the main structural wall of the building.
5. The side of the structure located at or within 3 feet of the property line shall contain no windows or other openings.
6. The roof eaves on the side of the house with no side setback may project no more than 18 inches over the adjacent property line. The roof eaves on the side of the house with the ten-foot side setback may extend into the required ten-foot side setback on the opposite side of the house a maximum of two feet.
7. A gutter and down spout shall be required along the zero-setback side to ensure drainage is handled on the owner's property. Rain gutters must be positioned to drain only onto the lot of the house to which they are attached. The gutter system is not included in the calculation of the eave encroachment.
8. A fireplace, windowsill, box or bay window, or other architectural features not more than ten feet in width may extend a maximum of two feet into the required ten-foot side setback.
9. No setback shall be required from an interior side lot line for air conditioning or swimming pool equipment or for an uncovered porch or patio.
10. No structure may extend into a public easement.

Section 4.2.4 Manufactured Homes

- A. **Generally.** This Section provides minimum design standards for more affordable housing options while ensuring compatibility with surrounding districts. Manufactured Homes shall comply with the Texas

Manufactured Housing Standards Code of the Texas Administrative Code, the standards of this Section, as well as any other applicable standard in these regulations or other City ordinance.

B. Manufactured Home Building Unit Standards.

1. *Generally.*
 - a. Use and occupancy of manufactured home units is limited to single-family residential.
 - b. All new manufactured homes shall be located in a manufactured home park or subdivision as set out herein, except as otherwise allowed in the ENZ.5 district.
 - c. All manufactured home installations shall be reported by the owner or installer to the Texas Department of Housing and Community Affairs as provided by Texas Administrative Code, Title 10, Chapter 80, Texas Manufactured Housing Standards Code, and to the Building Official.
 - d. The Building Official shall inspect the installations and shall cooperate with the Texas Department of Labor and Standards in the enforcement of this Section and of said state statute and rules.
2. *Manufactured Home Specifications.* All manufactured homes shall meet the following specifications:
 - a. *Maximum Elevation.* The average elevation of a manufactured home frame above ground level shall not exceed four feet, as measured at 90 degrees from the top of the foundation pad to the frame, except when deemed necessary by the Floodplain Administrator.
 - b. *Skirting.* Skirting is required on all manufactured homes installed above grade:
 - i. Skirting shall be installed on a concrete footing so there is no visible gap between the finished floor and the ground.
 - ii. Skirting shall be constructed of stone, brick, decorative concrete masonry units and shall be compatible in appearance with the manufactured home.
 - iii. Skirting shall be installed on all sides of a manufactured home and be a continuous, complete, opaque, and rigid surface that lends permanency to the appearance of the unit and totally screens the crawl space under the unit.
 - iv. Skirting shall provide for adequate drainage and ventilation.
 - v. Skirting shall not be required for homes which are installed at-grade.
 - c. *Transportation Apparatus.* The wheels, axels, tongue, towing apparatus, and transportation lights shall be removed prior to occupancy of the manufactured home unit.

C. Manufactured Home Subdivisions.

1. *Use and Occupancy.* Only manufactured homes, as permitted by HUD, and related accessory buildings to the manufactured home, in accordance with Subsection 4.2.3.E, *Accessory Buildings in Conjunction with a Manufactured Home Unit*, shall be allowed to be located on a manufactured home lot.
2. *Conformance Required.* The design of a new manufactured home subdivision shall comply with Table 4.2.2, *Lot and Building Standards for New Residential Development* and all other zoning, subdivision, and other development-related regulations which apply to all new development or redevelopment.
3. *Permanent Foundation Required.* All manufactured homes shall be placed on a permanent concrete foundation which provides anchors and tie-downs that secure and stabilize the unit according to the manufacturer's specifications. Such tie-downs shall be installed and maintained in conformance with the Texas Manufactured Housing Standards Code of Title 10, Chapter 80 of the Texas Administrative Code.
4. *Lot Composition.* Each lot shall be comprised of not more than one manufactured home.
5. *Utilities.* All Manufactured Home Lots and Homes shall be served with sanitary sewer, potable water, and electrical power, which shall be designed and installed in accordance with Section 6.2.8, *Utility Services*; Section 6.2.9, *Water and Wastewater Facility Design*; and any other City ordinance or technical manual.

6. *Driveways.* Driveways shall be constructed of concrete or hot mix asphaltic concrete or similar material approved by the City Engineer and in conformance with the City's TCSS.
7. *Landscaping.* Landscaping of manufactured home lots shall be provided based on the zoning district regulations as established in Division 9.2, *Landscaping*.

D. **Manufactured Home Parks.**

1. *Generally.* It is intended these manufactured home parks only serve end users with dwellings suitable for permanent living. This means that each dwelling unit is comprised of suitable facilities for living, eating, sleeping, and sanitation. Since each lot/space is connected to public utilities, the overall development will not include separate bathroom and washroom facilities.
2. *Maximum Area of Development.* The maximum area for development is 20 acres.
3. *Site Development Plan.* A manufactured home park shall be planned cohesively through a Site Development Plan to apportion spaces, vehicle circulation, common amenities, open space, and supporting facilities.
4. *Conformance Required.* Spaces in the manufactured home park can be individually owned in a condominium form of ownership as set out in Section 4.1.4, *Condominiums and Alternative Forms of Ownership*, or rented as spaces under single ownership. Irrespective of ownership, the development and each space shall comply with the specifications set out in Table 4.2.2, *Lot and Building Standards for New Residential Development*, this Section, and all other zoning, subdivision, and other development-related regulations which apply to all new development or redevelopment.
5. *Space Composition.* A single manufactured home is allowed per space. No unit shall be located closer than 10 feet to another unit.
6. *Foundations and Tie-Downs.* All manufactured homes shall be placed on a permanent concrete pad which provides anchors and tie-downs that secure and stabilize the unit according to the manufacturer's specifications. Such tie-downs shall be installed and maintained in conformance with the Texas Manufactured Housing Standards Code of Title 10, Chapter 80 of the Texas Administrative Code.
7. *Site Access.* All manufactured home parks shall take access from an arterial or collector street with a driveway width of at least 32 feet wide, back-of-curb to back-of-curb. Driveways shall be constructed of concrete or hot mix asphaltic concrete or similar material approved by the City Engineer.
8. Each space shall have adequate frontage width on a private street or access drive to allow for loading/unloading maneuvering space.
9. *Community Service Buildings.* Manufactured home parks may provide community service buildings that provide direct servicing of its management and to provide for community maintenance. These facilities may include sanitary facilities, storage buildings, or management offices. Such community facilities and service buildings shall be represented on the Site Development Plan and obtain the proper Building Permits pursuant to Article 11, *Administration*.
10. *Common Area Amenities.* Common area amenities for the benefit and enjoyment of the residents shall be required based on the number of dwelling units allotted per the Site Development Plan. The type and number of amenities are established in Section 4.2.8, *Common Area Amenities*.
11. *Utilities.* All spaces/units shall be served with potable water, sanitary sewer, and electrical power, which shall be designed and installed in accordance with Section 6.2.8, *Utility Services*; and Section 6.2.9, *Water and Wastewater Facility Design*; and any other City ordinance or technical manual.
12. *Solid Waste Disposal.* The manufactured home park shall provide for the collection and disposal of solid waste in the form of either individual or centralized solid waste collection. Solid waste disposal shall conform to the requirements established by the City.

13. *Space Marker.* A permanent marker identifying the space number is required to be clearly visible day and night for emergency vehicles.
14. *Landscaping.* Landscaping of manufactured home sites shall be provided based on the zoning district regulations as established in Division 9.2, *Landscaping*.

- E. **Accessory Buildings in Conjunction with a Manufactured Home Unit.** Accessory buildings may be constructed or placed in conjunction with a manufactured home in accordance with Section 4.6.1, *Accessory Buildings and Structures*. Additional requirements shall include the following:
1. Accessory buildings in conjunction with a manufactured home shall require a Building Permit.
 2. Accessory buildings shall not be used as a dwelling unit.
 3. Accessory buildings shall be designed in a manner that will enhance the appearance of the manufactured home park or subdivision.
 4. Accessory buildings shall not obstruct emergency or firefighter access.
 5. Accessory buildings shall not be located outside the building lines.
 6. Accessory buildings may be supplied with electrical utility. Such electrical utility shall be independent of the circuit supplying the manufactured home unit and shall be designed and installed in accordance with Section 6.2.8, *Utility Services*, and any other City ordinance or technical manual.

Section 4.2.5 Tiny House Development

- A. **Generally.** This Section provides minimum design standards for more affordable housing options while ensuring compatibility with surrounding districts. Tiny Houses shall comply with the standards of this Section and the following:
1. All of the minimum standards for fitness for human habitation;
 2. The adopted International Residential Code (IRC);
 3. The adopted International Energy Conservation Code (IECC); and
 4. The adopted National Electric Code (NEC).
- B. **Tiny House Building Unit Standards.**
1. *Building Unit Size.* The Tiny House shall not be less than 140 square feet or greater than 599 square feet in size.
 2. *Minimum Facilities.* The Tiny House shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, an adequate supply of both cold and hot water, and the capability of heating and cooling the unit. All water shall be supplied through an approved pipe distribution system connected to an approved water supply.
 3. *Ventilation.* Every habitable room shall have at least one window or skylight which can be easily opened, or other such device which allows ventilation of the room. At least one window in every habitable room shall meet the minimum egress standards in compliance with the adopted IRC.
 4. *Foundation.* The Tiny House shall be constructed on a permanent foundation.
 5. *Inspections.* The Tiny House shall require Building Permits and inspections for compliance with these regulations and the City's adopted codes.
- C. **Tiny House Development Design.**
1. *Maximum Area of Development.* The maximum area for development is 20 acres.
 2. *Site Development Plan.* A Tiny House Development shall be planned cohesively through a Site Development Plan to apportion lots/units, vehicle circulation, common amenities, open space, and supporting facilities.

3. *Conformance Required.* Lots/units in the Tiny House Development can be individually owned in a condominium form of ownership as set out in Section 4.1.4, *Condominiums and Alternative Forms of Ownership* or rented as spaces under single ownership. Irrespective of ownership, the development and each lot/unit shall comply with the specifications set out in Table 4.2.2, *Lot and Building Standards for New Residential Development*, this Section, and all other zoning, subdivision, and other development-related regulations which apply to all new development or redevelopment.
4. *Community Service Buildings.* Tiny House Developments may provide community service buildings that provide direct servicing of its management and to provide for community maintenance. These facilities may include sanitary facilities, storage buildings, or management offices. Such community facilities and service buildings shall be represented on the Site Development Plan.
5. *Common Area Amenities.* Common area amenities for the benefit and enjoyment of the residents shall be required based on the number of dwelling units allotted per the Site Development Plan. The type and number of amenities are established in Section 4.2.8, *Common Area Amenities*.
6. *Utilities.* All units shall be served with potable water, sanitary sewer, and electrical power, which shall be designed and installed in accordance with Section 6.2.8, *Utility Services*, and Section 6.2.9, *Water and Wastewater Facility Design*, and any other City ordinance or technical manual.
7. *Solid Waste Disposal.* The Tiny House Development shall provide for the collection and disposal of solid waste in the form of either individual or centralized solid waste collection. Solid waste disposal shall conform to the requirements established by the City.

Section 4.2.6 Industrialized Housing Building Unit Standards

- A. **Applicability.** This Section applies to single-family and duplex industrialized housing, as defined by and regulated by the Texas Manufactured Housing Standards Act (Article 5221f and 5221f-1, V.A.C.S.) and the Texas Occupations Code Chapter 1202, Industrialized Housing and Buildings.
- B. **Generally.** Industrialized homes in the City limits are regulated the same as a traditional site-built home. Industrialized homes must meet or exceed all applicable local building codes, zoning and development regulations, and licensing and permitting requirements that pertain to construction of traditional site-built single-family or duplex dwelling units. Industrialized housing is often commonly referred to as modular housing.
- C. **Industrialized Housing Design Standards.** Per the Texas Occupations Code §1202.253, single-family and duplex industrialized housing shall:
 1. Have a value, after installation of the housing unit as determined by the appraisal district, equal to or greater than the median taxable value for each single-family detached dwelling unit located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for the county;
 2. Have exterior siding, roofing, roof pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located;
 3. Comply with the design standards, building setbacks, side and rear building setbacks, subdivision requirements, landscaping, square footage, and other site requirements applicable to single-family dwellings; and
 4. Be securely fixed to a permanent foundation.

- D. **Additional Application Materials.** In addition to application materials required for all new residential development, the Building Official shall require the following:
1. A confirmation that the proposed industrialized housing unit complies with the design standards set out in this Section; and
 2. A complete set of designs, plans, and specifications bearing a stamp of approval Texas Industrialized Building Code Council.
- E. **Additional On-Site Inspections.** To ensure compliance with design, plans, and specifications, the following on-site inspections are required by the Building Official:
1. Confirmation that each module or modular component bears an approved decal or insignia by the Texas Department of Licensing and Regulation signifying that each module or modular component has received a post-construction inspection ensuring conformance with state-mandated building codes;
 2. The construction of the foundation system; and
 3. The erection and installation of the modules or modular components on the foundation.

Section 4.2.7 Special Design Standards for Downtown Residential (DR) District

- A. **Generally.** The Downtown Residential district design standards provide a voluntary market incentive to replat and construct single-family attached residences and townhouses to create a more semi-urban residential character of development in walkable proximity to the Downtown district. The district standards still allow new duplex, cottage and single-family detached development.
- B. **General Development Standards.** Set out in Table 4.2.7.A, *Downtown Residential Lot and Building Standards*, are the lot and building standards for new residential development in the Downtown Residential District.

Table 4.2.7.A Downtown Residential Lot and Building Standards										
Land Use	Min. Lot Width	Min. Lot Size/ Area per Unit	Max. Lot Coverage	Min. Setbacks					Max. Building/ Structure Height	Minimum Dwelling Unit Size
				Front	Interior Side	Street Side	Rear	Garage Access		
Cottage	30'	4,200 sf	60%	10'	5'	7.5'	15'	7.5' ⁵	25'	600 sf ⁸
	40' ¹¹	5,600 sf	60%	10'	5'	10'	15'	15' ¹²	25'	600 sf ⁸
	50'	7,000 sf	60%	15'	5'	10'	15'	15' ¹²	35'	600 sf ⁸
Single-Family Detached	30' ¹	4,200 sf	60%	15'	5'	7.5'	15'	7.5' ⁵	35'	900 sf
	40' ¹¹	5,600 sf	60%	15'	5'	7.5'	15'	15' ¹²	35'	900 sf
	50'	7,000 sf	60%	15'	5'	10'	15'	15' ¹²	35'	900 sf
Single-Family Zero Lot Line ⁹	30' ¹	4,200 sf	60%	15'	0'/10' ¹⁰	7.5'	15'	7.5' ⁵	35'	900 sf
	40' ¹¹	5,600 sf	60%	15'	0'/10' ¹⁰	7.5'	15'	15' ¹²	35'	900 sf
	50'	7,000 sf	60%	15'	0'/10' ¹⁰	10'	15'	15' ¹²	35'	900 sf
Single-Family Attached	30' ¹	4,200 sf	60%	15'	0' ⁴ /5'	7.5'	15'	7.5' ⁵	35'	800 sf
	40' ¹¹	5,600 sf	60%	15'	5'	7.5'	15'	15' ¹²	35'	900 sf
	50'	7,000 sf	60%	15'	0' ⁴ /5'	10'	15'	15' ¹²	35'	900 sf
Duplex	50'	7,000 sf	60%	15'	5'	10'	15'	15' ¹²	35'	800 sf
Townhouse	22' ² / 32' ³	2,400 sf	60%	5'	0' ⁴ /5'	10'	15'	7.5' ⁵	35'	N/A
Triplex ⁶	50'	7,000 sf	60%	15'	10'	10'	15'	7.5' ¹³	40'	N/A
Quadplex ⁶	50'	7,000 sf	60%	15'	10'	10'	15'	7.5' ¹³	40'	N/A
Apartment ^{6,7}	100'	14,000 sf	70%	25'	10'	15'	15'	7.5' ¹³	40'	N/A

Table 4.2.7.A Downtown Residential Lot and Building Standards										
Land Use	Min. Lot Width	Min. Lot Size/ Area per Unit	Max. Lot Coverage	Min. Setbacks					Max. Building/ Structure Height	Minimum Dwelling Unit Size
				Front	Interior Side	Street Side	Rear	Garage Access		
Table Notes:										
¹ Single-Family Detached, Single-Family Zero Lot Line or Single-Family Attached development on 30-foot lots is only allowed on 30-foot lots that existed on the effective date of these regulations.										
² New Townhouse Development on a minimum of 22 foot lots is only allowed as rear-loaded units as set out in Table 4.3.6.C, <i>Downtown Residential Illustrative Lot Configurations</i> .										
³ The second number is the lot width for corner lots.										
⁴ The first number is the side setback for the side attached to an adjacent unit.										
⁵ Garage access must be taken from a rear alley.										
⁶ Allowed only with approval of a Conditional Use Permit as set out in Section 11.3.4, <i>Conditional Use Permits</i> .										
⁷ Apartments are subject to the standards set out in Section 4.3.1, <i>Nonresidential and Mixed-Use Lot and Building Standards</i> , and Section 4.3.2, <i>Nonresidential, Mixed-Use and Apartment Design Standards</i> , as may be applicable.										
⁸ Maximum Cottage unit size is 899 square feet.										
⁹ Single-Family Zero Lot Line developments must also comply with the standards of Subsection 4.2.3, <i>Single-Family Zero Lot Line Development</i> .										
¹⁰ For Single-Family Zero Lot Line development, one interior side lot line minimum setback may be 0' and the opposite interior side lot line must be a minimum of 10' in conformance with the approved subdivision plat for the development.										
¹¹ Corner lots must be at least 50' wide.										
¹² Garage access may be reduced to 7.5' when accessed from an alley.										
¹³ Triplex, Quadplex, and Apartment parking, including garages, must be directly accessed from within the site, not the street, except that when an alley is present, direct access may be taken from the alley.										

C. **Market Incentive Development Option.** Set out in Table 4.2.7.B, *Downtown Residential Market Incentive Development*, are the required minimum number of existing 50-foot residential lots needed for aggregation and the proposed development yield after replatting. Alternately, this could be accomplished by aggregating a sufficient number of 30-foot lots which equal the same overall lot width as the aggregated 50-foot lot widths. The minimum lot width standards of Table 4.3.6.A, *Downtown Residential Lot and Building Standards*, must still be met.

Table 4.2.7.B Downtown Residential Market Incentive Development			
Allowable Housing Types	Minimum Number of Existing 50' Contiguous Lots Needed	Total Dwelling Units Allowed After Replatting	Number of Additional Dwelling Units Gained from Replatting
Townhouse (1 three-unit townhouse)	2	3	1
Townhouse (2 two-unit townhouses)	3	4	1
Townhouse (2 three-unit townhouses)	4	6	2
Townhouse (2 four-unit townhouses)	5	8	3
Townhouse (2 five-unit townhouses)	6 (1 Block)	10	4

D. **Downtown Residential Illustrative Lot Configurations.** Set out in Table 4.2.7.C, *Downtown Residential Illustrative Lot Configurations*, are illustrative lot configurations depicting the various forms of new development and redevelopment in the Downtown Residential district.

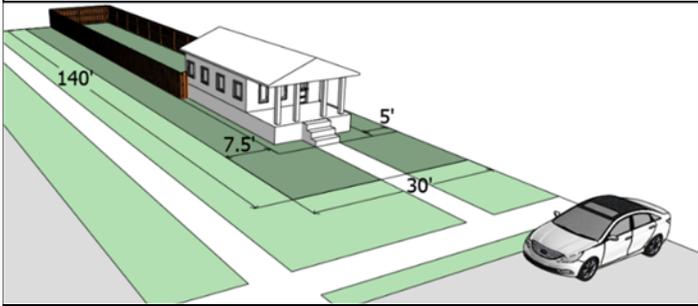
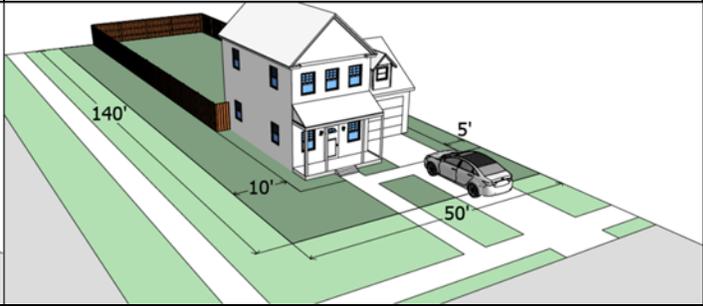
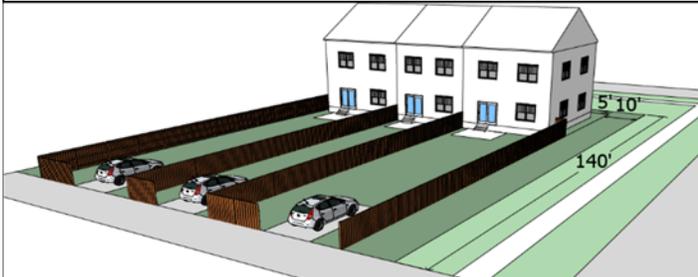
Table 4.2.7.C
Downtown Residential Illustrative Lot Configurations

Cottage	Single-Family Detached
2 Lot Aggregation / Replatting	3 Lot Aggregation / Replatting
4 Lot Aggregation / Replatting	5 Lot Aggregation / Replatting
6 Lot Aggregation / Replatting	

- E. **Design Standards.** All new development and redevelopment in the Downtown Residential District shall comply with the following minimum design standards.
1. *Front Porches.* Front porches are required with all new development and redevelopment. The porch may be enclosed with a screened enclosure but shall not be fully enclosed with walls and windows.
 2. *Parking.* Set out in Table 4.2.7.D, *Downtown Residential Illustrative Parking Configurations*, are illustrative parking configurations depicting the various means of parking in the Downtown Residential

district. New parking spaces are required as part of new development and redevelopment as set out in this subsection and Article 8, *Parking, Loading, Stacking, and Lighting*. Parking spaces shall be set out as follows:

- a. *Cottages*. Parking for new cottages may be accommodated in the street if the existing street pavement width can accommodate on-street parallel parking or if the existing right-of-way width can accommodate the applicant constructing paved parallel parking spaces adjacent the existing street. The Director shall determine the adequacy of existing street pavement or right-of-way widths. If on-street parallel parking cannot be accommodated, the standard on-site parking and associated driveway shall be required in accordance with Article 8, *Parking, Loading, Stacking, and Lighting*, and Article 7, *Access, Driveways and Circulation*.
- b. *Single-Family Detached, Single-Family Zero Lot Line, Single-Family Attached or Duplex Units*. Parking for new single-family detached, single-family zero lot line, single-family attached or duplex units must be set back at least 25 feet from the public sidewalk and meet the pavement and dimensional standards of Article 8, *Parking, Loading, Stacking, and Lighting*.
- c. *Townhouse Units*. Parking for new townhouse units shall be provided in the rear-yard in accordance with Article 8, *Parking, Loading, Stacking, and Lighting*, with paved alley access.
- d. *Triplex, Quadplex, and Apartment Development*. Parking for new triplex, quadplex, or apartment development may be located in the front yard provided that the parking area is set back at least 25 feet from the public sidewalk and meets pavement and dimensional standards of Article 8, *Parking, Loading, Stacking, and Lighting*. Parking may be in the side or rear yard with access taken from a side street or paved alley.

Table 4.2.7.D Downtown Residential Illustrative Parking Configurations	
Cottage – On-Street Parking	Single-Family Detached – Front Access Driveway/Garage
	
Townhouse – Rear Access Parking Spaces	Townhouse – Rear Access Garage
	

3. *Sidewalks*. All new development and redevelopment in the Downtown Residential district shall install a five-foot sidewalk in the public right-of-way along all local streets.
4. *Trees*. One street tree shall be provided per lot for new development and redevelopment. The tree shall be located in the front yard and irrigated.

Section 4.2.8 Special Design Standards for Existing Neighborhood Zone (ENZ) District

A. Generally.

1. *Applicability.* These development design standards apply to all new development, redevelopment, substantial improvements, and expansion of development in the Existing Neighborhood Zone (ENZ) district and the associated sub-districts set out in this Section.
2. *Conformity.* All existing residential lots and buildings are “conforming” provided that they were “conforming” on the effective date of these regulations with respect to:
 - a. *Buildings.* Height and setbacks; or
 - b. *Lots.* Lot width and lot area.
3. *Nonconformity.* This Section does not imply conformity in the following situations:
 - a. *Buildings.* Buildings which were constructed without, or in violation of, a required permit; or
 - b. *Lots.* Lots which were originally platted as conforming, but later subdivided into nonconforming lots by a metes and bounds description.
4. *Nonresidential Uses.*
 - a. All lawfully permitted nonresidential uses shall be considered legal nonconforming and may be continued provided that they were constructed and are operated in conformance with their original development approval and permit.
 - b. Expansions, substantial improvement, and redevelopment of existing nonresidential uses shall be in conformance with Table 4.2.8.A and all applicable provisions of these regulations.
 - c. New nonresidential development on a parcel proposed for development with an ENZ District shall be required to be rezoned, as set out in Section 11.3.2, *Zoning Map Amendment (Rezoning)*.

B. **Existing Neighborhood Zone Framework.** The individual sub-districts are based on the standards which were in effect at their time of development. Applications for development approval in these sub-districts shall be reviewed against the general development standards prior to consideration of the alternative development standards as set out below.

1. *General Development Standards.* Expansions, substantial improvement, and redevelopment of existing residential lots and buildings; subdivisions; and new development shall first be subject to the general development standards set out in Table 4.2.8.A, *Existing Neighborhood Zones General Lot and Building Standards*, in Subsection 4.2.8.C, below.
2. *Alternative Development Standards.* Modifications to existing buildings which involve an encroachment into a required setback, as set out in Table 4.2.8.A, *Existing Neighborhood Zones General Lot and Building Standards*, shall next be evaluated using the alternate development standards set out in Subsection 4.2.8.D, below.

C. **General Development Standards.** The general development standards for each sub-district are set out in Table 4.2.8.A, *Existing Neighborhood Zones General Lot and Building Standards*.

ENZ Sub-district	Development Type	Min. Lot Width	Lot Area & Coverage		Min. Setbacks				Max. Building/ Structure Height	Min. Dwelling Unit Size
			Minimum Area per Lot / Unit	Max. Lot Coverage	Front	Interior Side	Street Side	Rear		
ENZ.1	N/A	100'	1 ac.	30%	50'	15'	25'	25'	35'	1,500 sf

Table 4.2.8.A Existing Neighborhood Zones General Lot and Building Standards										
ENZ Sub-district	Development Type	Min. Lot Width	Lot Area & Coverage		Min. Setbacks				Max. Building/Structure Height	Min. Dwelling Unit Size
			Minimum Area per Lot / Unit	Max. Lot Coverage	Front	Interior Side	Street Side	Rear		
ENZ.2	Single-Family Detached, Single-Family Zero Lot Line ⁶ , Single-Family Attached ² , Duplex ⁵	50'	6,000 sf	50%	25'	5' ⁷	15'	10'	35'	900 sf
ENZ.3	Single-Family Detached, Single-Family Zero Lot Line ⁶ , Single-Family Attached, Duplex	50'	6,000 sf	75%	25'	5' ^{2,7} / 0'	15'	10'	35'	900 sf
	Townhouse	20'	2,400 sf	75%	20' / 15' ¹	5' ² / 0'	15'	5'	35'	800 sf
	Tri-plex, Quadplex	50'	6,000 sf	75%	25'	5'	15'	15'	35'	600 sf
ENZ.4	Single-Family Detached, Single-Family Zero Lot Line ⁶ , Single-Family Attached, Duplex	50'	6,000 sf	75%	25'	5' ^{2,7} / 0'	15'	15'	35'	800 sf
	Townhouse	20'	2,600 sf	75%	25' / 20' ¹	10' ² / 0'	15'	5'	35'	800 sf
	Tri-plex, Quadplex, Apartment ⁴	100'	12,000 sf	75%	25'	10'	15'	15'	50' / 35' ³	600 sf
ENZ.5	Manufactured Home, Single-Family Detached, Single-Family Attached, Duplex	50'	5,000 sf	60%	25'	5'	15'	15'	25'	600 sf

Table Notes:

¹ When the garage faces onto the street, the setback for the garage and the second story shall increase to 25 feet.

² For single-family attached units and townhouses, there is a zero-foot interior setback between attached units, but minimum 10-foot separation between buildings.

³ Maximum height shall be limited to 35 feet on any portion of a site within 100 feet of property zoned ENZ.2, Downtown Residential (DR), or Neighborhood Residential (NR).

⁴ Apartments are subject to the standards set out in Section 4.3.1, *Nonresidential and Mixed-Use Lot and Building Standards* and Section 4.3.2, *Nonresidential, Mixed-Use and Apartment Design Standards*, as may be applicable.

⁵ Allowed only with approval of a Conditional Use Permit as set out in Section 3.2.1, *Restricted and Conditional Uses*, and 11.3.4, *Conditional Use Permits*.

⁶ Single-Family Zero Lot Line developments must also comply with the standards of Subsection 4.2.3, *Single-Family Zero Lot Line Development*.

⁷ For Single-Family Zero Lot Line development, one interior side lot line minimum setback may be 0' and the opposite interior side lot line must be a minimum of 10' in conformance with the approved subdivision plat for the development.

D. **Alternate Development Standards.** The alternate development standards for each sub-district are set out in Table 4.2.8.B, *Existing Neighborhood Zones Alternate Lot and Building Standards*.

Table 4.2.8.B Existing Neighborhood Zones Alternate Lot and Building Standards	
Front Setback Averaging	The front setback may be reduced to the lesser of: 1) The average front building setback of homes along the same side of the street within the same sub-district; or

Table 4.2.8.B Existing Neighborhood Zones Alternate Lot and Building Standards	
	2) The average front building setback of homes within 500 feet, on either side, of the parcel proposed for development.
Front Porches	The front setback for a front porch may be reduced by up to six feet so that the front porch is located no closer than 14 feet from the front property line and is only enclosed with screens (not walls and windows).
Street Side Setback Averaging	The street side setback on any given lot may be reduced to no less than the average street side setback of lots within the same sub-district.
Side-Loaded Garages	The front setback may be reduced by 10 feet to establish a side loaded garage provided that: <ol style="list-style-type: none"> 1) There is more than one side-loaded garage within the same sub-district; 2) The lot is at least 75 feet wide; 3) The reduction only applies to the garage; 4) The garage has at least one street-facing window; and 5) The garage is constructed of the same design features and exterior materials as the principal building.
Rear-Loaded Garages	The rear setback for a rear-loaded garage taking access from an alley may be reduced to 7.5 feet.

Section 4.2.9 Common Area Amenities

- A. **Generally.** Common area amenities shall be provided by the developer for the benefit and enjoyment of the residents of apartments, manufactured home parks, RV parks and tiny house developments. This amenity area(s) is required independently of any other requirements of these regulations. Common area amenities, dependent on the type and design of the amenity, may count towards the minimum open space requirement, as set out in Table 4.2.1, *New Residential Development Options and Yield*. Timing for phased construction of amenities shall be determined at the time of Site Development Plan.
- B. **Amenities Standards.**
1. *Required Amenities.* The developer shall provide the number of common area amenities as identified in Table 4.2.9.A, *Common Area Amenities Required per Dwelling Unit*, and as selected from those listed in Table 4.2.9.B, *Common Area Amenity Types*.

Table 4.2.9.A Common Area Amenities Required per Dwelling Unit	
Number of Dwelling Units	Number of Amenities (minimum)
0-12	0
13-49	1
50-99	2
100-149	3
150-199	4
200 or more	5

Table 4.2.9.B Common Area Amenity Types	
Common Area Amenity Type	Requirements
After School Center	After School Center must be operated by licensed childcare operator (e.g., Extend-A-Care for Kids).
Clubhouse	Clubhouse shall include a kitchen area and social room for resident use.
Community Garden	Minimum of 200 square feet.
Direct access to a City park or the City-wide trail system.	The development abuts a City park or the City-wide trail system or is within 600 feet of such facility and provides pedestrian access via a continuous and connected sidewalk or trail meeting City specifications.

Table 4.2.9.B Common Area Amenity Types	
Common Area Amenity Type	Requirements
Fenced Dog Park	Minimum size of 2,500 square feet, with a minimum depth of 25 feet.
Landscaped Sitting Area	May be organized in a central area or dispersed throughout development, generally 200 square feet.
Laundry facility	Minimum 200 square feet.
Off-street Walking Paths	Linear distance of off-street multi-use path must be equal to or greater than half the linear dimension of the perimeter of the site.
Picnic Areas	Minimum of two picnic tables and two grills, minimum 200 square feet.
Playground Equipment	Playground equipment must be certified that it meets all commercial recreational safety standards.
Private business center	Minimum 200 square feet.
Private fitness facility	Minimum 200 square feet.
Sport court	Half or full-court, minimum 2,000 square feet.
Swimming pool	<p>Shall be built to the standards for public pools as established by Texas state law.</p> <p>From the Health and Safety Code:</p> <ul style="list-style-type: none"> ▪ Section 341.064, Swimming Pools and Bathhouses; ▪ Section 341.0645, Pool Safety; ▪ Section 341.0695, Interactive Water Features and Fountains; ▪ Chapter 757 - Pool Yard Enclosures. <p>From the Texas Administrative Code:</p> <ul style="list-style-type: none"> ▪ Chapter 265, Subchapter L, Standards for Public Pools and Spas; ▪ Chapter 265, Subchapter M, Public Interactive Water Features and Fountains.

2. *Location and Design.*

- a. The common area amenity shall be located and designed to serve the dwellings within the development. All playground equipment and related recreational improvements must be of commercial quality and approved by City.
- b. Amenities located in the 100-year floodplain shall be replaced on site if damaged during a flood event.

3. *Construction, Operation and Maintenance.* The amenity area shall be privately constructed by the developer and maintained and operated by a property owners’ association as set out in Section 4.1.5, *Property Owners’ Associations, Covenants, Conditions and Restrictions*, or the management company, as applicable.

Section 4.2.10 Accessory Dwelling Units (ADUs)

A. **Generally.** Accessory dwelling units (ADUs) are permitted as set out in this Section.

B. **Types of ADUs.** For the purposes of these regulations, there are three types of ADUs:

1. *Attached ADU.* Attached ADUs are units that are created within or attached to a principal building such that they appear to be an integrated part of it.
2. *One-Story Detached ADU.* One-story detached ADUs are detached accessory buildings that contain an accessory dwelling unit. They may or may not also include a garage or storage area.
3. *Second Story Detached ADU.* Second story detached ADUs are an accessory dwelling unit which is located on the second floor of an accessory building. A typical example is a dwelling unit located above a detached garage.

C. **Where Permitted.** Accessory dwelling units are allowed in zoning districts as provided in Table 4.2.10, *Accessory Dwelling Unit Types by Zoning District*. ADUs are not allowed in zoning districts that are not listed

in the table. ADUs are only allowed as an accessory dwelling unit where the principal building is a detached single-family building and occupied as a residence.

Table 4.2.10 Accessory Dwelling Unit Types by Zoning District																		
Accessory Dwelling Unit Type	ZONING DISTRICTS R=Permitted with Restrictions / --=Prohibited																Reference to Supplemental Standards	
	Ag	Residential					ENZ Sub-districts					Nonresidential						
	AG	RE	NR	TR	DR	MR	ENZ. 1	ENZ. 2	ENZ. 3	ENZ. 4	ENZ. 5	NC	GC	DN	DT	BP		IN
Attached ADU	R	R	R	R	R	R	R	R	R	R	R	--	--	--	--	--	--	Section 4.2.9.D; Section 4.2.9.E
One-Story Detached ADU	R	R	R	R	R	R	R	R	R	R	R	--	--	--	--	--	--	Section 4.2.9.D; Section 4.2.9.F
Second Story Detached ADU	R	R	R	R	R	R	R	R	R	R	R	--	--	--	--	--	--	Section 4.2.9.D; Section 4.2.9.G

D. General Design Standards for All Accessory Dwelling Units.

1. *Building Permit and Inspection Required.* Construction and occupancy of ADUs shall adhere to the requirements and process of developing any new building or structure as established in Article 11, *Administration*, including obtaining a Building Permit and Certificate of Occupancy.
2. *Lot Standards.* The development of an ADU shall conform to the applicable zoning district standards established in Table 4.2.2, *Lot and Building Standards for New Residential Development*, unless otherwise stated in this Section.
3. *Number of Accessory Dwelling Units.* No lot shall contain more than one ADU.
4. *Parking for ADUs.*
 - a. In addition to the parking requirements for the principal building, one off-street parking space shall be provided for the ADU.
 - b. Use of tandem parking to meet this requirement is allowed; however, only one tandem space is allowed per lot.
5. *Required Usable Outdoor Area.* Lots that are developed with ADUs shall include a useable outdoor area of at least 1,100 square feet.
6. *Utilities.* ADUs shall remain on the same electric and water meters as the principal building.
7. *Prohibited ADUs.* The use of a manufactured home, recreational vehicle, or tiny house as an accessory dwelling unit is prohibited.

E. Supplemental Standards for Attached ADUs.

1. *Area.* Attached ADUs shall not occupy more than 25 percent of the total square footage of the principal building.
2. *Setbacks Requirements for Attached ADUs.* Setbacks for attached ADUs shall be the same as the principal building.
3. *Additional Design Standards of Attached ADUs.*
 - a. Attached ADUs which include an addition to the principal building shall match the appearance of the principal building, including design, color, exterior cladding, and roofing materials, and shall not be readily apparent as a separate dwelling unit.
 - b. Exterior doors which provide direct access to the attached ADU shall be located and designed in a manner that is typical for secondary access to a single-family detached building.

F. Supplemental Standards for One-Story Detached ADUs.

1. *Area.* The floor area of a one-story detached ADU shall not exceed the lesser of the following:
 - a. 25 percent of the gross floor area of the principal building; or
 - b. Seven and one-half percent of the lot area;
 - c. The maximum accessory structure size allowed per Section 4.6.1, *Accessory Buildings and Structures*.
 - d. *Exception.* In the FR and RE District, a one-story detached ADU shall not exceed 33 percent of the gross floor area of the principal building, or 1,200 square feet, whichever is smaller.
2. *Setback Requirements for One-Story Detached ADUs.* One-story detached ADUs shall be set back from the property line as follows:
 - a. *Front, Street Side, Interior Side.* Same as principal building.
 - b. *Rear.* Same as principal building; or five feet where an alley abuts the rear lot line.
3. *Height.* The height of a one-story detached ADU shall not exceed:
 - a. Nine feet to the wall plate; and
 - b. 20 feet to the ridge.
4. *Additional Design Standards for One-Story Detached ADUs.*
 - a. The one-story detached ADU shall match the appearance of the principal building, including design, color, exterior cladding, and roofing materials.
 - b. One-story detached ADUs shall be spaced at least 10 feet from the principal building.

G. Supplemental Standards for Second Story Detached ADUs.

1. *Area.* Same as Subsection 4.2.10.F.1, *Area*, of this Section.
2. *Setbacks Requirements for Second Story Detached ADUs.* Same as principal building.
3. *Height.* Same as principal building.
4. *Additional Design Standards for Second Story Detached ADUs.*
 - a. The first floor of a second story detached ADU shall not include any living space of the ADU.
 - b. The second story detached ADU shall match the appearance of the principal building, including design, color, exterior cladding, and roofing material. In the event that the second story ADU is an addition to an existing accessory building not matching the principal building, the entire building shall be brought into compliance.
 - c. Second story detached ADUs shall be spaced at least 10 feet from the principal building.

DIVISION 4.3 NONRESIDENTIAL, MIXED-USE, AND APARTMENT DEVELOPMENT DESIGN

Section 4.3.1 Nonresidential and Mixed-Use Lot and Building Standards

- A. **Generally.** The development, lot, and building standards set out in Table 4.3.1, *Nonresidential and Mixed-Use Development Lot and Building Standards*, apply to all new development, redevelopment, substantial improvements, and expansion of all civic, commercial, industrial, and any other nonresidential or mixed-use buildings in all zoning districts.

B. Nonresidential and Mixed-Use Development Lot and Building Standards.

Table 4.3.1 Nonresidential and Mixed-Use Development Lot and Building Standards										
Zoning District	Minimum Area of Development	Minimum Lot Size	Minimum Lot Width	Maximum Lot Coverage	Build-to Line	Minimum Setbacks				Maximum Building Height
						Front	Interior Side	Street Side	Rear	
Nonresidential Districts										
NC ³	N/A	6,000 sf	50'	70%	N/A	25'	5'/ 10' ¹	25'	15'/ 10' ¹	35'
GC	N/A	N/A	50'	75%	N/A	25'	5'/ 10' ¹	25'	15'/ 10' ¹	45'
DN ²	N/A	N/A	25'	N/A	0' ²	0' ⁵	0'/ 10' ¹	0'	0'/ 10' ¹	60' ⁴
DT ²	N/A	N/A	25'	N/A	10' ²	0' ⁶	0'/ 10' ¹	10'	10' ¹	60' ⁴
BP	2.5 ac.	21,780 sf	150'	80%	N/A	35'	15'	25'	30'	60'
IN	5 ac.	1 ac.	250'	85%	N/A	35'	20'	25'	40'	60'
Nonresidential Development in other Districts										
FR, RE	N/A	32,670 sf	125'	25%	N/A	55'	35'	35'	60'	35'
NR, TR, DR, MR	N/A	32,670 sf	80'	70% ⁷	N/A	30'	15'	25'	20'	35'

Table Notes:
¹ All properties in the NC, GC, DN, and DT districts adjacent to Lake Marble Falls shall provide a minimum 10-foot boardwalk and public access easement along the water's edge. Side and rear setbacks adjacent to the lake shall be increased to 10 feet (or the edge of the boardwalk) in the DN and DT districts to accommodate the boardwalk and public access easement. Side and rear setbacks adjacent to the lake may/must be decreased/increased to 10 feet (or the edge of the boardwalk) in the NC and GC districts to allow construction up to the boardwalk and public access easement.
² See Section 4.3.4, *Special Design Standards for Downtown (DN) and Downtown Transition (DT) Districts*.
³ See Section 4.3.3, *Special Design Standards for Neighborhood Commercial (NC) District*.
⁴ Rooftop amenities are not counted towards the maximum building height provided the amenity does not occupy more than 50% of the roof area and is set back from the parapet edge or building façade on at least three sides.
⁵ Buildings in the DN district are required to be built to front and side property lines abutting a street, except as provided in Subsection 4.3.4.B, *Special Setbacks in the Downtown (DN) and Downtown Transition (DT) Districts*.
⁶ Buildings in the DT district are required to be built within 10 feet of the front property line, except as provided in Subsection 4.3.4.B, *Special Setbacks in the Downtown (DN) and Downtown Transition (DT) Districts*. The setback line may be averaged along the entire block.
⁷ Maximum lot coverage may be increased by 10% if additional landscaping is provided on the adjacent right-of-way(s).

Section 4.3.2 Nonresidential, Mixed-Use, and Apartment Design Standards

A. Generally.

1. *Applicability.* These development design standards apply to all new development, redevelopment, substantial improvements, and expansion of all civic, commercial, industrial, apartments and any other nonresidential or mixed-use buildings in all zoning districts.
2. *Consistent Façade Standard.* The development design standards described herein shall be expressed on all four sides of a building, unless expressly exempt (or modified). Each façade shall be similar in character and design to the other façades.

B. **Building Entrances.** Each principal building shall include significant architectural elements to identify the main building entrances. These main entrances must be clearly defined and highly visible.

1. *Entrance Elements.* The main entrance of the principal building shall include a sheltered entry which may be comprised of a canopy, portico, arcade, overhangs, or other comparable architectural element.
2. *Supplemental Elements.* The area around the main entrance shall also include at least two additional architectural elements. These elements include:
 - a. Recesses or projections;

- b. Over-the-door peaked roof forms;
 - c. Arches;
 - d. Outdoor patios or plazas;
 - e. Display windows;
 - f. Obviously differentiating architectural detail such as moldings that are integrated in to the building structure and design; or
 - g. Planters or wing walls that are integrated into the building and incorporate landscaped areas or places for sitting.
3. *Exemption.* Buildings located in the General Industrial (IN) district are not required to meet this standard.

C. **Building Articulation.** The design of new buildings shall be subject to the following vertical and horizontal building articulation standards to promote a more interesting and human-scaled façade appearance.

1. *Required Articulation.* As set out in Table 4.3.2.A, *Horizontal and Vertical Articulation Offset Requirements*, the design of all buildings shall include a three-part vertical articulation composition (i.e., a top (or cap), body, and base) and horizontal articulation composition for:
- a. All front and side building façades; and
 - b. Rear building façades which face a public right-of-way, a shared drive aisle or parking lot in a multi-lot unified development or shopping center, a park, or residentially zoned property or use.

Table 4.3.2.A Horizontal and Vertical Articulation Offset Requirements		
	Articulation Offset	Articulation Distance
Horizontal Articulation		
The required building façade shall not extend for a distance greater than three times the building’s average height without a perpendicular offset.	The depth of the perpendicular offset shall equal a minimum of 10% of the average building height.	Offsets shall extend laterally for a distance equal to at least 7.5% of the length of the entire façade.
Vertical Articulation		
The required building façade shall not extend horizontally for a distance greater than three times the building’s average height without a change in elevation.	The elevation change shall equal a minimum of 10% of the average building height.	Elevation changes shall continue to extend laterally for a distance equal to at least 7.5% of the length of the entire façade.

2. *Supplemental Articulation.* In addition to Subsection 4.3.2.C.1, *Required Articulation*, above, the required building façade shall include at least one recognizable change of texture or materials.
3. *Exemptions.*
- a. Articulation is not required on buildings in the IN district, except where a building façade faces an arterial-level street and is located within 200 feet of the street.
 - b. In the BP district, articulation requirements only apply to the front street facing façade of the principal building.
 - c. Articulation is not required in the DN district on side building façades built to the property line where another building does or will abut. Articulation is required when the side building façade faces a public street, residential property, or public park, plaza, or open space.
 - d. In all other districts, where there are multiple buildings on one lot, a building façade that is screened from view from the property lines by other buildings may be exempt from providing articulation.

D. **Architectural Elements.** All front and side building façades and all rear facades which face a public right-of-way, a shared drive aisle or parking lot in a multi-lot unified development or shopping center, a park, or a residentially zoned property or use shall incorporate architectural elements that visually divide the façade plane. Long, uninterrupted vertical or horizontal wall sections are prohibited. In addition to the building articulation standards set out in this Section, building façades shall not include a blank wall area larger than generally 14 feet tall by 24 feet wide or 300 square feet in area.

1. Complying with this requirement can be accomplished through the use of:
 - a. Repeating distinctive window patterns at intervals less than the articulation interval;
 - b. Window(s);
 - c. Door(s);
 - d. Balconies;
 - e. A porch, patio, deck, or covered entry;
 - f. A change in the roofline by alternating parapet heights;
 - g. A change in building materials that corresponds to a change in building plane; or
 - h. Lighting fixtures, trellises, trees, or other landscape features.
 - i. An awning or canopy; or
 - j. Vines or other plantings on wall trellises that cover at least 60 percent of the façade elevation.

2. *Exemptions.*

- a. This Section does not apply to buildings in the IN district, except where a building façade faces an arterial-level street and is located within 200 feet of the street.
- b. In the BP district, architectural element requirements only apply to street facing façades.
- c. Architectural elements are not required in the DN district on side building façades built to the property line where another building does or will abut. Architectural elements are required when the side building façade faces a public street, residential property, or public park, plaza, or open space.

E. **Building Materials.** The exterior façades of all buildings, excluding doors and windows, shall be finished in one or more of the following exterior finish materials, in accordance with Table 4.3.2.B, *Building Material Standards*.

1. *Types of Exterior Finish Materials:*

- a. *Class 1 Materials.* Exterior finish materials considered Class 1 are comprised of the following:
 - i. Brick;
 - ii. Natural stone;
 - iii. Granite;
 - iv. Marble; and
 - v. Masonry Veneer (thin brick and engineered stone) placed a minimum of 10 feet above finished grade of the building and above another Class 1 Masonry product.
- b. *Class 2 Materials.* Exterior finish materials considered Class 2 are comprised of the following:
 - i. Architectural concrete masonry units in the following styles:
 - a) Split face;
 - b) Weathered face;
 - c) Sandblasted face; or
 - d) Ground face; and
 - ii. Portland cement stucco, installed with a weather barrier and wall drainage system.

- c. *Class 3 Materials.* Exterior finish materials considered Class 3 are comprised of the following:
 - i. Exterior Insulation and Finish Systems ("EIFS"), installed with a weather barrier, wall drainage system, and prohibited for the first 10 feet above finished grade of the building;
 - ii. Smooth-faced, finished concrete masonry units;
 - iii. Fiber cement siding ("Hardie Board"), installed as horizontal lapped siding, in a board-and-batten style vertical installation, or as shingles;
 - iv. Synthetic wood material that has the architectural appearance of real wood; and
 - v. Embossed or prefinished architectural metal panel (26+ gauge), which has an appearance of masonry or stucco. (applicable only to buildings with a gross floor area greater than 16,000 square feet).
 - d. *Glass.* Windows and doors are excluded from the percentage of materials required. However, a maximum of 60 percent of the ground floor façades and a maximum of 40 percent of the upper floor façades shall be glass, whether window, glass curtain wall, or glass block. Glass shall have a maximum reflectivity of less than 20%.
 - e. *Tilt-wall.* Tilt-wall construction is not restricted as a construction method; however, an exterior finish shall be required in the form of a Class 1, Class 2, or Class 3 material.
 - f. *Other Materials.* Other materials such as wood, prefab metal panels, metal siding, etc. may be used for the remainder of the building façade that is not subject to the material standards, according to Table 4.3.2.B, *Building Material Standards*.
2. *Building Material Standards.* As set out in Table 4.3.2.B., *Building Material Standards*, each zoning district includes a minimum percentage of the overall building that shall be finished with a masonry product and the amount of the overall building that shall meet the criteria of a Class 1 material. Additionally, the table specifies the limitation of the amount of Class 2 and Class 3 materials that can be used on the building for each zoning district. Each façade subject to the building material requirements shall independently meet the minimum requirements unless otherwise approved by the Director.

Table 4.3.2.B Building Material Standards					
Zoning District		Minimum Percentage Required		Maximum Percentage Allowed	
		Overall Approved Building Material Requirement	Class 1 Materials	Class 2 Materials	Class 3 Materials
NC	All floors	75%	30%	70%	10%
GC	1 st – 3 rd floors	95%	50%	40%	20%
	4 th floor and up		20%	80%	20%
DN	All floors	95%	75%	25%	10%
DT	1 st – 3 rd floors	95%	75%	25%	10%
	4 th floor and up		30%	70%	10%
BP ¹	1 st – 3 rd floors	75%	30%	70%	50%
	4 th floor and up		10%	90%	50%
IN ¹	1 st – 3 rd floors	50%	10%	90%	75%
	4 th floor and up		10%	90%	75%
Nonresidential Development in all other districts		75%	30%	70%	10%

Table 4.3.2.B Building Material Standards					
Zoning District		Minimum Percentage Required		Maximum Percentage Allowed	
		Overall Approved Building Material Requirement	Class 1 Materials	Class 2 Materials	Class 3 Materials
Apartment in all districts	1 st floor	75%	30%	70%	10%
	Other floors		-	100%	60%

Table Notes:
¹ In the IN and BP districts, rear building façades not facing a public street, residential district or use, or public park are exempt from the building material requirement. Side building façades in the IN and BP districts are required to address the material requirements on the first 50-feet or first 50% of the façade, whichever is less, provided an opaque wall or fence is installed that screens the remaining façade from street view and provided the property is not adjacent an arterial level street.

3. *Prohibited Exterior Finish Materials:* The use of the following materials for exterior walls, siding, or cladding is prohibited for all uses:

- a. Plywood;
- b. Plastic; and
- c. Corrugated Metal.

4. *Approval of Other Exterior Finish Materials.*

- a. *Generally.* Other building materials may be considered as exterior finish materials if it is demonstrated that they have comparable durability, impact resistance, and aesthetic quality as the materials provided by this Section.
- b. *Approval Required.* The Planning and Zoning Commission must approve other exterior finish materials.
- c. *Consistent with Original Building Materials.* For existing nonresidential buildings undergoing expansion, the Planning and Zoning Commission may approve materials that are used on the original building, provided that such materials are an integral part of the character of the existing building.
- d. *Materials That Support Energy Efficiency and Sustainability.*
 - i. For buildings designed to achieve a U.S. Green Building Council Leadership in Energy and Environmental Design (USGBC LEED®) certification, the Planning and Zoning Commission may approve materials that qualify for LEED points under both the “energy and atmosphere criteria” and the “materials and resources criteria” of the LEED checklists.
 - ii. For buildings designed to achieve the EPA ENERGY STAR certification, the Planning and Zoning Commission may approve materials that substantially improve the energy efficiency of a building compared to materials that are permitted above.

F. **Building Façade Color.** Nonresidential or apartment building façades should consist of colors that are consistent with the Texas Hill Country heritage of Marble Falls while also allowing for differentiation of buildings and artistic expression. Class I Masonry shall not be colored with paint, stain, or other coloring application method. Other building façade materials shall predominantly consist of muted, earth tone colors. Primary wall planes facing public streets or parks shall not consist of iridescent, glossy, fluorescent, bright, or “hot” shades of pink, yellow, red, purple, orange or green. Accent colors in limited quantity are not restricted by this Section and shall only be applied to architectural elements. Architectural elements may include but are not limited to, doors, shutters, awnings, window trims, door frames, window sills, cornices, and banding.

G. **Roof Design.**

1. *Generally.* All buildings shall be constructed with a pitched roof, flat roof, true mansard roof, or any combination thereof.
2. *Flat Roofs.*
 - a. When using a flat roof, parapet walls are required at a minimum of 30 inches in height and constructed with materials listed in Subsection 4.3.1.E, *Building Materials*, in a similar style of the building architecture. Buildings in the General Industrial (IN) District are exempt from this requirement, except when facing a Principal Arterial.
 - b. Faux mansard roofs are not permitted.
 - c. Green roof systems are permitted.
 - d. Any material that is permitted by the City's adopted building code is allowed on a flat roof.
3. *Pitched Roof.*
 - a. Roofing materials used on pitched roofs shall be proven, high-quality, durable materials, and may include:
 - i. Architectural shingles;
 - ii. Concrete tile;
 - iii. Clay tile;
 - iv. Slate;
 - v. Architectural standing seam metal;
 - vi. Building-integrated solar tiles (solar panels that double as roofing material);
 - vii. Green roof systems; and
 - viii. Other, as approved by the Director.
 - b. Overhanging eaves extending a minimum of 18 inches shall be provided on pitched roofs.
4. *Prohibited Roofing and Material.* Corrugated or ribbed metal and other roofing materials that are not listed in Subsection 4.3.2.G.3.a, above, are prohibited.

H. **Awnings and Canopies. Awnings and canopies, if constructed, shall meet the following standards:**

1. *Placement.*
 - a. A minimum clearance of eight feet from finished grade to bottom of the awning or canopy is required. Finished height may not exceed 16 feet above finished grade.
 - b. Awnings and canopies shall not encroach into a public right-of-way unless otherwise allowed by these regulations.
2. *Materials.* Awnings and canopies may be constructed as the same permitted materials as pitched roofs (see Subsection 4.3.2.G.3.a, above), or canvas.
3. *Lighting.* Backlighting or internal illumination is prohibited.
4. *Downtown (DN) and Downtown Transition (DT) Districts.* See Section 4.3.4.G for awnings and canopies in the Downtown (DN) and Downtown Transition (DT) Districts.

Section 4.3.3 Special Design Standards for Neighborhood Commercial (NC) District

- A. **Generally.** These development design standards apply to all new development, redevelopment, substantial improvements, and expansion of civic, commercial, and industrial developments and any other nonresidential or mixed-use buildings in the Neighborhood Commercial (NC) district. These standards apply in addition to the standards set out in other applicable sections of this Division.
- B. **Building Scale in the Neighborhood Commercial (NC) District.** Buildings in the Neighborhood Commercial (NC) district shall be limited to a maximum floor to area ratio (FAR) of 0.30. Additionally, buildings within the

Neighborhood Commercial (NC) district are limited to one (1) story in height within fifty (50) feet of a residential property.

- C. **Parking in the Neighborhood Commercial (NC) District.** Required parking spaces shall be placed in the side or rear yard and not between the principal building and the street, except that up to two rows of parking may be placed between the building and the street when located on a collector or arterial level street. The Director may approve parking between the principal building and the street when the property is adjacent to Lake Marble Falls or when properties on both sides are developed commercially with parking between the building and street.

Section 4.3.4 Special Design Standards for Downtown (DN) and Downtown Transition (DT) Districts

- A. **Generally.** These development design standards apply to all new development, redevelopment, substantial improvements, and expansion of civic, commercial, and apartment developments and any other nonresidential or mixed-use buildings in the Downtown (DN) and Downtown Transition (DT) districts. The DN and DT Districts have specified differences in site and design characteristics, as set out in this Section. These standards apply in addition to the standards set out in Section 4.3.2, *Nonresidential, Mixed Use and Apartment Design Standards* and other applicable sections of this Division. Buildings must be designed with an urban character at the front property line and front façade.
- B. **Special Setbacks in the Downtown (DN) and Downtown Transition (DT) Districts.**
 - 1. *Downtown District (DN).* A minimum of 80% of any building façade facing a public street shall be built to that property line abutting the street, except as provided in Subsection 4.3.4.B.3, below.
 - 2. *Downtown Transition District (DT).* A minimum of 80% of the front building façade shall be built within 10 feet of the front property line, except as provided in Subsection 4.3.4.B.3, below. The setback line may be averaged along the entire block.
 - 3. *Setback Exceptions in either district:*
 - a. *Narrow or Non-Existent Sidewalk.* Where there is no sidewalk or an existing public sidewalk that is less than six feet wide, the building must be set back in order to provide the additional space to expand the sidewalk onto the private lot to achieve a minimum of six feet. In such an instance, the build-to line will be located at the edge of the expanded sidewalk on the private lot.
 - b. *Public Plaza or Outdoor Service Area.* Buildings may be set back up to a distance of 20 feet from the build-to line in order to provide a designated public plaza or similar outdoor area according to the following standards:
 - i. The public plaza or outdoor service area shall be designated upon development approval and maintained as a publicly accessible space;
 - ii. Any service uses that take place in the designated setback area must directly relate to the activity of the primary ground floor use (e.g., outdoor seating for a restaurant, outdoor display area for a retail store, etc.); and
 - iii. When the area is not being used as an outdoor service area, it shall remain generally accessible to the public and function as an extension of the public sidewalk environment.
 - c. The front build-to requirement shall not be applicable to properties directly adjacent to Lake Marble Falls.
- C. **Drive-through or Drive-up Facilities in the DN and DT Districts.** No drive-through, drive-up, or drive-in facilities shall be permitted in the Downtown or Downtown Transition districts.

D. **Parking in the DN and DT Districts.**

1. *DN and DT Districts.* Parking shall be in accordance with Division 8.2, *Off-Street Parking*, of these regulations.
2. *DT District.* On-site parking shall be located behind the principal building and is not allowed between the building line and the street. On-street parking is encouraged but shall only be allowed on local-level streets when it is determined by the Director the existing street pavement width and/or the existing right-of-way width is adequate to accommodate.
3. The Director may approve parking between the principal building and the street for either district when the property is adjacent to Lake Marble Falls.

E. **Roofs in the Downtown (DN) and Downtown Transition (DT) Districts.** Rooflines shall be individually distinguishable with variations of height. Roofs shall relate to the building façade articulations. Pitched-roof building forms facing the street are not permitted, except that the Director may make an exception for buildings less than 1,000 square feet when they are not located on a property line shared with another building.

F. **Balconies in the Downtown (DN) and Downtown Transition (DT) Districts.** Balconies in the DN and DT districts shall be in accordance with the following:

1. *Right-of-Way Encroachment.* In the DN and DT districts, cantilevered balconies are allowed to encroach into the public right-of-way up to five feet without special approval but shall not extend over street pavement. A minimum 10-foot clearance shall be provided between the balcony and any public sidewalk beneath.
2. *Materials.* Balcony railing materials should be consistent with the character of the district. Glass railing or enclosure around a balcony shall not be permitted.

G. **Awnings in the Downtown (DN) and Downtown Transition (DT) Districts.** Awnings and canopies in the DN and DT districts shall be in accordance with the following:

1. *Right-of-Way Encroachment.* In the DN and DT districts awnings and canopies are allowed to encroach into the public right-of-way without special approval. Awnings and canopies shall not extend further than six feet into the right-of-way and shall not extend over street pavement.
2. *Minimum Clearance.* A minimum clearance of eight feet from finished grade to bottom of the awning or canopy is required. If signage will be placed under the awning or canopy, a minimum clearance of ten feet is required.
3. *Extent.* Awnings and canopies shall not be closer to the edge of the building than one-foot and shall not cover architectural features. Maximum height of the upper attachment of an awning shall not exceed 16 feet above finished grade.
4. *Materials.* Awnings and canopies shall be constructed of proven, high-quality, durable materials, but may not be constructed of corrugated metal or R-Panel.
5. *Support Features.* Awnings and canopies in the public right-of-way shall be supported by the building and shall not utilize poles or other ground mounted support features unless the Director determines the right-of-way width and streetscape is such that a minimum 6-foot unimpeded pedestrian walkway can be maintained between the support feature and the street or parking edge.
6. *Lighting.* Backlighting or internal illumination is prohibited.
7. *Signage.* Logos and writing shall be calculated as signage per Chapter 20 of the City Code.

H. **Construction of Public Improvements.** At the time of construction of new buildings along public streets, or major remodel or addition to the street facing façade of an existing building where the cost of the remodel

equals or exceeds 30% of the value of the structure, or upon redevelopment of a property, site improvements in the adjacent public right-of-way shall be constructed consistent with the Downtown Master Plan, including sidewalks, curbing, lighting, and street trees. Construction of on-street parking in the right-of-way adjacent to the site shall count towards the parking requirements of this code at a rate of two (2) spaces for each space constructed.

Section 4.3.5 Alternative Building Design

- A. **Purpose.** To provide flexibility in the attainment of harmonious building design, an applicant may request an Alternative Building Design using the Administrative Exception process detailed in Section 11.5.4, *Administrative Exception*. An Alternative Building Design may address requirements within Subsection 4.3.2.C, *Building Articulation*, Subsection 4.3.2.D, *Architectural Elements*, and Subsection 4.3.2.E, *Building Materials*.
- B. **Review Criteria.** The Director shall consider the following criteria and standards in determining whether to grant an Administrative Exception for an Alternative Building Design:
 - 1. Whether the design meets the intent of the design standards set forth in these regulations;
 - 2. Whether the design will produce an aesthetically pleasing building(s) that is comparable to buildings meeting the minimum design standards of these regulations;
 - 3. The use of alternative materials such as wood, metal, and glass if they are incorporated into an overall architectural design in an appropriate manner;
 - 4. The locations of building walls in relation to streets;
 - 5. Whether building walls are significantly screened from view by other buildings on site, natural features, or fencing; and
 - 6. The successful use of a variety of building elements or design techniques, additional screening or landscaping or other site design features to achieve the same result.

DIVISION 4.4 MASTER PLANNED COMMUNITIES AND PLANNED DEVELOPMENT DISTRICTS

Section 4.4.1 Generally

- A. As set out in the City’s Comprehensive Plan, flexibility is envisioned for well-planned developments that exhibit uniqueness and character and promote a mix of uses as well as multiple housing types and open spaces while ensuring predictability in the built environment. Where many of the zoning districts in these regulations provide definition for individual housing types and their design standards, there exists a need to accommodate large planned developments that integrate multiple, supporting land uses and innovative design techniques to create special places within the community.
- B. Master Planned Communities may be developed as set out in Section 4.4.2, *Master Planned Communities*, with pre-established flexibility for a mix of residential and non-residential uses within a single zoning district to be administratively reviewed for approval. Planned Development Districts may be proposed as set out in Section 4.4.3, *Planned Development Districts*.

Section 4.4.2 Master Planned Communities

- A. **Intent.** The intent of the Master Planned Community is to provide predictable flexibility in the development process by allowing expanded development options including mixed housing types and integrated nonresidential mixed-use in a cohesive development.

B. **Generally.** A Master Planned Community can only be used for new residential or mixed-use development. The overall parcel proposed for development cannot include existing residential or other development as a means to satisfy the minimum percentage requirements set out below. The percentages are based on the total acreage of the tract(s). The development flexibility per district for a Master Planned Community is set out in Table 4.4.2.A, *Master Planned Community Development Flexibility*.

Table 4.4.2.A Master Planned Community Development Flexibility			
Development Options	NR District	TR District	MR District
Residential Uses			
Single-Family Detached (including suburban and neighborhood development types)	Min. 75%	Max. 25%	Max. 10%
Cottage	Max. 15%	Not allowed	
Single-Family Attached	Max. 25%	Min. 65%	Max. 50%
Duplex			
Townhouse	Max 5%	Max. 25%	Min. 50%
Triplex			
Quadplex			
Apartment (maximum 14 units/acre)	Not Allowed	Max. 15%	
Apartment (maximum 24 units/acre)		Not Allowed	
Loft Apartment	Max. 5%	Max. 10%	Max. 50%
Nonresidential and Mixed-Uses			
Civic Uses (as identified in Table 3.1.4, <i>Civic Uses by Zoning District</i>)	Max. 25%	Max. 35%	Max. 50%
Commercial Uses (as identified in Table 3.1.5, <i>Commercial Uses by Zoning District</i>)	Max. 5%	Max. 10%	Max. 15%

C. **Minimum Size.** A minimum of 25 acres is required to establish a new Master Planned Community.

D. **Compatibility within Master Planned Communities.**

1. *Maximum Gross Density of Master Planned Communities.* The maximum gross density shall be calculated as the aggregate of each development option located within the Master Planned Community in accordance with Table 4.2.1, *Development Options and Yield for New Residential Development*.
2. *Minimum Open Space Area of Master Planned Communities.*
 - a. The minimum open space area shall be calculated as the aggregate of each development option located within the Master Planned Community in accordance with Table 4.2.1, *Development Options and Yield for New Residential Development*.
 - b. The placement and configuration of the overall minimum open space area within a Master Planned Community does not have to be allocated in association with individual development option areas; provided, however, that it shall be configured in a manner that maximizes proximity and connectivity to all development areas within the Master Planned Community.
3. *Residential Uses.* As the master planned communities’ framework allows for various lot sizes and housing types, each of the sub-areas shall comply with the following:
 - a. *Master Planned Development in the Neighborhood Residential (NR) District.*
 - i. Single-family detached and cottage uses in the NR district shall follow the development standards as set out for the Neighborhood Residential (NR) district in Table 4.2.1, *Development Options and Yield for New Residential Development*, and Table 4.2.2, *Lot and Building Standards for New Residential Development*.

- ii. Single-family attached, duplex, townhouse, triplex, quadplex, and loft apartment uses in the NR district shall follow the development standards as set out for the Transitional Residential (TR) district in Table 4.2.1, *Development Options and Yield for New Residential Development*, and Table 4.2.2, *Lot and Building Standards for New Residential Development*.
 - b. *Master Planned Development in the Transitional Residential (TR) District.*
 - i. Single-family detached, single-family attached, duplex, townhouse, triplex, quadplex, and loft apartment uses in the TR district shall follow the development standards as set out for the Transitional Residential (TR) district in Table 4.2.1, *Development Options and Yield for New Residential Development*, and Table 4.2.2, *Lot and Building Standards for New Residential Development*.
 - c. *Master Planned Development in the Multifamily Residential (MR) District.*
 - i. Single-family detached, single-family attached, cottage, and duplex uses in the MR district shall follow the development standards as set out for the Transitional Residential (TR) district in Table 4.2.1, *Development Options and Yield for New Residential Development*, and Table 4.2.2, *Lot and Building Standards for New Residential Development*.
 - ii. Townhouse, triplex, quadplex, apartment, and loft apartment uses in the MR district shall follow the development standards as set out for the Multifamily Residential (MR) district in Table 4.2.1, *Development Options and Yield for New Residential Development*, and Table 4.2.2, *Lot and Building Standards for New Residential Development*.
- 4. *Nonresidential Uses.* Nonresidential uses as part of a Master Planned Community are intended to provide the opportunity to develop more complete neighborhoods with an appropriate mix of uses serving the immediate neighborhood. As such, the following standards are necessary to ensure compatibility with the Master Planned Community and nearby areas.
 - a. Nonresidential uses shall comply with all applicable standards set out in these regulations, including Section 4.3.1, *Nonresidential and Mixed-Use Lot and Building Standards* and Section 4.3.2, *Nonresidential, Mixed-Use, and Apartment Design Standards*. In addition, commercial uses shall also comply with Section 4.3.3, *Special Design Standards for Neighborhood Commercial (NC) District*.
 - b. Nonresidential uses cannot receive a Certificate of Occupancy until a minimum of 25 percent of the residential units associated with the Master Planned Community, or 100 residential units, whichever is lesser, have received a Certificate of Occupancy.
 - c. Nonresidential uses shall take access from an arterial or collector street and cannot be located within 500 linear feet from an existing residential building not part of the Master Planned Community.
- 5. *External Compatibility.*
 - a. Where a Master Planned Community abuts, is adjacent to, or is located across a street from existing residential uses, the housing types that are nearest or across the street shall be comparable to the existing housing in terms of the housing type, scale, and method of access.
 - b. The landscape bufferyard standards of Division 9.3, *Buffering*, shall be applicable along any property boundaries abutting or adjacent to properties not within the Master Planned Community.
- 6. *Internal Compatibility.* Where a Master Planned Community is comprised of uses which would normally be required in different zoning districts, some development options still warrant separation by a bufferyard to ensure compatibility. Apartment, triplex, and quadplex uses shall provide a Type A bufferyard adjacent to single-family detached, single-family attached, cottage, duplex and townhouse uses within the Master Planned Community. All other uses shall provide a Type B bufferyard adjacent to single-family detached, single-family attached, cottage, duplex, and townhouse uses within the Master Planned Community. Bufferyards shall be in accordance with Table 9.3.1.B, *Bufferyard Requirements*.

E. **Concept Plan and Development Phasing.**

1. *Generally.* A parcel proposed for development may be developed in phases, with each phase separately platted. To ensure compliance with overall maximum gross density, minimum open space area, and other requirements, a Concept Plan, as set out in Section 11.3.5, *Concept Plan*, for the entire parcel proposed for development is required prior to, or concurrent with, the first application for Preliminary Plat approval.
2. *Consistency with Concept Plan.* Individual phases of development shall be in accordance with the overall configuration of the Concept Plan to ensure the orderly development of the entire Master Planned Community. This could include such things as temporary alley and street extensions, temporary cul-de-sacs, off-site utility extensions, or modifications to future phases if preliminary phases are not consistent with the overall Concept Plan. A determination of compliance with the Concept Plan shall be made during the platting process of each individual phase of development.

Section 4.4.3 Planned Development Districts (PDD)

- A. **Generally.** The Planned Development District is a tool intended to accommodate the planning, design, and development of integrated land uses and densities and facilitate new and innovative development concepts that cannot be accommodated by other zoning districts or development scenarios. To protect against the misuse of the district as a vehicle for variances and exceptions from these regulations, Planned Development Districts should be utilized for innovative developments that cannot be accomplished through other processes and procedures established by these regulations.
- B. **Applicability.** A Planned Development District may be used to permit new or innovative concepts in land utilization not permitted by other zoning districts in this Code. While greater flexibility is given to allow special conditions or restrictions which would not otherwise allow the development to occur, procedures and standards are established herein to ensure against misuse of increased flexibility.
- C. **Planned Development Types.** Planned Developments shall be categorized as one of the following.
1. *Conceptual Planned Development Districts.* Conceptual Planned Development District applications are allowed for large 50+ acre developments which may require phased development over an extended period of time. Conceptual Planned Development Districts require Concept Plan approval in conjunction with the granting ordinance and Site Development Plan approval prior to commencement of each phase of the development in accordance with the development standards of the Planned Development District ordinance. Conceptual Planned Development Districts do not require the level of detail and specificity of design as the Detailed Planned Developments. The applicant for a 50+ acre development may nevertheless choose to submit a Site Development Plan or a Detailed Planned Development District.
 2. *Detailed Planned Development Districts.* Detailed Planned Development District applications are required for developments under 50 acres that require the review and approval of a Site Development Plan concurrently with the Planned Development District approval.
- D. **Minimum Qualifications of Proposed Planned Development Districts.** The following requirements identify the minimum qualifications for a proposed Planned Development District. Additional review criteria are established in Section 11.3.3, *Planned Development District Zoning*.
1. The minimum size of a Planned Development District shall be 3 acres, unless located within the boundaries of the original township where the size can be less than 3 acres but not less than 1/2 of a city block (contiguous lots not interrupted by streets, alleys, or other lots).
 2. Conceptual Planned Development Districts shall be a minimum of 50 acres.
 3. Planned Development Districts shall not be permitted in the ENZ Districts.

- E. **Components of a Planned Development District Ordinance.** A Planned Development ordinance becomes a regulating document and shall contain document components that will regulate land use and development within the Planned Development District. These components shall be comprised of the elements as established in Section 11.3.3, *Planned Development District Zoning*.
- F. **Establishing and Developing a Planned Development District.** A Planned Development District is created by ordinance and shall follow the application and approval procedures established in Section 11.3.3, *Planned Development District Zoning*.

DIVISION 4.5 LOT AND BUILDING INTERPRETATIONS AND EXCEPTIONS

Section 4.5.1 Lot and Setback Interpretations and Exceptions

- A. **Generally.** All development shall adhere to the lot size, lot width, lot setback, and building height requirements of these regulations, except as specified in this Section.
- B. **Lot Size and Width Exceptions.** Minimum lot size and lot width requirements of this Section do not apply to platted lots in which the principal use of the lot is common area, open space, landscape lots, drainage conveyance, access, street median, or public utilities.
- C. **Setback Encroachments.** No permanent or temporary building, structure, or other constructed element may encroach into a required setback of this Section, except as set out in Table 4.5.1, *Permitted Setback Encroachments*.

Table 4.5.1 Permitted Setback Encroachments		
Permitted Encroachment	Permitted Location	Restrictions
All permitted encroachments in any setback shall not be located within a public utility easement without approval of a license to encroach by the City.		
Architectural feature projections	Any setback	Architectural features, including roof eaves and overhangs, are allowed in all setbacks provided the encroachment is limited to 24”.
Driveways, residential	Front setback	Driveways are allowed in the front setback provided that they do not run parallel to a public street unless a circular driveway.
	Side setback	Driveways are allowed only when providing direct access to a side-loaded garage, detached rear garage, or other designated parking area provided that they are located a minimum of three feet from the property line.
	Rear setback	Driveways are allowed only when providing direct access to a designated parking area from a rear alley or public street.
Fences/Walls	Any setback	Fences and walls are allowed per the standards set out in Section 4.6.4, <i>Fences and Walls</i> .
Landscape features	Any setback	Landscape features shall not impede the sight visibility triangle.
Mechanical equipment	Side and rear setback	Mechanical equipment is allowed in the side and rear setbacks if set back a minimum of three feet from any property line.
Public utility features (e.g., transformers, gas meters, etc.)	Any setback	No restrictions.
Patios/decks/terraces/outdoor kitchens (uncovered)	Side and rear setback	These features are allowed provided that they are located behind the principal building and set back a minimum of three feet from the side and rear property lines.
Pergolas/arbors (unenclosed)	Side and rear setback	These features are allowed provided that they are located behind the principal building and set back a minimum of five feet from the side and rear property lines.
		These features shall not exceed 10 feet in height.
Playground/swing set	Side and rear setback	No restrictions.

Table 4.5.1 Permitted Setback Encroachments		
Permitted Encroachment	Permitted Location	Restrictions
Pools	Side and rear setback	Pools are allowed provided that they are located behind the principal building and set back a minimum of five feet from the side and rear property lines.
Porches, covered (unenclosed)	Any setback	An unenclosed, covered porch may extend up to six feet into any required setback but not closer than 10 feet to a side or rear property line and 15 feet to a front property line, unless otherwise permitted by the zoning district.
Sidewalks	Any setback	No restrictions.
Steps/stairs (uncovered)	Any setback	A maximum of six steps may encroach in any setback.
Storage shed	Side and rear setback	Storage sheds are allowed provided that they are located behind a principal building and set back a minimum of five feet from the side and rear property lines if not exceeding eight feet in height or set back at least 10 feet from the side and rear property lines if not exceeding 15 feet in height.
Stormwater ponds	Any setback	Stormwater ponds are allowed in any setback provided that they are designed with a vegetated slope not to exceed 3:1 and do not include any structural walls. Stormwater ponds within a street setback or adjacent to a residential lot shall be set back a minimum of 10 feet.

DIVISION 4.6 SUPPLEMENTAL DEVELOPMENT STANDARDS

Section 4.6.1 Accessory Buildings and Structures

- A. **Generally.** The construction and use of accessory buildings and structures, except accessory dwelling units (see Section 4.2.9, *Accessory Dwelling Units (ADUs)*), are subject to the standards of this Section.
- B. **Exemptions.** The following accessory structures are customarily located on a property with a principal use, are considered incidental to the principal use, and are exempt from the regulations of this Section.
1. Fences and walls (see Section 4.6.4, *Fences and Walls*);
 2. Enclosures for solid waste collection, provided that the enclosure does not include additional storage beyond that needed for solid waste collection; and
 3. Satellite dishes and antennas.
- C. **General Standards for All Accessory Buildings and Structures.** All accessory building and structures shall be subject to the following standards:
1. *Timing of Construction.* No accessory building or structure may be erected on a lot until construction of the principal building or establishment of a principal use has commenced.
 2. *Location.*
 - a. In all zoning districts, accessory buildings and structures shall be located in a rear or side yard and shall meet the required setbacks set out in Section 4.2.2, *New Residential Development Lot and Building Standards*, or Section 4.3.1, *Nonresidential and Mixed-Use Lot and Building Standards*, whichever may be applicable; unless excepted as a permitted encroachment in Section 4.5.1, *Lot and Setback Interpretations and Exceptions*.
 - b. Accessory buildings and structures are not allowed in easements unless written permission is given by the easement holder; such permission shall be submitted with the application for a permit.

3. *Design.* Accessory buildings and structures shall comply with the provisions set out below and as set out in Table 4.6.1, *Accessory Building and Structure Design Standards.*
- a. A portable storage shed is considered an accessory structure with regards to the maximum number allowed and maximum combined footprint allowed per Table 4.6.1, however, it is not subject to the side or rear setback requirements of Table 4.6.1 provided that it meets the following.
 - i. It is less than or equal to 100 square feet in floor area and less than eight feet in height;
 - ii. It is freestanding, moveable, and has no permanent foundation;
 - iii. It is setback at least 3 feet from side or rear lot lines;
 - iv. It does not contain plumbing or electrical installations; and
 - v. It is screened from ground-level view of abutting streets and properties.
 - b. Accessory buildings or structures which are structurally attached to the principal building shall conform to all the standards of the principal building, unless exempted by the standards set out in Table 4.5.1, *Permitted Setback Encroachments.*
 - c. Accessory buildings and structures associated with non-residential, mixed-use or apartment development shall comply with the exterior building material requirements set out in 4.3.2.B., *Building Material Standards.* The accessory building or structure shall be finished with the same materials as the principal structure or use materials that are aesthetically compatible and complementary.
 - d. Converted semi-trailers and modular shipping containers can be used as accessory structures in the BP or IN districts, provided that they are used for storage and meet the screening standards set out in Section 4.6.5, *Outdoor Storage and Display of Merchandise.*

Zoning District	Lot Size	Max. # of Accessory Buildings or Structures	Maximum Number of Stories ²	Maximum Size of Individual Accessory Building or Structure	Maximum Combined Footprint of All Accessory Buildings or Structures ⁴	Setbacks			
						Front Setback	Interior Side Setback	Street Side Setback	Rear Setback
FR (agricultural uses)	N/A	N/A	Not to exceed max height of district	N/A	Maximum lot coverage permitted by district	Same as for principal structure	20 ft	35 ft	25 ft
FR (non-agricultural uses)	4 acres or more	3 ¹	2	1,200 sf	Maximum lot coverage permitted by district	Behind front building line of house	20 ft	35 ft	25 ft
	Less than 4 acres	2 ¹	2	1,200 sf	30% of the rear yard area	Behind rear building line of house	20 ft	35 ft	25 ft
RE, ENZ-1	4 acres or more	3 ¹	2	1,200 sf (but may not exceed house sf)	30% of the rear yard area	Behind rear building line of house	15 ft	25 ft	25 ft
	Less than 4 acres	2 ¹	1 / 2 ³	1,200 sf (but may not exceed house sf)	30% of the rear yard area	Behind rear building line of house	15 ft	25 ft	25 ft
NR, TR, DR, ENZ-2, ENZ-3, ENZ-5	2 acres or more	2 ¹	1 / 2 ³	50% of the sq ft of house or 1,000 sf, whichever is less; however, a detached garage allowed max of 600 sf (provided it is the only garage on site)	30% of the rear yard area	Behind rear building line of house	5 ft	15 ft ⁵	10 ft
	Less than 2 acres	2 ¹	1 / 2 ³	25% of the sq ft of house or 800 sf, whichever is less; however, a detached garage allowed max of 600 sf (provided it is the only garage on site)	30% of the rear yard area	Behind rear building line of house	5 ft	15 ft ⁵	10 ft
MR, ENZ-4	Same as for principal building								

Table 4.6.1 Accessory Buildings and Structure Design Standards									
Zoning District	Lot Size	Max. # of Accessory Buildings or Structures	Maximum Number of Stories ²	Maximum Size of Individual Accessory Building or Structure	Maximum Combined Footprint of All Accessory Buildings or Structures ⁴	Setbacks			
						Front Setback	Interior Side Setback	Street Side Setback	Rear Setback
Nonresidential Uses (all districts)	Same as for principal building								
Table Notes:									
¹ Maximum number of accessory buildings/structures includes detached accessory dwelling units (ADUs).									
² Maximum number of stories cannot exceed the height of the principal building or maximum building height of zoning district, whichever is less.									
³ Maximum number of stories is one, unless the first story of accessory building includes a detached garage, then maximum stories is two.									
⁴ Maximum footprint of all accessory buildings/structures cannot exceed maximum set out in this Table or maximum lot coverage for zoning district, whichever is less.									
⁵ A side entry garage must be setback at least 25 ft from street side property line.									

Section 4.6.2 Boat Docks

- A. **Purpose.** Minimal standards are established for the access and storage of boats on Lake Marble Falls and corresponding waterways to ensure safety, compatibility, and harmony consistent with the following:
1. To allow access and enjoyment of the water through diverse and creative ways, while providing a basis for safety and compatibility;
 2. To ensure that the size and intensity of structures on Lake Marble Falls and area waterways do not deconstruct from the character of the Lake and area waterways;
 3. To ensure that docks are not excessive in size, storage, or utilization in relation to the size and surface area of Lake Marble Falls and navigable waterways;
 4. To increase safety by providing separation between dock structures and navigable boating access to and from docks; and
 5. To ensure docks have lighting, storage, and utilization consistent with character and operation of the prevailing existing dock inventory that exists in the City.
- B. **General Boat Dock Standards.** The following are design and construction requirements applicable to all boat docks within the City.
1. A Permit issued by the City is required for the construction, addition, or remodel of any boat docks within the City limit. Maintenance does not require a permit.
 2. All boat dock construction shall comply with the City's adopted building codes.
 3. No boat dock may be permitted or erected on a lot until construction of the principal building or establishment of a principal use has commenced.
 4. All boat dock(s) shall be fixed or anchored to the shoreline of the property for which the primary use is established.
 5. *Boat Dock Length.*
 - a. Boat docks shall not extend further into Lake Marble Falls than thirty-five feet (35') from the shoreline.
 - b. To preserve the navigable area along all adjoining waterways, boat docks shall not extend from the shore further than twenty feet (20') or 20% of the total width of the channel where the dock is proposed; whichever is less. In no instance shall the navigable area be reduced to less than 40 feet.
 6. Fueling facilities and permanent storage of fuel, oil, or other related chemicals shall be prohibited on the boat dock and within any accessory storage constructed upon the dock.

7. Boat docks shall not be enclosed on any sides, except the square footage designed and constructed for the allowed dock storage area herein.
 8. All boat docks are prohibited from having any living quarters constructed upon or within the structure.
 9. Boat dock(s) are an accessory use to the primary usage of the property or development. Therefore, all boat dock(s) are prohibited from being constructed without a primary building existing or permitted in conjunction with a primary use on the premises to which the dock is fixed/anchored.
 10. All dock lighting shall be full cut-off fixture or dark sky compliant, unless it is related to safety illumination required by law.
 11. Any boat dock(s) that, due to its size or operating characteristics, requires compliance with the Highland Lakes Marina Ordinance must be approved and permitted by LCRA and the City of Marble Falls.
 12. Public boat docks owned or operated by a governmental entity shall be exempt from these standards.
- C. **Residential Boat Dock Standards.** The following are design and construction requirements applicable to boat docks for single-family residential properties and developments within the City.
1. Each property is allowed one boat dock. However, each boat dock may include more than one boat slip, provided the overall dimensions of the boat dock do not exceed those prescribed herein.
 2. Residential boat docks shall not:
 - a. Exceed 14 feet in finished floor elevation (lower or upper floor height) from the Lake Marble Falls water surface elevation at property;
 - b. Exceed 800 square feet in water level deck footprint, excluding boat slips, but including permanent personal watercraft ramps, docks and storage; or
 - c. Exceed 50 square feet of enclosed storage on the dock.
 3. Residential boat docks may be covered by a roof or a second story sundeck, provided a second story sundeck shall not extend beyond the footprint of the first level nor be covered by a roof.
 4. Residential boat docks may be recessed into the shoreline.
 5. Residential boat docks shall be setback a minimum of 10 feet from a projected side yard line, as defined in this code.
 6. Residential day docks are allowed but must be constructed upon the shoreline and not project over the water. Day docks must be a minimum of 20 feet in length and may span up to 100% of the property width. Day docks may be combined with a standard boat dock in accordance with these standards.
- D. **Commercial Boat Dock Standards.** The following are design and construction requirements applicable to boat docks for commercial or multifamily lots and developments within the City.
1. Each property is allowed one boat dock. However, each boat dock may include more than one boat slip, provided the overall dimensions of the boat dock do not exceed those prescribed herein.
 2. Commercial boat docks shall not:
 - a. Exceed 18 feet in finished floor elevation (lower or upper floor height) from the Lake Marble Falls water surface elevation at property;
 - b. Exceed 1,000 square feet in deck surface area or footprint, excluding boat slips, but including permanent personal watercraft ramps, docks and storage;
 - c. Exceed 200 square feet of enclosed storage on the dock; or
 - d. Park and sell boats at any time.
 3. Commercial boat docks may be covered by a roof or a second story sundeck, provided a second story sundeck shall not extend beyond the footprint of the first level nor be covered by a roof.
 4. Commercial boat docks may be recessed into the shoreline.

5. Commercial boat docks shall be setback a minimum of 20 feet from a projected side yard line, as defined in this code.
6. Commercial day docks are allowed but must be constructed upon the shoreline and not project over the water. Day docks must be a minimum of 20 feet in length and may span up to 100% of the property width. Day docks may be combined with a standard boat dock in accordance with these standards.
7. Commercial boat docks that do not comply with these standards and provide an alternate design in conjunction with a primary use development plan and is consistent with the purposes stated herein may be considered for approval by the Director or the Planning and Zoning Commission.

Section 4.6.3 Mechanical Equipment and Solid Waste Receptacles

- A. **Generally.** These standards apply to all new development and redevelopment of nonresidential, apartment; manufactured home parks, RV parks, and tiny house developments; and mixed-use buildings in all zoning districts. The type and location of screening shall be delineated and submitted with the Site Development Plan.
- B. **Mechanical Equipment.** Mechanical equipment associated with building operations (e.g., HVAC systems, electrical boxes, natural gas meters, etc.) shall be screened as set out in this subsection.
 1. *Ground-Level and Building-Mounted Equipment.* Mechanical equipment and meters shall be located in the rear or side setback and screened by landscaping, walls, or fences. The screening shall be maintained at least one foot higher than the equipment that is being screened.
 2. *Roof-Mounted Equipment.* Roof-mounted mechanical equipment shall be screened from ground-level views from abutting properties and abutting rights-of-way by:
 - a. Parapet walls with cornice treatments; or
 - b. Screening walls that use colors, building materials, or architectural features that are consistent with the design of the principal building.
- C. **Solid Waste Collection Receptacles.** Solid waste collection receptacles for non-residential development, specifically dumpsters and other non-rolling receptacles, shall be screened as set out in this subsection.
 1. *Location.* Solid waste collection receptacles shall be located as follows.
 - a. *Individual Development.* Located behind the front building line on the same lot;
 - b. *Multi-Lot Unified Development or Shopping Center.* Located in a centralized collection area within 500 feet of all uses they are intending to serve.
 - c. *Alley Access.* If the parcel proposed for development has access to an alley, the receptacles shall be accessed from the alley.
 2. *Strength of Surface.* Solid waste receptacles shall be placed on a reinforced concrete pad.
 3. *Size.* Solid waste collection areas shall be of adequate size to accommodate one or more solid waste receptacles (for trash and recycling, as may be applicable) that are of sufficient size to serve the intended uses on site. The size may vary depending on the frequency of collection.
 4. *Setbacks.* All solid waste and/or recycling collection areas shall be set back at least:
 - a. 15 feet from the lot lines of residential uses that are part of the same development as the parcel proposed for development; and
 - b. 30 feet from the lot lines of residential uses that are not part of the same development as the parcel proposed for development.

5. *Screening.*
 - a. The receptacle(s) shall be screened by an enclosure using the same building material(s) as the principal building or provide an alternative material that is an equal or better aesthetic design. In the Industrial District, the receptacle does not require screening if located behind a fence or wall.
 - b. The minimum height of the enclosure shall be one foot higher than the receptacles being stored.
 - c. The receptacles shall be accessed via a gate clad with an opaque fence material with a structural metal frame which remains closed at all times except during collection.

Section 4.6.4 Fences and Walls

- A. **Generally.** The requirements of this Section apply to both residential and non-residential fences and walls constructed for the purposes of screening, privacy, and property protection. These requirements are intended to allow for fence construction in a manner that protects property and the health and safety of people and animals, while ensuring compatibility with, and contribution to, a quality-built environment.
- B. **Applicability.** This Section shall apply to the following situations within the City limits, except for fences or walls in support of farm or ranch uses:
 1. All new development or redevelopment; or
 2. Where 50 percent or more of an existing fence, wall, or screen is being replaced.
- C. **General Standards for all Fences and Walls.** All fences and walls within the City limits shall comply with the following, unless otherwise exempted herein.
 1. *Permit Required.* The construction of a fence or wall shall require a permit.
 2. *Street Visibility.* Fences and walls shall not be located within the sight visibility triangle.
 3. *Easements.* Fences and walls authorized by the City to be located within drainage easements shall be designed in a manner to avoid limiting or obstructing the flow of water.
 4. *Location, Height, and Setback Requirements.* All fences and walls shall comply with the height and setback requirements set out in Table 4.6.4, *Location, Fence, and Wall Height and Setback Requirements.*

Table 4.6.4 Location, Fence, and Wall Height and Setback Requirements			
Location	Height ^{1,2}	Setack ³	Additional Standards
Front Yard	3.5'	0'	Fences and walls shall have a maximum 50% opacity.
	6'	20'	20' setback is from street right-of-way and shall be landscaped green space. ⁴
Street Side Yard	3.5'	0'	Fences and walls shall have a maximum 50% opacity.
	6'	10'	10' setback is from street right-of-way and shall be landscaped green space.
Interior Side Yard	6'/8'	0'	Where the use of the property or one the abutting properties is non-residential, industrial, or mixed-use, the maximum height is eight feet. If both are residential, the maximum height is six feet.
Rear Yard			
Double Frontage	3.5'	0'	Fences and walls shall have a minimum 50% opacity.
	6'	5'	10' setback is from street right-of-way and shall be landscaped green space.

Table 4.6.4 Location, Fence, and Wall Height and Setback Requirements			
Location	Height ^{1,2}	Setback ³	Additional Standards
Arterial Street Frontage	8'	5'	Frontage abuts a major or minor arterial.
Table Notes: ¹ Decorative columns, pilasters, stone caps, sculptural elements, and other similar architectural features may exceed the maximum height by up to one foot, provided that such taller elements comprise no more than 10 percent of the total wall length in elevation view. ² Fences and walls meeting the criteria for outdoor storage may be allowed additional height as set out in Section 4.6.5, <i>Outdoor Storage and Display of Merchandise</i> . ³ All fences and walls shall be set back a minimum of two feet from an existing public sidewalk and three feet from an alley right-of-way. ⁴ The setback can be reduced by demonstrating a 20' landscaped area between the back of curb and fence location, which may be partially or full located within the right-of-way.			

5. *Materials.*

- a. *Generally.* Materials shall be durable and in character for the use of development it is serving (i.e., residential fencing shall be of a material commonly made and sold for residential fencing or wall construction uses).
- b. *Materials Allowed.* Permitted materials include weather resistant wood species, split rail, PVC/vinyl, wood treated with U.S. Environmental Protection Agency approved preservatives, painted wood, ornamental iron or powder-coated aluminum, brick, stone, or masonry.
- c. *Materials Allowed with Limitations.*
 - i. Barbed-wire fences and electric fences are prohibited in residential districts, except for public utility buildings or wherever the Director finds that such are necessary to address a security interest.
 - ii. Chain link fences are prohibited in the front yards in all districts but are permitted in interior side and rear yards that do not abut or directly face a public street. A parcel proposed for development in the IN and BP Districts shall have no limitations on the use of chain link material for fences.
- d. *Prohibited Materials.* Prohibited fence and wall materials include scrap lumber, plywood, tree branches, tree trunks, sheet metal, plastic, fiberglass sheets, and spikes, nails, or other injurious sharp points on the tops or sides of the fence.

6. *Orientation.* The finished side of all fences along front yards, street side yards, and public parks shall face outward toward the abutting right-of-way.

7. *Maintenance.*

- a. Fences and walls shall be maintained in an upright position and in good condition.
- b. Fences and walls that are partially destroyed or damaged shall be either completely replaced with a new fence or repaired with the same materials so that its appearance is restored to its prior appearance. New replacement fences require a new fence permit.
- c. Fences that require periodic maintenance, such as natural wood material, shall be cleaned, sealed, or otherwise kept in good condition and appearance.

D. **Special Fences.**

- 1. *Properties Along Highway 2147.* Fences and walls constructed on the front property line of lots along State Highway 2147 from U.S. Highway 281 southwest to the City limits that also have Lake Marble Falls access shall be a maximum height of eight feet. The fence or wall must be constructed to have a minimum of 40 percent of the surface area of the fence or wall be stucco, stone, brick, or any combinations thereof and the remaining surface area must be wood, iron or other similar material. The

entryway or gate shall have a minimum opening of 15 feet and must be positioned no less than 35 feet from the edge of pavement on State Highway 2147.

2. *Sport Courts and Fields.* Fencing for sport courts and fields (e.g., around tennis courts) is permitted but shall not exceed 15 feet.
3. *Swimming Pools.* Pool fences around swimming pools shall comply with state standards and the City's adopted building codes.

E. **Residential Perimeter Screening.** To provide buffer protection and a pleasing, sustainable aesthetic appearance, screening shall be required for single-family detached, single-family attached, cottage, duplex, manufactured house, and townhouse subdivisions, tiny house developments, manufactured home parks, and RV parks along the perimeter boundary adjacent to arterial and major collector roadways.

1. *Screening Standard.*
 - a. *Material.* Materials shall consist of brick, stone, stucco, decorative concrete, or other material of similar quality and durability.
 - b. *Wall Height.* Each wall shall be a minimum of six feet in height to a maximum of eight feet in height from finished grade.
 - c. *Column Spacing and Height.* Decorative masonry columns shall be located generally every 40 feet. Decorative columns, pilasters, stone caps, sculptural elements, and other similar features may exceed the maximum eight-foot wall height by one foot, provided that such taller elements comprise no more than 10 percent of the total wall length in elevation view.
2. *Alternative Standard.* An alternative screening standard may be considered by the Director if it is demonstrated that it materially complies with the intent of this subsection and that it results in a screening wall that is generally low-maintenance, durable, and of similar aesthetic appearance. Meeting this alternative standard could include, but not be limited to, a combination of one or more of the following.
 - a. Living/landscaped screen with decorative metal (e.g., wrought iron) fence sections with masonry columns; or
 - b. A combination of berms and living/landscaped screening with decorative metal and masonry columns; or
 - c. A combination of berms, and living/landscaped screening, decorative masonry retaining walls.
3. *Easement Required.* A maintenance easement shall be required at least five feet in width located on the residential side of the screening wall, opposite of the street. The easement shall be dedicated to a property owners' association.
4. *Timing of Compliance.* Perimeter screening walls shall be included as part of the Construction Plans and installed prior to final acceptance of the public improvements for the subdivision (or appropriate surety provided, per Article 6, *Subdivision Design and Land Development*).

Section 4.6.5 Outdoor Storage and Display of Merchandise

- A. **Generally.** Outdoor storage and display areas are permitted on properties used for nonresidential purposes subject to the standards of this Section.
- B. **Applicability.** This Section applies to outdoor storage areas of equipment, materials, or goods that are not for sale, and also to outdoor display of merchandise for sale. This Section does not apply to outdoor storage areas needed to support farm or ranch uses or for outdoor residential storage normally associated with residential uses.

C. Requirements for Outdoor Storage Areas.

1. *Permitted Uses.* Outdoor storage areas may be used to store materials, goods, and merchandise associated with the primary use of the site, subject to the following:
 - a. Materials, goods, and merchandise shall not be actively for sale.
 - b. Vehicles or equipment shall be in working condition and used to support operations of the principal use.
2. *Limited Uses.* Vehicles or equipment, in working condition or inoperable, that are temporarily stored for repair, impounding, or similar short-term containment are allowed within a designated outdoor storage area if such activity is directly associated with the principal use.
3. *Prohibited Uses.* Outdoor storage areas shall not be used to dispose of waste, vehicles, or machines; store or dispose of hazardous materials; or store or dispose of materials that will create windblown dust or debris or stormwater contaminants.
4. *Location.* All outdoor storage areas shall only be located in the buildable area of the rear yard or interior side yard and shall not be located in a required setback, bufferyard, or areas that are required or used for access, parking, loading, stacking, or vehicular circulation.
5. *Height of Outdoor Storage Materials.* The maximum height of stored materials shall be one foot below the required screening, except for vehicles or equipment.
6. *Additional Outdoor Storage Requirements.* All outdoor storage areas shall comply with the height and setback requirements set out in Table 4.6.5, *Additional Outdoor Storage Requirements*.

Table 4.6.5 Additional Outdoor Storage Requirements		
Use	Maximum Area	Additional Standards
Farm and Ranch Uses	N/A	N/A
Residential Uses	N/A	N/A
Civic and Commercial Uses	15% of the floor area of principal building	Enclosed by a wall for street/public right-of-way frontage that is designed to the principal building's façade and composed of the same materials as the principal building.
	10% of the floor area of principal building	Enclosed by a durable wall or opaque fence of sufficient height to completely screen the stored materials from public view and rights-of-way.
Industrial	N/A	The outdoor storage is located within the buildable area and enclosed by a wall or opaque fence and gate of sufficient height to completely screen the stored materials from public view and rights-of-way.
Office Uses	N/A	Outdoor storage of materials is not allowed.

7. *Site Development Plan Required.* All outdoor storage areas shall be clearly shown on the Site Development Plan for the property. Where no Site Development Plan exists, all required information shall be shown on a scaled drawing or property survey submitted with the Building Permit or the Certificate of Occupancy.

D. Requirements for Outdoor Merchandise Display Areas.

1. Outdoor display areas shall not be located in required bufferyards, sight visibility triangles, easements, street rights-of-way (except for public sidewalks) or areas that are required or used for access, parking, loading, stacking, or vehicular circulation. New display areas may be located in a parking lot but shall not occupy required parking spaces unless otherwise approved the Director.
2. If the outdoor display area is located on a public sidewalk, it shall not impede a pedestrian clear zone that shall be a minimum of four feet wide.
3. Designated outdoor display areas shall be denoted on the Site Development Plan for the property.

Section 4.6.6 Wireless Transmission Facilities / Cell Towers

- A. **Generally.** Wireless transmission facilities are permitted in accordance with this Section and Article 3, *Land Use*.
- B. **Applicability.** This Section applies to broadcast systems, cellular, commercial mobile radio services, common carrier wireless access exchange services, enhanced specialized mobile radio, personal communication services paging, personal wireless services, public service and emergency systems, specialized mobile radio, tower builder, unlicensed wireless services, and wireless cable systems.
- C. **Exceptions.** This Section does not apply to the following:
1. Satellite antennas, amateur radio antennas or television antennas used for residential or household purposes;
 2. Television and AM / FM radio broadcast towers and associated facilities;
 3. Facilities owned and operated by a federally-licensed amateur radio station operator; and
 4. Functionally equivalent services, as specified by Section 704 of the Telecommunications Act of 1996.
 5. Ordinary maintenance of existing telecommunications facilities and support structures, as defined herein, is exempt from permitting requirements.
- D. **Application Procedures.**
1. A Conditional Use Permit pursuant to the requirements of Section 11.3.4, *Conditional Use Permit*, shall be obtained for all new monopole tower wireless transmission facilities.
 2. Wireless transmission facilities co-located or mounted on existing towers, structures or buildings may be approved administratively by the Director without approval of a Conditional Use Permit.
 3. Prior to the construction or installation of any wireless transmission facility tower, building or structure, a Building Permit must be obtained. Wireless transmission facilities must be installed according to the manufacturer's recommendations and under the seal of a professional engineer registered in the state of Texas.
- E. **Application Requirements.** The Director shall ensure that a completed application has been submitted pursuant to Section 11.2.1, *General Application Procedures*, and includes the information and materials necessary for the Director, Planning and Zoning Commission, or City Council to render an informed decision.
1. *New Wireless Transmission Facility Tower, Structure, or Building.* The following items are required for all applications to construct a new wireless transmission facility tower, structure or building.
 - a. Site Development Plan, pursuant to Section 11.5.3, *Site Development Plan*.
 - b. A vicinity map showing abutting properties, land uses, zoning, and roadways within one mile of a proposed wireless transmission facility.
 - c. Elevation drawings of the proposed facility showing all antennas, towers, tower heights, structures, existing buildings, walls and/or roofs on which antennas are mounted, equipment buildings/cabinets, fencing, screening, lighting, and other improvements related to the facility showing specific materials, placement and colors.
 - d. A narrative report describing the facility and the technical, economic, and other reasons for its design and location, the need for the facility and its role in the network, and describing the capacity of the structure, including the number and type of antennas it can accommodate.
 - e. A coverage map and a survey of existing towers including type and location and a statement to demonstrate the need for the new tower and supporting documentation as to why co-location is not possible on an existing tower in the area.

- f. A removal statement stating that should the facility be abandoned or discontinued use, the facility shall be removed at the expense of the owner/operator.
- 2. *Co-Located or Mounted Wireless Transmission Facilities.* The following items are required for all applications for co-located or mounted wireless transmission facilities.
 - a. Co-Location agreement or lease agreement if co-located with other wireless transmission facilities or mounted on another structure or building. Such agreement shall indicate:
 - i. The extent to which all agree to allow co-location of additional wireless transmission facility equipment by other service providers on the applicant's structure or within the same site location on a reasonable and non-discriminatory basis;
 - ii. An understanding of maintenance and inspection requirements as required by Subsection 4.6.6.I, *Maintenance*; and
 - iii. An understanding that if the service provider fails to remove the wireless transmission facility upon 60 days of its discontinued use, the responsibility for removal falls upon the landowner, and in the event the wireless transmission facility is not removed within another 60 days, the City may remove the wireless transmission facility and recover the costs associated with such removal from the landowner and place a lien on the property until such costs are paid.
 - b. A certification and sealed report from a registered professional engineer stating that all structural components of the wireless transmission facility comply with all applicable codes and regulations. In the case of wireless transmission facility towers, the report should further note the extent to which the tower is designed and/or built to accommodate co-location.

F. Location Standards.

- 1. *Generally.* Wireless transmission facilities are permitted in all zoning districts subject to the appropriate application approval process outlined in this Section and pursuant to the standards herein.
- 2. *Location Restrictions.*
 - a. Wireless transmission facility towers are prohibited in public easements.
 - b. Wireless transmission facility towers are prohibited within 1,000 feet of Lake Marble Falls.
- 3. *Fall Zone.* Wireless transmission facility towers should be located in such a manner that if the structure or facility should fall along its longest dimension it will remain within the owned or leased property boundaries of the service provider and will avoid existing structures, existing public streets, and existing utility lines. If a proposed wireless transmission facility tower has a potential for affecting a nearby property or structure upon collapse or scattering of equipment debris, the situation must be addressed by applicant.

G. Design Standards.

- 1. *Generally.* The following design standards apply to all wireless transmission facilities.
 - a. Facilities shall be located and designed to be compatible and blend in with surrounding buildings and existing uses in the area. This may be accomplished through the use of compatible architectural elements such as materials, color, texture, scale and character.
 - b. All wireless transmission facilities and associated structures shall comply with applicable state and local building codes.
 - c. All lots on which new wireless transmission facilities are located shall have access to a public right-of-way by an access drive constructed of asphalt or concrete. One off-street parking space shall be provided at each freestanding wireless transmission facility tower.
 - d. Except as provided herein, all ancillary structures associated with wireless transmission facilities, including but not limited to equipment storage structures or buildings, shall be designed in

- accordance with the standards of the principal structures in the applicable zoning district, including, but not limited to building height, setback, materials, etc.
- e. To the extent possible, wireless transmission facilities shall be designed and placed on the site in a manner that takes maximum advantage of existing trees, mature vegetation. Such use of existing vegetation may be used as a substitute for or in supplement towards meeting landscaping requirements.
 - f. Landscaping and buffering shall be provided in accordance with Article 9, *Trees, Landscaping, and Buffering*.
 - g. All ancillary structures associated with wireless transmission facilities shall be screened in accordance with Section 4.6.3, *Mechanical Equipment and Solid Waste Receptacles*.
 - h. Lighting shall be limited to mandatory safety lighting required by Federal Aviation Administration or Federal Communications Commission.
 - i. The use of any portion of a wireless telecommunications facility for signs, with the exception of safety, identification, and notification information as may be required by the FCC or other governmental authority, is prohibited.
2. *Monopole Towers*. In addition to the standards of Subsection 4.6.6.G.1, *Generally*, above, the following design standards apply to monopole towers.
 - a. Monopole towers shall be set back at the following distances between the base of the monopole tower and all residential districts:
 - i. For towers less than 60 feet: the height of the wireless transmission facility, plus 30 feet;
 - ii. For towers over 60 feet and less than 90 feet: one and one-half times the height of the wireless transmission facility;
 - iii. For towers over 90 feet and less than 105 feet: two times the height of the wireless transmission facility;
 - iv. For towers over 105 feet and less than 120 feet: two and one-half times the height of the wireless transmission facility; or
 - v. Three times the height of the wireless transmission facility for towers over 120 feet.
 - b. The base of a wireless transmission facility with a tower, including all mechanical equipment and accessory structures, must be completely enclosed by a fence, wall or barrier which limits climbing access to such wireless transmission facility and any supporting systems, lines, wires, buildings or other structures. The base must be fully screened from view of residential structures, residentially zoned properties or public roadways by a substantially opaque screening fence designed and built to provide privacy.
 - i. The fence shall be a minimum height of eight feet and consistent in color and character to surrounding structures and properties.
 - ii. The fencing shall have no openings, holes or gaps larger than four inches measured in any direction.
 - iii. The fencing may contain gates or doors allowing access to the wireless transmission facility and accessory structures for maintenance purposes; such gates or doors shall be kept completely closed and locked except for maintenance purposes and shall be located so that all gates and doors do not intrude into the public right-of-way.
 3. *Co-Location Accommodation*. All new wireless transmission facilities shall be designed to accommodate both the applicant's antennas and comparable antennas for other users.
 - a. Towers less than 120 feet in height shall accommodate antennas for at least one additional user.
 - b. Towers greater than 120 feet in height shall accommodate antennas for at least two additional users.

- c. Co-location of wireless transmission facilities are subject to the provisions of Subsection 4.6.6.G.4, *Co-Located or Mounted Wireless Transmission Facilities*, below.
- 4. *Co-Located or Mounted Wireless Transmission Facilities*. Wireless transmission facilities may co-locate or be mounted on any structure or building provided that they comply with all other standards regarding height requirements; co-location; historic districts, structures or sites; residential structures; residentially zoned property; setbacks and site development, and submittal requirements of these regulations. In addition to the standards of Subsection 4.6.6.G.1 above, the following design standards apply to wireless transmission facilities that are mounted or attached to other structures or buildings.
 - a. Where appropriate, mounted or attached wireless transmission facilities shall be disguised as an architectural feature or design element compatible in design, architectural style, and scale of the structure or building.
 - b. The mounted wireless transmission facility shall not project more than 10 feet above the roof line or height of the structure and shall not exceed the height limit of the highest permitted structure in the district in which it is located.
 - c. Adequate safety measures shall be taken to prevent access of mounted or attached wireless transmission facilities by unauthorized people.

H. Co-Location Waiver.

- 1. *Generally*. Applicants should cooperate with other service providers in co-locating additional antennas on existing towers and/or structures to the extent that co-location is reasonably economical and technically feasible. An applicant should exercise good faith in co-locating with other providers and sharing the permitted site.
- 2. *Waiver Request*. Upon request of the applicant, the City Council may waive the requirement that new support structures accommodate the co-location of other service providers. The applicant shall show:
 - a. Co-location at the site is found to be non-essential to the public interest;
 - b. That the construction of a shorter support structure with fewer antennae will promote community compatibility; and
 - c. That co-location would cause interference with existing telecommunications facilities, as demonstrated by submitted technical evidence.
- 3. *Procedures*. A waiver of the co-location requirement for new wireless transmission facilities shall be presented to the City Council for their consideration.
- 4. *Review Criteria*. In considering whether to approve a Co-Location Waiver, the City Council shall consider the following criteria.
 - a. The appropriateness of the location and design of the wireless transmission facility;
 - b. The potential for interference with the enjoyment of the use surrounding properties;
 - c. The proposed height of the wireless transmission facility relative to surrounding structures;
 - d. The zoning district and the adjoining zoning districts of the property for which the Co-Location Waiver is sought; and
 - e. Compliance with City regulations.

I. Maintenance.

- 1. The owner or operator of a wireless transmission facility shall be responsible for the maintenance of the wireless transmission facility and shall maintain all buildings, structures, supporting structures, wires, fences or ground areas used in connection with a wireless transmission facility in a safe condition and in good working order, as required by City building, fire or any other applicable codes, regulations or ordinances or to standards that may be imposed by the City at the time of the granting of a permit. Such maintenance shall include, but not be limited to, maintenance of the paint, landscaping, fencing,

equipment enclosure, and structural integrity. If the City finds that the wireless transmission facility is not being properly maintained, the City will notify the owner of the wireless transmission facility of the problem. If the applicant fails to correct the problem within 30 days after being notified, the City may undertake maintenance at the expense of the applicant or revoke the permit, at its sole option.

2. By applying for a wireless transmission facility permit under this Article, the applicant specifically grants permission to the City, its duly authorized agents, officials, and employees, to enter upon the property for which a permit is sought, after first providing a reasonable attempt to notify a person designated by the applicant, except in the event of an emergency, for the purpose of making all inspections required or authorized to be made under this part of the regulations. The City may require periodic inspections of wireless transmission facilities to ensure structural integrity and other Code compliance. Based upon the result of an inspection, the City may require repair or removal of a wireless transmission facility.

J. **Time Limits.** The City shall act within a reasonable period of time to review and recommend requests to place, construct, or modify telecommunications facilities after an application is filed. Unless otherwise agreed between the City and the applicant or provided by state or federal law, reasonable review and action by the City shall take no more than:

1. 90 days for wireless co-location applications, and
2. 150 days for all other wireless siting applications.

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Article 5, Environmental Protection

DIVISION 5.1 GENERAL NUISANCE STANDARDS

Section 5.1.1 General Nuisance Standards

- A. **Generally.** Except as otherwise provided in this Code of Ordinances, all the uses and activities permitted by these regulations within the City limits of the City of Marble Falls or within its extraterritorial jurisdiction shall conform to the standards of this Section using adequate and appropriate prevention and/or mitigation techniques as may be necessary to prevent or abate the nuisance to abutting properties and protect the public health and safety.
- B. **Glare.** Any operation or activity producing intense glare shall be performed in such a manner as not to create a nuisance or hazard across lot lines. Direct illumination from any source of light or direct welding glare shall be screened from adjoining properties and reflected light from these sources shall not exceed 0.5 lumens at or beyond the lot line of the property in which the use is located.
- C. **Smoke and Particulate Matter.** Smoke emitted from any vent, stack, chimney, skylight, window, building opening, or combustion process shall comply with the Texas Clean Air Act and the rules and regulations of the Texas Commission on Environmental Quality (TCEQ).
- D. **Toxic and Noxious Matter.** In no case shall the concentration of toxic or noxious matter (chemical or biological) be released across source lot lines that endangers the public health, safety, comfort, or welfare, or cause injury or damage to persons, property, or the use of property or land, or render unclean the waters of the state to the extent of being harmful or inimical to public health, animal or aquatic life, or the use of such waters for domestic water supply, recreation, or other legitimate and necessary uses. Disposal of toxic or hazardous waste within the City is specifically prohibited.
- E. **Explosives.** Explosives shall be stored, utilized and manufactured in accordance with applicable local, state, and federal laws. All applications for uses involving fire and involving fire and explosive hazards shall only be permitted when specifically approved by the Fire Marshal. Such approval shall indicate compliance with all applicable fire codes and policies of all local government entities with jurisdiction.
- F. **Storage or Burning of Trash.** No storage of rubbish or trash shall be allowed. No burning of rubbish or trash shall be allowed unless otherwise permitted or approved by the City of Marble Falls Fire Chief or his/her designee.
- G. **Odors.** No use shall be permitted to produce the emission of objectionable or offensive odors in such concentration as to be readily perceptible at or beyond the lot line of the property in which the use is located.
- H. **Dust and Debris.** No use shall be permitted to produce dust or debris at or beyond the lot line of the property in which the use is located.
- I. **Vibration.** No use shall be permitted to produce ground vibrations which are noticeable without instruments at or beyond the lot line of the property in which the use is located.
- J. **Noise.** No use shall be permitted which causes, allows, or permits activities which violate the noise nuisance provisions set out in Sec. 14-3, Generally, of the City's Code of Ordinances, or as may be amended.

Section 5.2.1 Authority, Findings of Fact, Purpose, Interpretation, and Methods

- A. **Statutory Authorization.** The Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, §§ 16.3145 and 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council adopts this Division pursuant to this grant of authority. The provisions of this Division are intended to set out requirements that are not less stringent than those which are required for participation in the National Flood Insurance Program.
- B. **Findings of Fact.**
1. The flood hazard areas of City are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
 2. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed or otherwise protected from flood damage.
- C. **Statement of Purpose.** It is the purpose of this Division to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
1. Protect human life and health;
 2. Minimize expenditure of public money for costly flood control projects;
 3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 4. Minimize prolonged business interruptions;
 5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
 6. Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
 7. Ensure that potential buyers are notified that property is in a flood area.
- D. **Interpretation.** In the interpretation and application of this Division, all provisions shall be:
1. Considered as minimum requirements;
 2. Liberally construed in favor of the governing body; and
 3. Deemed neither to limit nor repeal any other powers granted under state statutes or the City's Home Rule Charter.
- E. **Methods of Reducing Flood Losses.** In order to accomplish its purposes, this Division uses the following methods:
1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
 2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

Section 5.2.2 General Provisions

- A. **Applicability.** The Division shall apply to all areas of special flood hazard within the jurisdiction of the City.
- B. **Basis for Establishing the Areas of Special Flood Hazard.** The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Burnet County and incorporated areas," dated March 15, 2012, with accompanying flood insurance rate maps and/or flood boundary-floodway maps (FIRM and/or FBFM) dated March 15, 2012 and any revisions thereto are hereby adopted by reference and declared to be a part of this Division.
- C. **Establishment of a Floodplain Development Permit.** A Floodplain Development Permit shall be required to ensure conformance with the provisions of this Division.
- D. **Compliance.** No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this Division and other applicable regulations.
- E. **Abrogation and Greater Restrictions.** This Division is not intended to repeal, abrogate, or impair any existing easements, covenants, conditions or restrictions (CCRs). However, where this Division and another ordinance, easement, covenant, condition, or restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- F. **Warning and Disclaimer or Liability.** The degree of flood protection required by this Division is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This Division does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Division shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this Division or any administrative decision lawfully made hereunder.

Section 5.2.3 Provisions for Flood Hazard Reduction

- A. **General Standards for Flood Hazard Reduction.** In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:
 1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
 3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
 4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

B. Specific Standards for Flood Hazard Reduction.

1. *Generally.* The requirements in this subsection apply to all areas of special flood hazards where base flood elevation data has been provided as set forth in:
 - a. Subsection 5.2.2.B, *Basis for Establishing the Areas of Special Flood Hazard*;
 - b. Subsection 11.1.12.B.5, *Floodplain Information and Determination*; or
 - c. Subsection 5.2.3.C.3, *Generation of Base Flood Elevation Data*.
2. *Residential Construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated one foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection is satisfied. See Section 11.5.2, *Floodplain Development Permit*.
3. *Nonresidential Construction.*
 - a. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either:
 - i. Have the lowest floor (including basement) elevated at least one foot above the base flood level, or
 - ii. Together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. This option is only allowed if the Floodplain Administrator finds that the criteria for a Floodplain Variance that are set out in Section 11.3.8, *Floodplain Development Variances*, are met.
 - b. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection.
 - c. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood-proofed shall be maintained by the Floodplain Administrator.
4. *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - b. The bottom of all openings shall be no higher than one foot above grade; and
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

5. *Manufactured Homes.*

- a. *Manufactured Homes in Zone A.* All manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- b. *Manufactured Homes in Zones A1-30, AH, and AE.* All that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision; (ii) in a new manufactured home park or subdivision; (iii) in an expansion to an existing manufactured home park or subdivision; or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, shall be:
 - i. Elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot above the base flood elevation, and
 - ii. Securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- c. *Manufactured Homes in Zones A1-30, AH and AE.* All manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of Subsection 5.2.3.B.5.b be elevated so that either:
 - i. The lowest floor of the manufactured home is one foot above the base flood elevation, or
 - ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are:
 - iii. No less than 36 inches in height above grade, and
 - iv. Securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

6. *Recreational Vehicles.*

- a. Recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM, shall:
 - i. Be on the site for fewer than 180 consecutive days, or
 - ii. Be fully licensed and ready for highway use, or
 - iii. Meet the permit requirements of Section 11.5.2, *Floodplain Development Permit*, and the elevation and anchoring requirements for "manufactured homes" in Subsection 5.2.3.B.5, *Manufactured Homes*.
- b. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

C. **Standards for Subdivision Proposals.**

1. *Generally.* All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be designed in a manner that is consistent with:
 - a. Subsection 5.2.1.B, *Findings of Fact*,
 - b. Subsection 5.2.1.C, *Statement of Purpose*, and
 - c. Subsection 5.2.1.E, *Methods of Reducing Flood Losses*.
2. *Permit Requirements.* All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of

Section 11.5.2, *Floodplain Development Permit*, and the provisions of this Section 5.2.3, *Provisions for Flood Hazard Reduction*.

3. *Generation of Base Flood Elevation Data.* Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to Subsection 5.2.2.B, *Basis for Establishing the Areas of Special Flood Hazard*, or Subsection 11.1.12.B.5, *Floodplain Information and Determination*.
4. *Adequate Drainage Provided.* All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. *Location of Public Utilities and Facilities.* All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

D. Standards for Areas of Shallow Flooding (AO/AH Zones).

1. *Generally.* Located within the areas of special flood hazard established in Subsection 5.2.2.B, *Basis for Establishing the Areas of Special Flood Hazard*, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the provisions of this subsection shall apply.
2. *Elevation of New Construction and Substantial Improvements (Residential).* All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);
3. *Elevation of New Construction and Substantial Improvements (Nonresidential).* All new construction and substantial improvements of nonresidential structures:
 - a. Have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - b. Together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the base flood elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
4. *Certification Required.* A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied. See Section 11.5.2, *Floodplain Development Permit*.
5. *Drainage Paths.* Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

E. Floodways.

1. *Generally.* Floodways located within areas of special flood hazard established in Subsection 5.2.2.B, *Basis for Establishing the Areas of Special Flood Hazard*, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the provisions of this subsection shall apply.
2. *Encroachments Prohibited.* Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been

demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

3. *Permitted Exceptions.*

- a. If Subsection 5.2.3.E.2 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.2.3, *Provisions for Flood Hazard Reduction*, and
- b. Under the provisions of 44 CFR Chapter 1, § 65.12, of the National Flood Insurance Program Regulation, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by § 65.12.

DIVISION 5.3 LOW IMPACT DEVELOPMENT

Section 5.3.1 Intent of Low Impact Development

- A. **Intent.** The intent of this Division is to encourage best practices of low impact development (LID) and site design techniques in order to promote environmental values and promote the health, safety, morals, and general welfare of the City and the safe, orderly, and healthful development of the City. The provisions of this Division are intended to:
1. Reduce impacts of the built environment and human use of the land.
 2. Promote comprehensive and efficient site design practices of properties.
 3. Promote efficient on-site stormwater management systems.
 4. Allow for flexible site design for new developments or redevelopments that encourage the use of low impact development techniques.
 5. Implement provisions of the Marble Falls Comprehensive Plan that encourage environmental protection and use of low impact development techniques.
- B. **Applicability.** This Division applies to all properties and parcels proposed for development seeking to implement low impact development techniques.

Section 5.3.2 Low Impact Development Techniques

- A. **Generally.** The selection, design, and implementation of low-impact development techniques should utilize best practices of these techniques and the preservation of natural areas within individual sites.
- B. **Low Impact Development Methods.** Credits are granted for the utilization of low-impact development technique, with each method counting as three (3) credits up to a maximum of 12 credits per grouping, as listed below. These credits can be applied towards an increase in maximum lot coverage, decrease in off-street parking requirements, and decrease in site landscaping requirements. Additionally, the areas where low-impact development techniques are being applied may count towards the open space requirements in Table 4.2.1, *Development Options and Yield for New Residential Development*.
1. Stormwater Collection (12 credits total)
 - a. Rain garden
 - b. Bioswale
 - c. Green roof
 - d. Rainwater harvesting

2. Stormwater Conveyance and Treatment (12 credits total)
 - a. Vegetated filter strip
 - b. Parking lot island bioretention cell
 - c. Swale blocks
 - d. Constructed stormwater wetlands
3. Preservation of Natural Areas (12 credits total)
 - a. Conservation of natural creek corridors and floodplains
 - b. Native tree canopy and understory species
 - c. Native grassland
 - d. Similar natural characteristics untouched during development

Section 5.3.3 Low Impact Development Credits

- A. **Generally.** Certain development standards may be modified through the use of low impact development credits gained by the application of the methods described in Section 5.4.2. Total credits gained may be applied simultaneously to each of the following categories to the maximum extent allowed.
1. *Lot Coverage.* Maximum lot coverage limitations, as specified in Section 4.2.3 and Section 4.3.1, may be increased by one percentage point for each credit obtained through the use of LID techniques (1:1 percentage/credit), with a maximum of 5 percent increase allowed.
 2. *Off-street Parking.* When required off-street parking spaces number 10 spaces or greater, the number of spaces may be reduced by two percentage points for each credit obtained through the use of LID techniques (2:1 percentage/credit), with a maximum of 15 percent decrease allowed.
 3. *Minimum Open Space.* The minimum open space percentage required for residential zoning districts may be reduced by one percentage point for each credit obtained through the use of LID techniques (1:1 percentage/credit), with a maximum of 5 percent decrease allowed.

Section 5.3.4 Low Impact Development Quality Control and Maintenance

- A. **Generally.** The requirements of drainage systems established in Section 6.2.10, *Stormwater Collection and Conveyance Systems*, shall also apply to low impact development facilities.
- B. **On-Going Responsibility.**
1. *Developer.* The developer shall ensure that all drainage improvements within public easements or rights-of-way are functioning properly prior to the expiration of the maintenance bond. The developer shall be responsible for removing any significant build-up of sediment or debris from drainage improvements, with the exception of backlot and side lot drainage swales, at the eleventh month of the second year for the required two-year maintenance bond for the applicable facilities. The City shall inspect the improvements to determine any maintenance or correction of deficiencies at the conclusion of this period.
 2. *Owner/Operator.* After expiration of the maintenance bond, the owner/operator shall be responsible for on-going maintenance and correction of deficiencies, to ensure long-term functioning of the LID improvement.
- C. **Maintenance and Inspection.** Water quality control structures, retention and detention facilities, and Best Management Practices (BMPs) for non-point source pollution control permitted by the City under Chapter 28, Nonpoint Source Pollution, of the City’s Code, shall be maintained and inspected in accordance with Chapter 28, Nonpoint Source Pollution, and any permits or authorizations issued thereunder.

Article 6, Subdivision Design and Land Development

DIVISION 6.1 GENERAL SUBDIVISION REGULATIONS

Section 6.1.1 Subdivision of Property

- A. **Generally.** This Article shall be applicable to the filing of plats and the subdivision of land, as that term is defined herein and in Chapter 212 of the Texas Local Government Code, within the corporate limits of the City of Marble Falls and its extraterritorial jurisdiction as they may be from time to time adjusted by annexation or disannexation. The City shall have all remedies and rights provided by said Chapter 212 with regard to the control and approval of subdivisions and plats both within the City and within its extraterritorial jurisdiction pursuant to agreements with Burnet County.
- B. **Interpretation.** In the interpretation and application of the provisions of this Article, it is the intention of the City Council that the principles, standards and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions within the City of Marble Falls and its extraterritorial jurisdiction. Minimum standards for development are contained in the City's Technical Construction Standards and Specifications (TCSS), the building code, applicable articles of the Code of Ordinances, and in these regulations. However, the Comprehensive Plan (including the Future Land Use Plan, Thoroughfare Plan, Park and Open Space Plan, and other related plans) contains policies designed to achieve an optimum quality of development in Marble Falls and its extraterritorial jurisdiction. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur. This will produce a monotonous municipal setting and physical environment within the community. Subdivision design shall be of a quality that will carry out the purpose and spirit of the policies expressed within the Comprehensive Plan and within these regulations and shall be encouraged to exceed the minimum standards required herein.
- C. **Purpose.** The procedure and standards for the development, layout and design of subdivisions of land are intended to:
1. Promote the development and the utilization of land in a manner that assures an attractive and high-quality community environment in accordance with the Comprehensive Plan of the City of Marble Falls;
 2. Guide and assist property owners and applicants in the correct procedures to be followed, and to inform them of the standards which shall be required;
 3. Protect the public interest by imposing standards for the location, design, class and type of streets, walkways (sidewalks), alleys, utilities and essential public services;
 4. Assist orderly, efficient and coordinated development within the City's limits and its extraterritorial jurisdiction;
 5. Provide neighborhood conservation and prevent the development of slums and blight;
 6. Integrate the development of various tracts of land into the existing community, and coordinate the future development of adjoining tracts;
 7. Ensure the most efficient and beneficial provision of public facilities and services for each tract being subdivided;
 8. Provide for compatible relationships between land uses and buildings; provide for the circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the streets and highways; provide for pedestrian circulation that is appropriate for the various uses of land and buildings; and provide the proper location and width of streets;

9. Prevent pollution of the air, streams and bodies of water; assure the adequacy of drainage facilities; safeguard both surface and groundwater supplies, as well as natural resources and endangered or threatened plant and animal life; and encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability and beauty of the community and the value of the land;
10. Preserve the natural beauty and topography of the municipality, and ensure development that is appropriate with regard to these natural features;
11. Establish adequate and accurate records of land subdivision;
12. Ensure that public or private facilities are available and will have sufficient capacity to serve proposed and future developments and citizens within the City and its extraterritorial jurisdiction;
13. Protect and provide for the public health, safety and general welfare of the community;
14. Provide for adequate light, air and privacy; secure safety from fire, flood and other danger; and prevent overcrowding of the land and undue congestion of population;
15. Protect the character and the social and economic stability of all parts of the community, and encourage the orderly and beneficial development of all parts of the community;
16. Protect and conserve the value of land throughout the community and the value of buildings and improvements upon the land, and minimize conflicts among the uses of land and buildings;
17. Guide public and private policy and action in providing adequate and efficient transportation systems, public utilities, and other public amenities and facilities; and
18. Encourage the development of a stable, prospering economic environment.

D. **Jurisdiction.** The provisions of this Article shall apply to the following forms of land subdivision and development activity within the City's limits and its extraterritorial jurisdiction:

1. The division of land into two (2) or more tracts, lots, sites or parcels; or
2. All subdivisions of land whether by metes and bounds division or by plat, which were outside the jurisdiction of the City's subdivision regulations in Burnet County or Blanco County, Texas and which subsequently came within the jurisdiction of the City's subdivision regulations through:
 - a. Annexation; or
 - b. Extension of the City's extraterritorial jurisdiction; or
3. The combining of two (2) or more contiguous tracts, lots, sites or parcels for the purpose of creating one (1) or more legal lots in order to achieve a more developable site, except as otherwise provided herein; or
4. When a Building Permit is required for the following uses:
 - a. *Residential single-family.*
 - i. Construction of a new single-family dwelling unit; or
 - ii. Moving of a primary structure or a main building onto a piece of property; or
 - b. *Nonresidential and multifamily.*
 - i. Construction of a new nonresidential or multifamily structure; or
 - ii. Additions, such as increasing the square footage of an existing building by more than thirty (30) percent of its gross floor area; or
 - iii. Moving a primary structure onto a piece of property; or
5. For tracts where any public improvements are proposed; or
6. When building structures on or across platted property line; or

7. Whenever a property owner proposes to divide land lying within the City or its extraterritorial jurisdiction into two or more tracts, and claims exemption from Subchapter A of Chapter 212 of the Texas Local Government Code for purposes of development, that results in parcels or lots all greater than five (5) acres in size; or in the event that development of any such tract is intended, and where no public improvement is proposed to be dedicated, he shall first obtain approval of a Development Plat that meets the requirements of Texas Local Government Code Chapter 212, Subchapter B, Regulation of Property Development, Sections 212.041 through 212.050, as may be amended. (See Division 11.4, *Subdivision Permits and Approvals*, of these regulations for requirements for Development Plats.)

E. Applicability.

1. *Requirement to Plat.* No subdivision plat shall be recorded until a Final Plat, accurately describing the property to be conveyed, has been approved in accordance with these regulations and with other applicable City regulations (described in Subsection 6.1.1.E.2, *Compliance with Ordinances*, below). No Building Permit, Certificate of Occupancy, plumbing permit, electrical permit, flood plain permit, utility tap, or certificate of acceptance for required public improvements shall be issued by the City for any parcel of land or plat until:
 - a. A Final Plat has been approved in accordance with Division 11.4, *Subdivision Permits and Approvals*; and
 - b. All public improvements required by these regulations have been constructed and accepted by the City of Marble Falls, or
 - c. Assurances for completion of improvements have been provided in accordance with Division 6.4, *Requirements for Acceptance of Subdivisions* of this Article.
2. *Compliance with Ordinances.* Compliance with all City ordinances pertaining to the subdivision of land, and the Comprehensive Plan, shall be required prior to approval of any development application governed by these regulations. It is the property owner's responsibility to be familiar with, and to comply with, City ordinances. Applicable ordinances and requirements include, but are not limited to, the following:
 - a. Comprehensive Plan, which includes the Future Land Use Plan, Thoroughfare Plan, Park and Open Space Plan, and all other associated maps and plans;
 - b. Building codes;
 - c. Flood damage prevention code;
 - d. Fire prevention code;
 - e. Other applicable sections of these regulations;
 - f. Other applicable chapters of the City's Code of Ordinances; and
 - g. City of Marble Falls Storm Water Ordinance.

F. Exemptions. The provisions of this Article shall not apply to:

1. Development of land legally platted and approved prior to the effective date of these regulations, except as otherwise provided for herein (construction of facilities and structures shall conform to design and construction standards in effect at the time of construction) and for which no re-subdivision is sought; or
2. Development of land constituting a single tract, lot, site or parcel for which a legal deed of record describing the boundary of said tract, lot, site or parcel was filed of record in the Deed Records of Burnet County, Texas on or before June 27, 2005; or
3. Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, development, subdivision or alteration is occurring; or

4. Existing cemeteries complying with all state and local laws and regulations; or
5. Divisions of land created by order of a court of competent jurisdiction; or
6. When a Building Permit is requested for unplatted or already platted parcels for one (1) or more of the following activities:
 - a. Replacement or reconstruction of an existing primary single-family or duplex structure, but not to exceed the square footage, nor deviate from the original location, of the original structure;
 - b. Building additions, such as increasing the square footage of a residence or other structure, not over thirty (30) percent of the gross floor area of the structure (except when an expansion crosses a platted lot line);
 - c. Accessory buildings (as defined in these regulations);
 - d. Remodeling or repair which involves no expansion of square footage; or
 - e. Moving a structure off a lot or parcel, or for demolition permits.

DIVISION 6.2 SUBDIVISION DESIGN STANDARDS

Section 6.2.1 Streets

A. Generally.

1. The arrangement, character, extent, width, grade and location of all streets shall conform to the City of Marble Falls Thoroughfare Plan and TCSS, and shall be considered in their relation to existing and planned streets or driveways (whether within the City of Marble Falls, within its ETJ area, or within adjacent municipal or county areas), to topographical conditions, to public safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. Reserve or residual strips of land controlling access to or egress from other property, or to or from any street or alley, or having the effect of restricting or damaging the adjoining property for subdivision purposes, or which will not be taxable or accessible for improvements shall not be permitted in any subdivision unless such are required by the City in the public interest (such as to enhance public safety or other public interest). All streets shall be constructed in accordance with Division 6.3, *Improvements Required by the City*, and with the City's TCSS.
2. Proposed streets shall provide a safe, convenient and functional system for vehicular and pedestrian circulation, shall be properly related to the Thoroughfare Plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. All streets shall be open and unobstructed at all times. The layout of the street network shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area that is disturbed during construction, thereby helping to reduce storm water runoff and preserve natural, scenic characteristics of the land.

B. Adequacy of Streets and Thoroughfares.

1. *Responsibility for Adequacy of Streets and Thoroughfares.* The developer shall insure that the subdivision is served by adequate streets and thoroughfares and shall be responsible for the costs of rights-of-way and street improvements, in accordance with the following policies and standards, and subject to the City's cost participation policies on oversized facilities.
2. *General Adequacy Policy.* Every subdivision shall be served by improved streets and thoroughfares adequate to accommodate the vehicular traffic to be generated by the development. Proposed streets shall provide a safe, convenient and functional system for traffic circulation; shall be properly related to

the City's Thoroughfare Plan, road classification system, Comprehensive Plan and any amendments thereto; and shall be appropriate for the particular traffic characteristics of each development.

3. *Road Network.* New subdivisions shall be supported by a road network having adequate capacity, ingress/egress, and safe and efficient traffic circulation. The adequacy of the road network for developments of two hundred (200) or more dwelling units, or for developments generating two thousand (2,000) or more "one-way" trips per day, or for developments involving collector or arterial streets not appearing on the City's adopted Thoroughfare Plan, shall be demonstrated by preparation and submission, prior to or along with the Preliminary Plat application, of a Traffic Impact Analysis prepared in accordance with Subsection 6.2.1.D, *Traffic Impact Analysis*, below, which takes into consideration the need to accommodate traffic generated by the development, land to be developed in common ownership and other developed property. In the event that the property to be developed is intended as a phase in a larger development project or constitutes a portion of the land to be ultimately developed, the Planning or Zoning Commission or City Council may require a demonstration of adequacy pursuant to this Section for additional phases or portions of the property as a condition of approval for the proposed Preliminary Plat. In the event that the applicant submits a Traffic Impact Analysis for an entire phased development project, the City may require an update of the study for each subsequent phase of the development which reflects any applicable changed conditions. If the Preliminary Plat is in conformance with the Thoroughfare Plan and if the Preliminary Plat is for a development of less than two hundred (200) dwelling units or for a development generating less than two thousand (2,000) "one-way" trips per day, then a Traffic Impact Analysis is not required.
4. *Approach Roads and Access.* All subdivisions must have at least two (2) points of vehicular access (primarily for emergency vehicles) and must be connected via improved roadways to the City's improved thoroughfare and street system by one (1) or more approach roads of such dimensions and improved to such standards as are hereinafter set forth. Requirements for dedication of right-of-way and improvement of approach roads may be increased depending upon the size or density of the proposed development, or if such need is demonstrated by Traffic Impact Analysis.
 - 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 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)
 - b. The subdivision shall be designed to provide adequate emergency access for public safety vehicles. Each residential lot in the subdivision shall have a minimum frontage on a dedicated public street as required by applicable zoning or thirty-five (35) feet, whichever is greater, unless other provisions have been authorized through planned development approval. Each non-residential lot shall have a minimum frontage on a dedicated public street as required by applicable zoning or fifty (50) feet, whichever is greater, unless other provisions have been authorized through Planned Development approval.
5. *Off-site Improvements.* Where traffic impact analysis demonstrates the need for such facilities, or where the City believes public safety is at risk, the property owner shall make such improvements to off-site collector and arterial streets and intersections as are necessary to mitigate traffic impacts generated by

the development or in conjunction with related developments. The City may participate in the costs of oversize improvements with the property owner as set out herein, and subject to the City's cost participation policies on oversized improvements.

6. *Street Dedications.*
 - a. *Dedication of right-of-way.* The property owner shall provide all rights-of-way required for existing or future streets, and for all required street improvements, including perimeter streets and approach roads, as shown in the Thoroughfare Plan and as required by the TCSS or by other valid development plans approved by the City. In the case of perimeter streets, half of the total required right-of-way width for such streets shall be provided unless the proposed development is on both sides of the street, in which case the full right-of-way width shall be provided, or unless there is some other compelling reason to require more than half of the right-of-way width (such as avoiding the infringement upon or demolition of existing structures, avoiding crossing a creek or flood plain or some other obstacle, or other similar circumstance). In some instances, more than half of the required width shall be required when a half street is impractical or unsafe and depending upon the actual or proposed alignment of the street, such as in the case of a curved street, as may be required by the City.
 - b. *Perimeter streets.* Where an existing half-street is adjacent to a new subdivision or addition, the other half of the street shall be dedicated, and an appropriate amount of the street shall be improved, by the developer of the new subdivision or addition.
 - c. *Slope easements.* The dedication of easements, in addition to dedicated rights-of-way shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall be no steeper than three (3) feet horizontal run to one (1) foot vertical height, or a three-to-one (3:1) slope.
7. *Street Construction.* All streets and thoroughfares shall be constructed and paved to City standards and within rights-of-way as required by the Thoroughfare Plan and these regulations, and in accordance with the TCSS and other City standards as may be from time to time amended or adopted.
8. *Traffic Control.* Intersection improvements and traffic control devices shall be installed as warranted in accordance with the Traffic Impact Analysis required by Subsection 6.2.1.D, *Traffic Impact Analysis*, below, or as may be required by the City for traffic safety and efficiency. Construction and design standards shall be in accordance with City standards and the TCSS.
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 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 determines to be necessary to adjudge whether the subdivision will be adequately served by streets and thoroughfares.
10. *Private Streets.* New subdivisions may not be constructed with private streets, nor may an existing subdivision's public streets be converted to private ownership. Any private street subdivisions that were in existence (i.e., platted of record at the county) on the effective date of these regulations shall be allowed to remain as private street subdivisions provided that the conditions of the private streets and the maintenance thereof continues to meet or exceed City standards, and provided that a viable homeowner's association (HOA) continues to exist to maintain the private streets and all appurtenances. The City will not assist in enforcing deed restrictions. The City may periodically inspect

private streets and may require any repairs necessary to ensure efficient emergency access and to protect the public health, safety, convenience and welfare.

- a. *Construction and Maintenance Cost.* The City shall not pay for any portion of the cost of constructing or maintaining a private street.
- b. *Traffic Control Devices.* All private traffic control devices and regulatory signs shall conform to the "Texas Manual of Uniform Traffic Control Devices", as amended, and to City standards.
- c. *Restricted Access.* The entrances to all private streets shall be clearly marked with a sign, placed in a prominent and visible location, stating that the streets within the subdivision are private, and that they are not maintained nor regularly patrolled by the City. All restricted access entrances shall be manned twenty-four (24) hours every day, or they shall provide a reliable, alternative means of ensuring access into the subdivision by the City, by emergency service providers, and by other utility or public service providers, such as postal carriers and utility companies, with appropriate identification. The method to be used to ensure City and emergency access into the subdivision shall be approved by the City's fire department and by any other applicable emergency service providers. If the association fails to maintain reliable access as required herein, the City may enter the private street subdivision and remove any gate or device which is a barrier to access at the sole expense of the association.
- d. *Waiver of Services.* Certain City services may not be provided for private street subdivisions. Among the services which may not be provided are: routine law enforcement patrols, enforcement of traffic and parking regulations, and preparation of accident reports. Depending upon the characteristics of the development and upon access limitations posed by the design of entrances into the subdivision, other services (such as sanitation) may not be provided, as well.
- e. *Petition to Convert to Public Streets.* The property owner's association may petition the City to accept private streets and any associated property as public streets and right-of-way upon written notice to all association members and upon the favorable vote of a majority of the membership. However, in no event shall the City be obligated to accept said streets as public. Should the City elect to accept the streets as public, then the City has the right to inspect the private streets and to assess the lot owners for the expense of needed repairs concurrent with the City's acceptance of the streets. The City shall be the sole judge of whether repairs are needed. The City may also require, at the association's or the lot owners' expense, the removal of any guard houses, access control devices, landscaping or other aesthetic amenities located within the street lot or within any other common area.
- f. *Hold Harmless.* The property owners association, as owner of the private streets and appurtenances, shall release, indemnify, defend and hold harmless the City, any other governmental entity, and any public utility entity for damages to the private streets that may be occasioned by the reasonable use of the private streets by same, and for damages and injury (including death) arising from the condition of the private streets, out of any use of access gates or cross arms, or out of any use of the subdivision by the City or governmental or utility entity.

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 shall review the particular circumstances involved (a TIA may be required to facilitate the City Council's deliberations on the matter), and shall determine, at its sole discretion, whether or not provision 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 agrees to accept escrow deposits in lieu of construction by the owner of the property under these regulations, the property owner or developer 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.
3. *Determination of Escrow Amount.* The amount of the escrow shall be determined by using the maximum comparable "turnkey" bid price of construction of the improvements (including design, permits, reviews and approvals, inspections and any additional land acquisition that may be needed). Such determination of the escrow amount shall be made as of the time the escrow is due hereunder and shall be subject to the review and approval of the City Manager (or designee) and the City Engineer.
4. *Termination of Escrow.* Escrows, or portions of escrowed amounts, which have been placed with the City under this Section and which have been held for a period of ten (10) years from the date of such payment or agreement in the event that the City has not authorized the preparation of plans and specifications for construction of such roadway facilities for which the escrow was made, shall, upon written request, be returned to the property owner, along with one-half (½) of its accrued interest. Such return does not remove any obligations of the property owner for construction of the required facilities if a Building Permit has not been issued on the subject lot or if a new Building Permit is applied for.
5. *Refund.* If any street or highway for which escrow is deposited is constructed by a party other than the City or is reconstructed by another governmental authority at no cost to the City, the escrowed funds and accrued interest shall be refunded to the property owner or applicant who originally paid the escrow amount after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the City and the other portion of the cost by another party or governmental authority, the difference between the property owner's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.
6. *Interest Limitation.* If money is refunded within six (6) months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with one-half of its accrued interest.

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 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 City Council approval of a TIA, the following elements shall be included:
 - a. *General Site Description.* The TIA shall include a detailed description of the roadway network within one (1) mile of the site, a description of the proposed land uses, the anticipated states of construction, and the anticipated completion date of the proposed land development. This description, which may be in the form of a map, shall include the following items: (1) all major intersections; (2) all proposed and existing ingress and egress locations; (3) all existing roadway widths and rights-of-way; (4) all existing traffic signals and traffic-control devices; and (5) all existing and proposed public transportation services and facilities within a one (1) mile radius of the site.
 - b. *Proposed Capital Improvements.* The TIA shall identify any changes to the roadway network within one (1) mile of the site that are proposed by any government agency or other developer. This description shall include the above items as well as any proposed construction project that would alter the width or alignment of roadways affected by the proposed development.
 - c. *Roadway Impact Analysis.*
 - i. *Transportation Impacts.*
 - a) *Trip Generation.* The average weekday trip generation rates (trip ends), the average weekend trip generation rates (for uses other than residential or institutional), the highest average a.m. and p.m. hourly weekday trip generation rates, and the highest hourly weekend generation rates (for uses other than residential or institutional) for the proposed use shall be determined based upon the trip generation rates contained in the most recent edition of the Institute of Transportation Engineers' Trip Generation book; or shall be based upon data generated by actual field surveys of area uses compatible to the proposed use and approved by the City Manager (or designee) and the City Engineer.
 - b) *Trip Distribution.* The distribution of trips to arterial and collector roadways within the study area identified in Subsection 6.2.1.D.2.a, *General Site Description*, above, shall be in conformity with accepted traffic engineering principles, taking into consideration the land use categories of the proposed development; the area from which the proposed development will attract traffic; competing developments (if applicable); the size of the proposed development; development phasing; surrounding existing and anticipated land uses, population and employment; existing and projected daily traffic volumes; and existing traffic conditions identified pursuant to Subsection 6.2.1.D.2.a, *General Site Description*, above.
 - ii. *Adequacy Determination.* The roadway network included within the TIA shall be considered adequate to serve the proposed development if existing roadways identified as arterials and collectors can accommodate the existing service volume, and the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired Building Permits at a level of service "C" or above.
 - d. *Intersection Analysis.*
 - i. *Level of Service Analysis.* For intersections within the roadway TIA area described in Subsection 6.2.1.D.2.a, *General Site Description*, above, a level of service analysis shall be performed for all arterial to arterial, arterial to collector, collector to arterial, and collector to collector intersections, and for any other pertinent intersections identified by the City Manager (or designee) or by the City Engineer. Also, level of service analyses will be required

on all proposed site driveway locations for all nonresidential developments. The City may waive analysis of minor intersections and site driveway locations within the one-mile radius. The level of service analysis shall be based upon the highest hourly average a.m. or p.m. peak weekday volume or highest average hourly peak weekend volume as determined from a two-day survey of weekday volumes and, where necessary, a one-day survey of weekend volumes. The level of service analysis shall take into consideration the lane geometry, traffic volume, percentage of right-hand turns, percentage of left-hand turns, percentage (and typical size) of trucks, intersection width, number of lanes, signal timing and progression, roadway grades, pedestrian and bicycle flows, school routes, number of accidents, and peak hour factor.

- ii. *Adequacy Analysis.* The intersections included within the TIA shall be considered adequate to serve the proposed development if existing intersections can accommodate the existing service volume, the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired Building Permits at level of service "C" or above.
- e. *Effect of Adequacy Determination.* If the adequacy determination for roadways and intersections indicates that the proposed development would cause a reduction in the level of service for any roadway or intersection within the study area identified in Subsection 6.2.1.D.2.a, *General Site Description*, above that would cause the roadway to fall below the level of service required hereby, the proposed development shall be denied unless the developer agrees to one (1) of the following conditions:
 - i. The deferral of Building Permits until the improvements necessary to upgrade the substandard facilities are constructed;
 - ii. A reduction in the density or intensity of development;
 - iii. The dedication or construction of facilities needed to achieve the level of service required herein; or
 - iv. Any combination of techniques identified herein that would ensure that development will not occur unless the levels of service for all roadways and intersections within the TIA study are adequate to accommodate the impacts of such development.

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:

1. Provide for the continuation or appropriate projection of existing streets from or into surrounding areas;
2. Conform to a plan for the neighborhood approved or adopted by the City Council to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;
3. Provide for future access, such as by stubbing streets for future extension, to adjacent vacant areas which will likely develop under a similar zoning classification or for a similar type of land use; and
4. Not conflict in any way with existing or proposed driveway openings (including those on the other side of an existing or planned median-divided arterial, in which case new streets shall align with such driveway openings such that median openings can be shared).
5. Residential Collector Streets and Minor Residential Streets. Residential collector streets and minor residential streets shall be laid out such that their use by through traffic will be discouraged, such as via circuitous routes or multiple turns or offsets, but such that access is provided to adjacent subdivisions.
6. Wherever the right-of-way width of a collector or residential street must transition to a greater or lesser width, such transition shall occur along the front, side or rear lot lines of adjacent lots (for a reasonable

distance) and shall not occur within the street intersection itself. In other words, the right-of-way width shall be the same on both sides of the street intersection.

7. To the greatest extent possible, the number of lots fronting along residential collector streets shall be minimized in order to ensure adequate traffic safety and efficiency. No more than twenty (20) percent of the total centerline length of a collector street may have residential lots fronting onto the collector on each side of the street. For example, a collector street having a total centerline length (from one (1) terminus to another) of one thousand (1,000) feet may have lots fronting onto it with a total frontage distance of two hundred (200) feet on each side of the street. Calculations shall be submitted with the construction plat application (and provided to the Director and City Engineer) verifying that lots fronting onto a collector street do not exceed the above.
- F. **Subdivisions Abutting Arterial Streets.** Where a subdivision abuts or contains an existing or proposed arterial street, the City Council 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.
- G. **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 City Council.
- H. **Intersections.**
1. Intersecting, undivided streets with centerline offsets of less than one hundred and fifty (150) feet shall be avoided.
 2. Intersecting streets onto an existing or future divided roadway must be configured such that the centerline offset will accommodate the appropriate median opening and left-turn lanes (with required transition and stacking distances) on each divided roadway and shall be aligned with any existing or proposed streets or driveways on the opposite side of the divided roadway (in order to share the median opening).
 3. A street intersection with a major thoroughfare shall be at a ninety (90) degree angle and shall be tangent to the intersecting street for at least one hundred (100) feet.
 4. All other street intersections shall be laid out so as to intersect as nearly as possible at a ninety (90) degree angle or radial to the centerline of the intersecting street for the full right-of-way width of the intersecting street, and tangent to the intersecting street for at least fifty (50) feet.
 5. No street shall intersect at an angle that is less than eighty-five (85) degrees.
- I. **Right-of-Way Widths.** Street right-of-way widths shall be as shown on the Thoroughfare Plan and as defined by the corresponding roadway cross-sections on the Thoroughfare Plan and in the City's TCSS manual.
- J. **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 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 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.

K. Street Length.

1. *Maximum and Minimum Length.* The maximum length of any block or street segment (including a looped street) shall be one thousand six hundred (1,600) feet and the minimum length of any block or street segment shall be four hundred (400) feet, as measured along the street centerline and between the point(s) of intersection with other through, but not dead-end or cul-de-sac, streets.
2. *Cul-de-sac.* A cul-de-sac street shall not be longer than six hundred (600) feet, and at the closed end shall have a turnaround bulb with an outside pavement diameter of at least one hundred (100) feet and a right-of-way diameter of at least one hundred twenty (120) feet. The length of a cul-de-sac shall be measured from the centerline of the intersecting street to the centerpoint of the cul-de-sac bulb.
3. *Overlength Streets or Cul-de-sacs.* The 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:
 - a. Alternative designs which would reduce street or cul-de-sac length;
 - b. The effect of overlength streets upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in traveling to and from their homes; and
 - c. Means of mitigation, including but not limited to additional mid-block street connections, limitation on the number of lots to be served along an overlength street segment or cul-de-sac, temporary (or permanent) points of emergency access, and additional fire protection measures.

L. Dead-End Streets Prohibited.

1. *Generally.* Except in unusual cases, no dead-end streets will be approved.
2. *Exceptions.* Dead-end streets that are provided to connect with future streets on adjacent land may be permitted under the following provisions:
 - a. No more than one (1) lot (per side) can front onto the dead-end street stub unless a temporary turnaround bulb (with the appropriate temporary street easement) is provided at the end.
 - b. A temporary dead-end street shall not exceed the maximum allowed length of a normal cul-de-sac, and the temporary turnaround bulb must be constructed like a cul-de-sac, as provided in Subsection 6.2.1.K.2, *Cul-de-sac*, above (the City Engineer may authorize the use of asphalt or other durable paving material than concrete for the arc, or "wing", portions of the temporary turnaround bulb in order to minimize the cost of removing those portions later on).
 - c. A note shall be placed on the Final Plat clearly labeling any temporary dead-end streets (if any) that will at some point be extended into the adjacent property. Any required temporary turnaround easements shall be shown on the Final Plat along with their appropriate recording information if they are off-site or established by separate instrument.
 - d. Signage shall be placed at the end of the constructed street stub, such as on the barricade, also stating that the street will be extended in the future. Signage and lettering must be large enough to be legible by a person with normal vision at a twenty-foot distance.

M. Street Names of Extended Streets. New streets which extend existing streets shall bear the names of the existing streets and shall be dedicated at equal or greater right-of-way widths than the existing streets for an appropriate transition length, if applicable.

N. Construction of Streets. All streets shall be constructed in accordance with paving widths and specifications as set forth in the TCSS of the City of Marble Falls at the time at which the Preliminary Plat application is officially submitted and deemed a complete application.

- O. **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 City Council with the Preliminary Plat application.

Section 6.2.2 Alleys

- A. **In Nonresidential District.** Service alleys in nonresidential districts, if provided or constructed by the developer, shall be a minimum right-of-way width of twenty (20) feet and a pavement width of twenty (20) feet.
- B. **In Residential Districts.** In residential districts, alleys shall be parallel, or approximately parallel, to the frontage of the street. Alleys in residential districts shall provide a minimum of twenty (20) feet of right-of-way and twenty (20) feet of pavement.
- C. **General Design Standards for Alleys.**
1. Alleys shall be paved in accordance with the City of Marble Falls TCSS and construction standards that are in effect at the time the Preliminary Plat application is officially submitted and deemed a complete application.
 2. Where the deflection of alley alignment occurs, the design of the paving and property line shall be as established by the TCSS.
 3. Dead-end or "hammerhead" alleys shall not be allowed. Alleys must have adequate turnouts and street entrances such that vehicular traffic flow is continuous and efficient. Where a temporary dead-end alley situation is unavoidable, a temporary turnaround bulb or turnout onto a street, either of which will need a temporary easement for street or alley purposes, shall be provided as determined by the City Engineer.
 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:
 - a. Alternative designs which would reduce alley length;
 - b. The effect of overlength alleys upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in accessing rear driveways and in driving around to the front of their homes; and
 - c. Means of mitigation, including but not limited to additional mid-block alley turnouts, limitation on the number of lots to be served along a single alley segment, temporary points of access, and additional fire protection measures.
 5. Alley intersections shall be perpendicular and at a twenty (20) degree angle or radial to the intersecting alley centerline for the full alley right-of-way width, and intersection pavement shall be of sufficient width and inside radius to accommodate waste collection and emergency vehicles. Intersections shall be three-way wherever possible, and four-way intersections shall be avoided. No alley intersection serving more than four directions shall be allowed.

Section 6.2.3 Easements

- A. **Minimum Width of Easements.** The minimum width for City utility easements shall be twenty (20) feet or less as otherwise required by the City Engineer if adjacent to a public street and adequate area exists behind the back of the curb. The minimum width for City drainage easements shall be as required by the City Engineer. The width of easements for other utility providers, such as for gas, electric, telephone or cable television, shall be as required by that particular entity. It shall be the applicant's responsibility to determine appropriate easement widths required by other utility companies (also see Section 6.2.8, *Utility Services*). Wherever possible, easements shall be centered or along front or side lot lines rather than across the interior or rear of lots, particularly where no alleys will be provided behind the lots.
- B. **Drainage Easements.** Where a subdivision is traversed by a watercourse, drainage way or channel, there shall be provided a storm drainage easement or right-of-way conforming substantially with such course and of such additional width as may be designated by the City Engineer, subject to determination according to proper engineering considerations. The required width shall conform to the requirements set forth by the Federal Emergency Management Agency (FEMA), the U.S. Army Corps of Engineers, and/or the City. Parallel streets or parkways shall be required adjacent to certain portions of creek or drainageways to provide maintenance access and/or public access and visibility into public open space or recreation areas (see Section 6.2.11, *Areas for Public Use*, and Section 6.2.12, *Protection of Drainage and Creek Areas*). The number of lots that back or side onto creeks, drainageways, public parks and open spaces, and public school sites shall be severely limited, and possibly prohibited, such that public access, visibility, safety and security within these areas are maximized. Other utilities may be permitted within a drainage or floodway easement only if approved by the City Engineer and any other applicable entity requiring the drainage or floodway easement.
- C. **Easements and Dimensional Regulations.** A lot's area shall be computed inclusive of all easements. However, there shall be a minimum buildable area, exclusive of required easements, buffer zones and setbacks for each lot. The minimum buildable area shall be an area one-half ($\frac{1}{2}$) of the required minimum lot size. If the City disputes the buildable area of any lot, the applicant shall submit verification in writing that the buildable area is adequate for the type of housing product (or nonresidential building) proposed for that lot. Final approval of the allowed buildable area for any lot shall be by the City.
- D. **Utility Easements.** Where alleys are not provided in a residential subdivision, a minimum fifteen-foot wide utility easement shall be provided along the front of all lots, adjacent to and flush with the street right-of-way line for the potential placement of utility facilities.
- E. **Easements Established on Subdivision Plat.** For new development, all necessary on-site easements shall be established on the subdivision plat and not by separate instrument, and they shall be labeled for the specific purpose, and to the specific entity if other than the City, for which they are being provided. Examples include, but are not limited to, the following: a water, sanitary sewer or drainage easement, which is dedicated to the City for a water or sanitary sewer line or for a drainage structure; an access easement, which is dedicated to the public for unrestricted access purposes; a fire lane easement, which is dedicated to the City and its fire suppression and emergency medical service providers for access purposes; an electrical, gas or telephone easement, which is dedicated to the specific utility provider that requires the easement; and so on.
- F. **Visibility Easements.**
1. Whenever an intersection of two (2) or more public rights-of-way occurs, a triangular visibility area shall be created. The visibility easement for each type of intersection shall be as follows:
 - a. Intersection of two major arterials: Forty (40) feet on each side;

- b. Intersection of all other streets onto a major arterial: Twenty (20) feet on each side;
2. The maximum height of fences, walls, signs, and other similar fixed items shall be thirty (30) inches within the visibility easement. All landscaping (and any other fixed feature) within the triangular visibility area shall be designed to provide unobstructed cross-visibility at a level between thirty (30) inches and eight (8) feet. A limited number of single-trunked trees may be permitted in this area provided they are trimmed in such a manner that no limbs or foliage extend into the cross-visibility area. Landscaping, except grass and low ground cover, shall not be located closer than three (3) feet from the edge of any street pavement.

Section 6.2.4 Blocks

- A. **General Guidelines to Determine Length.** The length, width and shapes of blocks shall be determined with due regard to:
 1. Provision of adequate building sites suitable to the special needs of the type of use contemplated;
 2. Zoning requirements as to lot sizes, setbacks and dimensions (if within the City's corporate limits); and
 3. Needs for convenient access, circulation, control and safety of street traffic and for pedestrians or bicyclists traveling to a public park or school site or other facility within or close to the neighborhood.
- B. **Intersections.** Intersecting streets, which determine the lengths and widths of blocks, shall be provided at such intervals as to serve cross-traffic adequately, to provide adequate fire protection, and to conform to customary subdivision practices.
 1. *Maximum Length.* Where no existing subdivision or topographical constraints control, the block lengths shall not exceed one thousand six hundred (1,600) feet in length.
 2. *Minimum Length.* Where no existing subdivision or topographical constraints control, the blocks shall not be less than four hundred (400) feet in length.
 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 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 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 City Council. 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 6.2.6 Lots

- A. **Conform to Zoning District Regulations.** Lots shall conform to the minimum requirements of the established Zoning District as provided in Article 2, *Zoning Districts* and Article 4, *General Development Regulations*, if located within the City's corporate limits.
- B. **Frontage on or Adjacent to Public Streets Required.** Each lot on a subdivision plat shall have frontage onto or be adjacent to a dedicated, improved public street unless platted as an approved private street subdivision in accordance with this Article (see Subsection 6.2.1.B.10, *Private Streets*). Lot width and access shall conform to the provisions of applicable Zoning District as provided in Article 2, *Zoning Districts* and Article 4, *General Development Regulations*, (if within the City's limits), Comprehensive Plan, and any other applicable City code or ordinance. In the ETJ, single-family residential detached lots shall have a minimum of thirty-five (35) feet of frontage, and non-residential lots shall have a minimum of fifty (50) feet of frontage, along a dedicated, improved street.
- C. **Irregular-Shaped Lots.** Irregular-shaped lots shall have sufficient width at the building line to meet lot width and frontage requirements of the appropriate zoning district (if within the City's limits) and shall provide a reasonable building pad without encroachment into front, side or rear yard setbacks or into any type of easement. Also, the rear width shall be sufficient to provide access for all necessary utilities, service providers and franchisees, including access for driveways and solid waste collection when alleys are present (minimum twenty-foot alley frontage). Triangular, severely elongated or tapered or "panhandle" lots shall be avoided, and the City reserves the right to disapprove any lot which, in its sole opinion, will not be suitable or desirable for the purpose intended, which is an obvious attempt to circumvent the purpose and intent of lot configuration or lot width minimums, or which is so oddly shaped as to create a hindrance to the logical lot layout of surrounding properties.
- D. **Side Lot Lines.** Side lot lines will be at ninety (90) degree angles or radial to street right-of-way lines to the greatest extent possible unless it is not practical based on topography. The City reserves the right to disapprove any lot which, in its sole opinion, is shaped or oriented in such a fashion as to be unsuitable or undesirable for the purpose intended, or which is not attractively or appropriately oriented toward its street frontage.
- E. **Double Frontage Lots.** Double frontage lots shall be avoided, except where they may be essential to provide separation of residential development from traffic arterials, as defined in Section 6.2.1, *Streets*, or to

overcome a specific disadvantage or hardship imposed by topography or other factors. Where lots have double frontage, building setback lines shall be established for each street side, and rear yard screening shall be provided in accordance with Section 6.3.6, *Retaining Wall Requirements, Construction Regulations, and Design Criteria*. Residential lots shall not back onto any residential street or collector street within a residential area or neighborhood and shall not have more than one-half (½) of its perimeter boundaries along streets.

Section 6.2.7 Building Lines

- A. **Generally.** For property that is not subject to the City's zoning regulations, such as property that lies within the City's extraterritorial jurisdiction, the minimum front building line (for a residential or nonresidential lot) shall be twenty-five (25) feet unless a different setback is specified by these regulations.

Section 6.2.8 Utility Services

- A. **Utility Metering for Single-Family or Duplex Units.** The metering for utilities such as water, gas and electricity shall be located on not more than two (2) units for single-family or duplex to be served, not grouped together in a centralized location(s), such as "gang-box" style metering stations, which shall not be permitted.
- B. **Location of Utility Easements.** The locations, widths and configurations of easements for any utility service provider other than the City of Marble Falls shall be determined, approved and acquired (if necessary) by the applicable utility service provider.
- C. **Subject to Inspection.** All utility installations shall be subject to inspection by the City and shall be in conformance with any applicable City design standards related to their placement within public rights-of-way within easements, or elsewhere in the City (including on private property).

Section 6.2.9 Water and Wastewater Facility Design

- A. **Connection to City's Water System Required.** All new subdivisions shall be connected with the City's water system and shall be capable of providing water for health and emergency purposes, including fire protection. An alternative source of water may be used for irrigation purposes only and for a nonresidential use only (e.g., a public park, a public school, etc.), subject to City approval and provided that all appropriate permits are procured from the City, the U.S. Army Corps of Engineers, the Texas Commission on Environmental Quality (TCEQ) and any other applicable agency(s). Such alternative water source may not be used for potable (i.e., drinking) water supply under any circumstances. The design and construction of water system improvements and alternative water sources shall comply with the following standards:
 - 1. Design and construction of a water source on the site shall be in accordance with applicable regulations of the TCEQ.
 - 2. Design and construction of water service from the City shall be in accordance with the standards in the City's TCSS manual, and in accordance with TCEQ standards, whichever is the most stringent requirement.
 - 3. Design and construction of a fire protection and suppression system shall be in accordance with the standards in the TCSS manual, and in accordance with the City's fire department and fire code.
- B. **Connection to City's Wastewater Collection and Treatment System Required.** All new subdivisions shall be served by the City's wastewater collection and treatment system. The design and construction of the wastewater system improvements shall be in accordance with the standards in the City's TCSS manual, and in accordance with TCEQ standards whichever is the most stringent requirement. If a sanitary sewer service

is not available, the City shall still require installation of sewer lines in accordance with City standards. All lines shall be capped for future connection when service is available.

- C. **Subdivider Responsibilities.** The subdivider shall be responsible for:
1. Phasing of development or improvements in order to maintain adequate water and wastewater services;
 2. Extensions of utility lines (including any necessary on-site and off-site lines) to connect to existing utility services;
 3. Providing and/or procuring all necessary easements for the utilities (whether on-site or off-site);
 4. Providing proof to the City of adequate water and wastewater service;
 5. Providing provisions for future expansion of the utilities if such will be needed to serve future developments, subject to the City's oversize participation policies, if applicable;
 6. Providing all operations and maintenance of the utilities, or providing proof that a separate entity will be responsible for the operations and maintenance of the utilities;
 7. Providing all fiscal security required for the construction of the utilities;
 8. Obtaining approvals from the applicable utility providers if other than the City; and
 9. Complying with all requirements of the utility providers, including the City.
 10. Providing plans and specifications for alternative wastewater disposal systems including but not limited to grinder pumps as required by the TCSS manual.
- 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 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.
- E. **Compliance with State Regulations Required.** Installation, operations and maintenance of utilities not specifically referenced herein shall comply with regulations of the TCEQ and with any other applicable state rules and regulations, whichever is the most stringent requirement.
- F. **Subdivider Responsible for Costs.** The subdivider shall pay all design, legal, engineering, material, construction and installation costs of all improvements required by these regulations unless otherwise provided in this Section. In the event a subdivider desires the extension of water or sewer lines to serve the subdivision, the subdivision shall bear the entire design, engineering, material, easement, and construction and installation costs of all adjacent border, off-site improvements. The City shall specify the size of all lines.
- G. **Subject to Inspection by City.** The construction of water and sewer lines in accordance with City plans and specifications will be installed by a contractor of the subdivider's choice. All such construction shall be subject to inspection by the City and no portion of any line installed in any excavation shall be covered unless and until the construction of such portion shall have been inspected by the City.
- H. **Requirements Prior to Connecting to or Extending Abutting Lines.** Where an existing water or sewer line lies within or abuts the subdivision, the subdivider shall make no connections to or extensions of such existing lines without first paying to the City the cost of the size line equal length to that portion of such existing line which lies within or abuts the subdivision which would be required to serve the subdivision. This cost shall be determined by the City.

- I. **On-Site Waste Disposal.** Subdivisions less than thirty (30) acres in area containing residential lots three (3) acres in size or larger may utilize on-site waste disposal systems if TCEQ and county health requirements are met.

Section 6.2.10 Stormwater Collection and Conveyance Systems

- A. **Required Permits and Authorizations.** Unless otherwise exempt under Chapter 28, Nonpoint Source Pollution, of the City's Code, all property owners subject to these land use regulations shall obtain all permits or authorizations required by Chapter 28, Nonpoint Source Pollution, of the City's Code.
- B. **System Design Requirements.** Drainage improvements shall be designed so as to not cause damage to other property, shall accommodate runoff from the upstream drainage area in its anticipated maximum "build-out" condition, and shall be designed in accordance with the most recently adopted drainage criteria manual to prevent overloading the capacity of the downstream drainage system. The City may require the phasing of development, the use of control methods such as retention or detention, or the construction of off-site drainage improvements in order to mitigate the impact of the proposed development. No stormwater collection system shall be constructed unless it is designed in accordance with the drainage criteria manual by a licensed professional engineer, and unless it is reviewed and approved by the City Engineer. All plans submitted to the City shall include a layout of the drainage system together with supporting calculations for the design of the system.
- C. **Conform to NPS Technical Manual.** All erosion and sedimentation controls shall conform to the NPS Technical Manual, as amended, a copy of which is on file at the City.
- D. **Alterations to Existing Drainageways.** No person, individual, partnership, firm or corporation shall deepen, widen, fill, reclaim, reroute or change the course or location of any existing ditch, channel, stream or drainageway without first obtaining written permission of the City Engineer and any other applicable agency (such as FEMA or the U.S. Army Corps of Engineers) having jurisdiction. The City Engineer may, at his or her discretion, require preparation and submission of a FEMA or flood study for a proposed development if there are concerns regarding storm drainage on the subject property or upstream or downstream from the subject property. The costs of such study, if required, shall be borne by the developer.
- E. **Impact on the Design of Streets, Lots, and Building Lines.** In order to help reduce storm water runoff, and resulting erosion, sedimentation and conveyance of nonpoint source pollutants, the layout of the street network, lots and building sites shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area that is disturbed during construction.
- F. **Concentrated Surface Cross-Street Flow.** No concentrated surface cross-street flow (i.e., perpendicular to traffic flow) of storm water runoff shall be permitted unless approved by the City Engineer. When and if such drainage flow is allowed, it must be across a concrete street (i.e., valley gutter) and as approved by the City Engineer.
- G. **Design of Storm Water Treatment Facilities.** All storm water treatment facilities shall be designed using materials and techniques as established in the City's NPS Technical Manual or as may be required by the City Engineer.

Section 6.2.11 Areas for Public Use

- A. **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 City Council.

Section 6.2.12 Protection of Drainage and Creek Areas

- A. **Required.** All creeks and drainage areas shall be preserved and protected in their natural condition wherever possible unless significant storm drainage improvements are required by the City in these areas. All development adjacent to creeks and drainage areas shall be in accordance with the City's TCSS manual, and with any other City policies or ordinances related to aesthetics or public access or enjoyment of creeks and waterways.
- B. **Definitions and Methodology for Determining the Floodway Management Area (FMA).** The definitions for "floodway" and "floodway fringe" shall correspond to those set forth by the Federal Emergency Management Agency (FEMA). For purposes of the National Flood Insurance Program, the concept of a floodway is used as a tool to assist the local community in the aspect of flood plain management. Under this concept, the area of the 100-year flood is divided into a floodway and floodway fringe. The floodway is the channel of a stream plus any adjacent flood plain areas that must be kept free of encroachment in order that the 100-year flood may be carried without substantial increases in flood heights as defined by FEMA. The area between the floodway and boundary of the 100-year flood is termed the floodway fringe. The floodway fringe is the area which can be used for development by means of fill according to FEMA and City engineering criteria.
- 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 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.** The area determined to be the FMA shall be designated on the Preliminary Plat. Approximate locations shall be shown on zoning change requests—accurate locations of the FMA shall be established on the Preliminary Plat and prior to site construction. At the City's option, the FMA shall be protected by one of the following methods:
 - 1. Dedication to the City of Marble Falls; or
 - 2. Easement(s). Creeks or drainageways on tracts which have private maintenance provisions, other than single- or two-family platted lots, can be designated as the FMAs by an easement to the City on the Preliminary Plat (with the appropriate plat language, as required by the City). Subdivisions with platted single-family or two-family lots may designate the FMA by easement provided there are adequate maintenance provisions (such as by a mandatory homeowner's association), but no lots or portions of lots may be platted in the easement unless specifically allowed by the City. The area designated as FMA may be identified by a tract number; or
 - 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.

- E. **Clearing of Drainageway Required.** Prior to acceptance of any drainageway as an FMA by the City, the area shall be cleared of all debris and brush (except for mature trees) and placed in a maintainable state. Floodway management areas dedicated to the City shall be left in a natural state except those areas designated for active recreational purposes and unless storm drainage requirements do not permit this to occur.
- F. **Design Criteria.** The following design criteria shall be required for development adjacent to the FMA:
1. Adequate access shall be provided to and along the FMA for public and/or private maintenance. An unobstructed area a minimum of twenty (20) feet wide with a maximum 5:1 slope (five (5) feet horizontal to one (1) foot vertical), the length of the floodway shall be provided adjacent to or within the FMA. On the opposite side of the drainage area, an unobstructed area having a minimum width of five (5) feet shall be provided.
 2. Lots in a single-family, Planned Development District single-family, or duplex residential zoning district shall not be platted within the FMA, and no more than ten (10) percent of the linear length of the FMA (on each side) shall be allowed to have lots backing or siding onto it. If lots back or side onto an FMA, at least two (2) reasonable points of access to the FMA, each a minimum of twenty (20) feet in width, shall be provided. Streets, alleys and open-ended cul-de-sacs may qualify as access points if designed such that they are navigable by maintenance vehicles (e.g., alleys must be twenty-foot width). All areas of the FMA shall be accessible from the access points and shall be visible from access points. Lots used for multifamily dwellings may be platted in the FMA if the FMA is identified as an easement and is maintained as open space for use by the residents and provided that access to the FMA is possible by City maintenance vehicles, should that need arise. If the FMA is to be public park land, then adequate public access and good public visibility shall also be provided to all portions of it.
 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.

DIVISION 6.3 IMPROVEMENTS REQUIRED BY THE CITY

Section 6.3.1 General Requirements of Improvements Required by the City

- A. **Purpose.** The requirements of this Article as set forth below are designed and intended to ensure that, for all subdivisions of land within the scope of this Article, all improvements as required herein are installed properly and:
1. The City can provide for the orderly and economical extension of public facilities and services;
 2. All purchasers of property within the subdivision shall have a usable, buildable parcel of land; and
 3. All required improvements are constructed in accordance with City standards.

- B. **Adequate Public Facilities Policy.** The land to be divided or developed must be served adequately by essential public facilities and services. No subdivision shall be approved unless and until adequate public facilities exist or provision has been made for water facilities, wastewater facilities, drainage facilities, electricity and street facilities which are necessary to serve the development proposed, whether or not such facilities are to be located within the property being platted or off-site and should provide connectivity of streets and utilities to abutting and adjacent property. This policy may be defined further and supplemented by other ordinances adopted by the City.
- C. **Condition of Approval to Bear Costs.** If the City requires as a condition of approval for a property development project that the developer bear a portion of the costs of municipal infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, the developer's portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001, Occupations Code, and is retained by the City. The cost to retain the engineer to make such determination of proportionality shall be the applicant's responsibility.
- D. **Appeals.** The applicant may dispute the determination made by the engineer retained by the City and may submit a written appeal to the City Council within thirty (30) calendar days from the date of the determination of the engineer. At the 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 shall make the applicable determination within 30 calendar days following the final submission of any testimony or evidence by the applicant.
- E. **Right to Collect Impact Fees.** This Section does not diminish the City's authority or modify the procedures regarding impact fees as adopted by the City in accordance with Chapter 395 of the Texas Local Government Code.
- F. **Developer Participation Agreements.** The City may negotiate and execute an agreement in accordance with Local Gov't Code Section 212.071 with a developer of a subdivision or owner or developer of any land within the City, for the purpose of constructing public improvements, not including a building. The public improvements may be related to the development itself and/or to the construction of improvements with increased capacity above the capacity required for the development in anticipation of additional and future development in the area.
- G. **City Cost Participation.** The developer shall construct the improvements and the City shall participate in the cost of construction of the improvements either as a lump sum or as a percentage of the total actual costs not attributable or necessitated by the development. The contract terms shall include the requirements as provided for in Subchapter C of Section 212.071 et. seq. of the Texas Local Government Code, Developer Participation in Contract for Public Improvements, and as it may be subsequently amended from time to time.
- H. **Public Improvements Required.** Public improvements that are required by the City of Marble Falls for the acceptance of a subdivision by the City shall include, but are not limited to, the following:
1. Water and wastewater facilities;
 2. Storm water drainage, collection and conveyance facilities;
 3. Water quality, erosion and sedimentation controls;
 4. Streets;
 5. Street lights;
 6. Street signs;

7. Alleys;
 8. Sidewalks, including barrier-free ramps at street intersections and other appropriate locations;
 9. Screening and/or retaining walls;
 10. Traffic control devices required as part of the project; and
 11. Appurtenances to the above, and any other public facilities required as part of the proposed subdivision.
- I. **Compliance with Design Standards and Regulations.** All aspects of the design and implementation of public improvements shall comply with the City's current design standards and any other applicable City codes and ordinances, including preparation and submittal of Construction Plans and construction inspection. The construction of all of the improvements required in these regulations shall conform to the latest edition of the City's TCSS, as may be amended, and to any other applicable City standards.
 - J. **Changes or Amendments to the TCSS and Other Construction or Design Documents.** The Technical Construction Standards and Specifications (TCSS) will, from time to time, require revisions and updates to allow for changing construction technology. When changes are required, the TCSS may be amended by separate ordinance. It is the applicant's responsibility to be aware of, and to conform with, all TCSS requirements (including amendments) that are in place as of the time a complete development application for a Preliminary Plat (including required Construction Plans) is received by the City.

Section 6.3.2 Monuments

- A. **Generally.** In all subdivisions and additions, monuments shall be established at the corner of each block in the subdivision consisting of an iron rod or pipe not less than three-quarters ($\frac{3}{4}$) inch in diameter and twenty-four (24) inches deep, when possible, and set flush with the top of the ground. Lot corner monuments shall be placed at all lot corners except corners which are also block corners, consisting of iron rods or pipes of a diameter of not less than one-half ($\frac{1}{2}$) inch and eighteen (18) inches deep, when possible, and set flush with the top of the ground. In addition, curve point markers shall be established of the same specifications as lot corners. Each block corner monument shall include a cap with the surveyor's name and registration number attached to it. All block and lot corners shall be installed prior to the final acceptance of the subdivision by the City and prior to filing the plat at the County. All survey work around the boundary area, as well as within the subdivision, shall have an error of closure of one (1) in seven thousand five hundred (7,500) or less.
- B. **Concrete Monuments.** A subdivision shall have at least two (2) concrete monuments set by the surveyor, if not already existing, for two (2) corners of the subdivision, and such concrete monuments shall be located at opposite ends (or at widely separated corners) of the subdivision and clearly shown on the Final Plat prior to filing at the county. The Final Plat shall also show clear ties to existing concrete monuments in the vicinity of the subdivision. The design and installation of concrete monuments shall be in accordance with the City's TCSS.

Section 6.3.3 Street Lights

All street lighting shall be in conformance with the City's TCSS, and any other applicable City codes

Section 6.3.4 Street Names and Signs

- A. **Approval Required.** Street names must be submitted to the City for review and approval in accordance with the City's guidelines for the naming of streets. The City shall forward all proposed street names to others for review, including the U.S. Postal Service, and any other applicable emergency service providers. Proposed street names shall be submitted for review along with (and as a part of) the Construction Plat and shall

become fixed at the time of approval of the Final Plat. On the Final Plat, street names shall not be changed from those that were approved on the Preliminary Plat unless special circumstances have caused the major realignment of streets or a proposed street name(s) is discovered to have already been used elsewhere in the City (or some other similar eventuality). If additional street names are needed for the Final Plat, then they must be submitted for review and approval by the City, the U.S. Postal Service, and applicable emergency service providers, including 911 dispatch, along with the Final Plat application. A fee may be established by the City for the changing of street names after approval of the Preliminary Plat.

- B. **Names of Corporations or Business Prohibited.** The names of corporations or businesses shall not be used as street names, unless approved by the City Council. The City will maintain a list of existing street names (and "reserved" street names that have been approved on a Preliminary Plat) and will update the list as new streets are platted.
- C. **Duplication Prohibited.** New street names shall not duplicate existing street names either literally or in a subtle manner (for example, Smith Street vs. Smythe Street; Oak Drive vs. Oak Place vs. Oak Court vs. Oak Circle; Cascade Drive vs. Cascading Drive); shall not be so similar as to cause confusion between names (for example, Lakeside Drive vs. Lake Side Drive vs. Lake Siding Drive); and shall not sound like existing street names when spoken (for example, Oak Drive vs. Doak Drive vs. Cloak Drive; Lantern Way vs. Land Tern Way).
- 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 City Council.
- E. **Responsibility of Cost.** The property owner shall provide payment for street name signs for the development (two (2) signs for four-way intersections, and one (1) sign for three-way intersections). The cost of each street name sign installation shall include the cost of the sign assembly, pole and all costs associated with installation. Payment by the property owner will be due prior to acceptance of the subdivision by the City. The City shall order and install the street signs after payment is received by the City for the cost of the signs.
- F. **Design Compliance Required.** Street name signs shall be installed in accordance with the City's guidelines before issuance of a Building Permit for any structure on the streets approved within the subdivision.

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 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 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.
- B. **Design Requirements.** All streets and alleys shall be constructed per the specifications in the City's TCSS.
 - 1. The minimum street and alley paving standards for which the construction shall be made by the developer are shown in the TCSS.
 - 2. In addition to the above-mentioned minimum standards, barrier-free ramps for physically challenged persons shall be constructed at all street corners, driveway approaches, appropriate mid-block

crosswalks, and in locations where accessible parking spaces are provided. All barrier-free ramps and other accessibility considerations shall comply with Section 228 of the Highway Safety Act, as currently amended, and with the Americans With Disabilities Act (ADA), as amended.

3. All signs and barricades shall be in conformity with the TCSS, with ADA standards, and with specifications for uniform traffic control devices, as adopted by the City, by Burnet or Blanco County, by the Texas Department of Transportation, and by the Texas Department of Public Safety, as applicable.

- C. **Driveway Access.** Driveway access and cuts shall be in conformance with Article 7 of these regulations and the City's TCSS.

Section 6.3.6 Retaining Wall Requirements, Construction Regulations, and Design Criteria

- A. **Retaining Wall Requirements.** In general, the use of retaining walls shall be minimized, wherever possible, through minimal and balanced cut and fill on property. When property within or directly adjacent to a subdivision contains changes in elevation exceeding two and one-half (2½) feet and the slope exceeds one (1) unit vertical in two (2) units horizontal, a retaining wall shall be required at the locations specified herein prior to the acceptance of the subdivision:
1. *Location A.* The grade change roughly follows a side or rear lot line.
 2. *Location B.* The grade change is adjacent to a proposed building site boundary.
 3. *Location C.* The grade change is adjacent to a water course or drainage easement.
- B. **Retaining Wall Design and Construction.** All retaining wall design and construction shall be in compliance with the provisions of the building code and the TCSS of the City of Marble Falls and shall be approved by the City Engineer.
- C. **Retaining Wall Maintenance.** Retaining walls shall be maintained by the owner of the property where such retaining wall is located.
- D. **Retaining Wall Prohibited within Utility or Drainage Easement.** Retaining walls shall not be constructed within any portion of a utility or drainage easement, unless approved by the City Engineer.

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 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, 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 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:
 - a. Living/landscaped screen with decorative metal (e.g., wrought iron) fence sections with masonry columns;
 - b. A combination of berms and living/landscaped screening, either with or without a decorative metal or "WoodCrete" type of fence with masonry columns;
 - c. A combination of berms, decorative masonry retaining walls (no taller than six (6) feet in height where facing or visible to a public street) and living/landscaped screening, either with or without a decorative metal or "WoodCrete" type of fence with masonry columns; or
 - 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 finds it to be in the public interest to approve the alternative screening device.
 - e. Any required screening device shall be, or shall achieve, at least six (6) feet in height and at least ninety (90) percent opacity within three (3) years of initial installation/planting. Any landscaping used to achieve the purpose of required screening shall be equipped with an underground irrigation system with appropriate double-check valve(s), automatic controller(s), and automatic moisture- and freeze-sensors. Trees used for overstory screening shall be on a separate bubbler irrigation system that can be programmed to provide deep-watering of trees at intervals that may differ from the rest of the irrigation system.
 - f. The use of wood or other privacy fences immediately behind or abutting an alternative screening device that utilizes living screening elements (i.e., landscaping), berms, retaining walls and/or open (i.e., non-opaque) fence sections shall not be permitted due to the creation of a "no man's land" and subsequent maintenance nuisance in the area between the two (2) devices/fences, and due to the detrimental visual appearance of this type of arrangement.
 - g. The use of any alternative form of screening in lieu of the masonry wall, particularly a device utilizing landscaping, shall require formation of a property/homeowners' association in accordance with Section 6.3.1, *General Requirements of Improvements Required by the City*.
3. *Screening Maintenance Easement.* A wall/screening maintenance easement at least five (5) feet in width shall be dedicated to a property owners association on the private lot side and adjacent to the entire length of the screening wall or device.
4. *Installation Required.* The screening wall/device shall be installed prior to approval of the Final Plat and prior to final acceptance of the subdivision (or appropriate surety provided, per Division 6.4, *Requirements for Acceptance of Subdivisions*). Landscape materials may be installed after the subdivision is accepted, upon approval of the City Manager (or designee), but in no case later than six (6) months following acceptance of the subdivision. Failure to properly install all components of a required screening wall or device within the allowed time frame, and without the appropriate developer's agreement and surety, shall constitute a violation of these regulations and the developer may be subject to a penalty pursuant to Article 13, *Enforcement*, of these regulations.
5. *Landscaping Requirements.* All plants, such as trees, shrubs and ground covers, shall be living and in 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, as may be amended and the City's approved tree list.

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 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 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 City Council approval on the landscaping/screening plans submitted with the Construction Plans.
8. *Screening Prohibited Within Utility or Drainage Easements.* Screening fences, walls and devices shall not be constructed within any portion of a utility or drainage easement unless specifically authorized by the City and by any other applicable utility provider(s).

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 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 City Council approval. Prior to 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 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 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 City Council.

3. **Applicant Responsibility.** The maintenance of the entryway shall be the responsibility of the applicant for a period of at least two (2) years or until Building Permits have been issued for eighty (80) percent of the lots in the subdivision, whichever date is later. Following that period of time, maintenance responsibility shall be borne by the private property owner(s) upon whose lot(s) the entryway feature is located, or by an approved homeowners' association (see Section 6.3.1, *General Requirements of Improvements Required by the City*). If, at some point in time, the maintenance responsibility shifts to the City, the City shall have the right to upgrade, reduce or eliminate entirely, at its sole option, the landscaping and other amenities in order to simplify or minimize the amount of time, effort and cost that maintenance of the entryway will require.

C. **Landscaping.** All landscaping shall be in conformance with Article 9 of these regulations, as amended.

D. **Signage.** All signage shall be in conformance with Chapter 20 of the City Code, as amended.

Section 6.3.8 Water and Wastewater Requirements

A. **Conformance with Regulations.** The installation of all water and wastewater lines shall be in conformance with Section 6.2.8, *Utility Services*.

B. **Adequate Provision Required.** No Final Plat shall be approved for any subdivision within the City or its extraterritorial jurisdiction until the applicant has made adequate provision for a water system and a sanitary sewer system of sufficient capacity to adequately provide service to all tracts and lots within the area to be subdivided. The design and construction of the water system and of the sanitary sewer system to serve the subdivision shall be in conformance with the City's master plans for water and wastewater facilities and with the TCSS and shall be approved by the City Engineer (also see Section 6.2.8, *Utility Services*).

C. **Sufficient Sizing and Outlets Required.** Water system with mains of sufficient size and having a sufficient number of outlets to furnish adequate and safe domestic water supply and to furnish fire protection to all lots shall be provided. Water lines shall extend to the property line in order to allow future connections into adjacent undeveloped property, and a box for the water meter(s) for each lot shall be installed either in the right-of-way or immediately adjacent to the right-of-way in a water meter easement.

D. **Utility Connection Available at Property Line.** Services for utilities shall be made available to the property line of each lot in such a manner as will minimize the necessity for disturbing the street pavement and drainage structures when connections are made.

E. **Adequate Fire Protection.** Fire protection shall be provided in accordance with Section 6.2.8, *Utility Services*, with the City's TCSS manual, and with any other City policy or ordinance pertaining to fire protection or suppression. The Fire Chief, or designee, shall have the authority to approve the locations and placement of all fire hydrants and fire lanes and may, at his or her discretion, modify fire hydrant spacing or fire lane placement based upon special design or distance circumstances. All required fire lanes shall be shown as "fire lane easements" on the Preliminary and Final Plats, along with the applicable fire lane language block. Vertical construction (i.e., any building construction above foundation/slab level) shall not commence until all required fire lanes are properly installed and accepted by the City, nor until all fire hydrants have been installed, inspected, tested and accepted by the City.

Section 6.3.9 Improvement of Adjacent (Perimeter) Streets and Utilities

A. **Construction Required.** When a proposed subdivision, whether residential or nonresidential, abuts on one (1) or both sides of an existing substandard street, or on a planned or future roadway as shown on the current Thoroughfare Plan, the developer shall be required to improve or construct the street according to

the developer's proportionate share of the substandard road or the new road as is necessary to accommodate the new development, including appurtenant sidewalks, barrier-free ramps, storm drainage structures, screening and landscaping, median openings and/or left turn lanes (if a divided thoroughfare), water quality or erosion controls, and other utilities as defined in Article 14, *Definitions and Interpretation*, to bring the same up to City standards, or to construct a new road in accordance with current street construction standards of the City as determined by the City Engineer in accordance with Section 6.3.1, *General Requirements of Improvements Required by the City*.

- 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 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.
- C. **Responsibility for Bridges.** The developer's share for major bridges and similar region-serving drainage structures and for railroad crossings (including the appurtenant roadway paving, sidewalks/ pedestrian pathways, abutments, safety railings and cross-arms, median areas, etc.) shall be in accordance with the City of Marble Falls policies and ordinances for the construction of such facilities.
- D. **Streets Crossing Utility Easements.** Streets which dead-end at power lines or similar rights-of-way or easements, and which are intended for future extension across these rights-of-way or easements, shall be constructed in the right-of-way or easement for half the distance across the right-of-way or easement, and shall be further restricted as set forth in Section 6.2.1, *Streets*. As with any other dead-end street, a note shall be placed on the Final Plat clearly labeling the dead-end streets that will, at some point, be extended across the power line easement (or right-of-way), and signage shall be placed at the end of the constructed street stub, such as on the barricade, also stating that the street will be extended in the future. Signage size and lettering shall be large enough to be legible by a person with normal vision at a distance of twenty (20) feet.

Section 6.3.10 Stormwater and Water Quality Controls

- A. **Generally.** An adequate storm sewer system, consisting of inlets, pipes and other underground structures with approved outlets, as outlined in Drainage Criteria Manual, shall be designed where runoff of storm water and the prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities. Areas subject to flood conditions or inadvertent storm water retention, such as standing or pooling water, as established by the City Engineer, will not be considered for development until adequate drainage has been provided. In no case shall storm water drainage be diverted artificially to adjacent properties or across roadways. No storm water drainage will be permitted to flow from one lot or piece of property onto another under separate ownership unless such drainage does not harm, damage, or otherwise pose an inconvenience to the other properties, and is specifically approved by the City Engineer, and the necessary off-site drainage easement is procured on the affected property(s).

- B. **Design Criteria.** The criteria for use in designing water quality control structures, and other best management practices (BMPs) for non-point source pollution control shall conform to Section 6.2.10, *Stormwater Collection and Conveyance Systems*, of these regulations, and Chapter 28, Nonpoint Source Pollution, of the City's Code.
- C. **Developer Responsibility.** The developer shall ensure that all drainage improvements within public easements or rights-of-way are functioning properly prior to the expiration of the maintenance bond. The developer shall be responsible for removing any significant build-up of sediment or debris from drainage improvements, with the exception of backlot and sidelot drainage swales, at the eleventh month of the second year for the required two-year maintenance bond for the applicable facilities. The City shall inspect the improvements to determine any maintenance or correction of deficiencies at the conclusion of this period.
- D. **Maintenance and Inspection.** Water quality control structures, retention and detention facilities, and BMPs for non-point source pollution control permitted by the City under Chapter 28, Nonpoint Source Pollution, of the City's Code, shall be maintained and inspected in accordance with Chapter 28, Nonpoint Source Pollution, and any permits or authorizations issued thereunder.

DIVISION 6.4 REQUIREMENTS FOR ACCEPTANCE OF SUBDIVISIONS

Section 6.4.1 Withholding City Services and Improvements until Acceptance

The City hereby defines its policy to be that the City will withhold all City services and improvements of whatsoever nature, including the maintenance of streets and the furnishing of all other City services from any subdivision or property until all of the street, utility, storm drainage and other public improvements, as well as lot improvements such as retaining walls and grading and installation of improvements required for proper lot drainage and prevention of soil erosion on the individual residential lots, are properly constructed according to the approved Construction Plans and to City standards, and until such public improvements are dedicated to and accepted by the City.

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 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 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 request reimbursement

from the City for oversize costs. The 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 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 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:
 - 1. All performance bonds must be in the forms acceptable to the City Manager and the City Attorney.
 - 2. All performance bonds must be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies", as published in Circular 570, as may be amended, by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury.
 - 3. All performance bonds must be signed by an agent and must be accompanied by a certified copy of the authority for him or her to act.
 - 4. All performance bonds shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Texas to issue performance bonds for the limits and coverage required.
 - 5. If the surety on any performance bond furnished by the applicant is declared bankrupt, or becomes insolvent, or its right to do business is terminated in the State of Texas, or the surety ceases to meet the requirements listed in Circular 570, the developer shall, within twenty (20) calendar days thereafter, substitute another performance bond and surety, both of which must be acceptable to the City.
- F. **Letter of Credit.** If the City Council authorizes the applicant to post a letter of credit as security for its promises contained in the improvement agreement, the letter of credit shall:
 - 1. Be irrevocable;
 - 2. Be for a term sufficient to cover the completion, maintenance and warranty periods, but in no event less than two (2) years; and
 - 3. Require only that the City present the issuer with a sight draft and a certificate signed by an authorized representative of the City certifying to the City's right to draw funds under the letter of credit.
- G. **Requests for Reduction in Security.** As portions of the public improvements are completed in accordance with the TCSS and the approved Construction Plans, the applicant may make written application to the City Manager to reduce the amount of the original security. If the City Manager is satisfied that such portion of the improvements has been completed in accordance with City standards, he or she may, but is not required to, cause the amount of the security to be reduced by such amount that he or she deems appropriate, so that the remaining amount of the security adequately insures the completion of the remaining public improvements.
- H. **Reduction in Security Upon Acceptance.** Upon acceptance by the City of all required public improvements, the City shall authorize a reduction in the security to ten (10) percent of the original amount of the security

if the applicant is not in breach of the improvement agreement. The remaining security shall be security for the applicant's covenant to maintain the required public improvements and to warrant that the improvements are free from defects for one (1) year thereafter. If the required security for maintenance and warranty is otherwise provided by the contractors or by others, the City will release the entire amount of the developer's security.

Section 6.4.3 Temporary Improvements

- A. **Generally.** The applicant shall build and pay for all costs of temporary improvements required by the City and shall maintain those temporary improvements for the period specified by the City. Prior to construction of any temporary facility or improvement, the applicant shall file with the City a separate improvement agreement and escrow or, where authorized, a letter of credit, in an appropriate amount for temporary facilities, ensuring that the temporary facilities will be properly constructed, maintained and removed.
- B. **Temporary Public Improvement Easements.** Any temporary public improvement (e.g., a temporary cul-de-sac, alley turnout, drainage swale, erosion control device, etc.) shall be placed within an easement established specifically for that purpose. The recording information of the instrument establishing the temporary easement shall be clearly shown on the Final Plat for the subdivision prior to approval of the Final Plat. A temporary easement for a required public improvement shall not be abandoned without the City Engineer's approval and without written consent by the City.

Section 6.4.4 Government Units

Governmental units to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from officers or agents authorized to act in their behalf, agreeing to comply with the provisions of this Section.

Section 6.4.5 Failure to Complete Improvements

- A. **No Improvement Agreement.** For plats for which no improvement agreement has been executed and no security has been posted, if the public improvements are not completed within the period specified by the City, the plat approvals shall be deemed to have expired.
- B. **With Improvement Agreement.** In those cases where an improvement agreement has been executed and security has been posted, and the required public improvements have not been installed within the terms of the agreement, the City may:
 - 1. Declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
 - 2. Suspend Final Plat approval until the public improvements are completed, and may record a document to that effect for the purpose of public notice;
 - 3. Obtain funds under the security and complete the public improvements itself or through a third party;
 - 4. Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which public improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements on the property; or
 - 5. Exercise any other rights or remedies available under the law.

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 City Council of 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 6.4.7 Maintenance and Guarantee of Public Improvements

The property owner shall maintain all required public improvements for a period of two (2) years following acceptance of the subdivision by the City and shall also provide a one-year maintenance bond (warranty) that all public improvements will be free from defects for a period of one (1) year following such acceptance by the City.

Section 6.4.8 Construction Procedures

- A. **Site Development Permit Required.** A Site Development Permit is required from the City prior to beginning any site development-related work in the City or its extraterritorial jurisdiction which affects erosion control, storm drainage, vegetation or tree removal, or a flood plain.
- B. **Pre-construction Conference.** The City shall require that all contractors participating in the construction meet for a pre-construction conference to discuss the project prior to release of a grading permit and before any filling, excavation, clearing or removal of vegetation and any trees that are larger than six (6) inch caliper as defined in these regulations, unless such grading is approved in the Construction Plans. All contractors shall be familiar with and shall conform to applicable landscape and tree protection/preservation provisions per these regulations.
- 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 City Council (and any conditions of such approval have been satisfied);
 - 2. All required Construction Plans are completed and approved by the City Engineer;
 - 3. All necessary off-site easements and dedications required for City-maintained facilities and not shown on the plat must be conveyed solely to the City, such as by filing of a separate instrument, with the proper signatures affixed. The original of the documents and the appropriate fees for filing the documents at the County (per Burnet or Blanco County requirements and the City's submission guidelines, as may be amended from time to time) shall be returned to the City Secretary prior to approval and release of the Construction Plans by the City Engineer;
 - 4. All contractors participating in the construction shall be presented with a set of approved Construction Plans bearing the stamp of release of the City Engineer, and at least one (1) set of these plans shall remain on the job site at all times;
 - 5. A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the City; and
 - 6. All applicable fees must be paid to the City.
- D. **Nonpoint Source Pollution Controls and Tree Protection.** All nonpoint source pollution controls, erosion controls, and tree protection measures and devices shall be in place, to the Public Works Director's satisfaction, prior to commencement of construction on any property.

Section 6.4.9 Inspection and Acceptance of Public Improvements

- A. **General Procedure.** Construction inspection shall be supervised by the City's Public Works Director or designated administrative official. Construction shall be in accordance with the approved Construction Plans and the TCSS of the City of Marble Falls (and other applicable codes and ordinances). Any change in design that is required during construction should be made by the licensed professional engineer whose seal and

signature are shown on the plans. Another engineer may make revisions to the original Construction Plans if so authorized by the owner of the plans, and if those revisions are noted on the plans or documents and are signed, sealed and dated by the responsible engineer. All revisions shall be approved by the City Engineer. If the City's Public Works Director finds, upon inspection, that any of the required public improvements have not been constructed in accordance with the City's standards and TCSS, then the property owner shall be responsible for completing and correcting the deficiencies (at his/her expense) such that they are brought into conformance with the applicable standards.

- B. **Letter of Satisfactory Completion.** The City will not deem required public improvements satisfactorily completed until the applicant's engineer or surveyor has certified to the City Engineer, through submission of detailed sealed "as-built", or record, drawings of the property which indicate all public improvements and their locations, dimensions, materials and other information required by the City Engineer, and until all required public improvements have been completed. The "as-builts" shall also include a complete set of sealed record drawings of the paving, drainage, water, sanitary sewer and other public improvements, showing that the layout of the lines and grades of all public improvements are in substantial compliance with the Construction Plans for the plat, and showing all changes made in the plans during construction, and containing on each sheet an "as-built" stamp bearing the signature and seal of the licensed professional engineer and the date. One (1) reproducible drawing of the utility plan sheets containing the as-built information shall also be submitted. The engineer or surveyor shall also furnish the City with a copy of the approved Final Plat and the Construction Plans, if prepared on a computer-aided design and mapping system, in such a digital format (on disk) that is compatible with the City's mapping system.
- 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 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. 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.
- D. **Certificate of Completion for Public Improvements.** Upon acceptance of the required public improvements, the City Manager (or designee) shall submit a certificate to the developer stating that all required public improvements have been satisfactorily completed.

Section 6.4.10 Deferral of Required Improvements

- A. **Option to Defer.** The City Council 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, 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.

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Article 7, Access, Driveways and Circulation

DIVISION 7.1 ACCESS MANAGEMENT AND DRIVEWAYS

Section 7.1.1 Generally

- A. **Purpose.** The purpose of this Division is to promote safety, improved mobility, and provide for good access to abutting properties. Access management reduces the potential for accidents and improves travel conditions by minimizing conflicts between through and turning vehicles. Accordingly, access points along public streets shall be appropriately considered according to the standards of this Division.
- B. **Applicability.** The access management standards of this Division apply to residential and non-residential development in the City limits and the extraterritorial jurisdiction (ETJ).
- C. **Access Denial and Alternatives.**
 - 1. All lots of record shall be granted at least one access point. If such access point does not meet the provisions of this Division and all options have been exhausted, the access point can be granted, to the extent possible, at the most restrictive length of measurement.
 - 2. Alternatives to the provisions of this Division may be considered in accordance with Section 7.1.4, *Alternatives to Access Standards*.
- D. **State Highway Jurisdiction.** For roadways owned and operated by TxDOT, or similar state-authorized transportation authority, access locations shall be governed in accordance with TxDOT standards and approval processes.

Section 7.1.2 Street Access and Driveway Standards

- A. **Driveway Width.**
 - 1. *Single-family Detached and Duplex Residential Uses.*
 - a. For front-loaded lots 65 feet or smaller in width, driveway width at the right-of-way line shall not exceed 40 percent of the lot width, measured in linear feet at front building line.
 - b. For front-loaded lots over 65 feet wide, driveway width at the right-of-way line shall not exceed 26 feet.
 - c. For lots over 90 feet wide, circular driveways are permitted; provided however, the combined width of the two access points shall not exceed 30 feet.
 - d. Rear-loaded lots have no maximum driveway width.
 - e. Driveways shall be constructed of surface materials as set out in Section 8.2.4, *Parking Dimensions and Parking Lot Design*. However, when a residential driveway exceeds 200 feet in length, only the first 200 feet shall be required to meet the surface material requirements, provided the remaining driveway access to the residence can withstand the minimum fire truck access requirements.
 - 2. *All Other Uses.*
 - a. Driveways shall be a minimum of 25 feet in width at the right-of-way line. Driveways in the DN or DT districts may be reduced to 20 feet if the Director determines the narrower width will benefit downtown pedestrian access and/or character and adequate access can be maintained.
 - b. Driveways exceeding 30 feet in width at the right-of-way line shall require a center median clearly designating a separation of ingress and egress lanes. Such median shall be constructed with a mountable curb and located within the apron.
 - c. Driveways shall not exceed 45 feet in width at the right-of-way line.

d. Driveways shall be constructed of surface materials as set out in Section 8.2.4, *Parking Dimensions and Parking Lot Design*.

B. Street Access Spacing.

1. *Same Side of Street.* Access points shall be spaced from intersections and other access points located along the same side of the street in accordance with Table 7.1.2.A, *Access Spacing, Same Side of the Street*.

Table 7.1.2.A Access Spacing, Same Side of Street						
Street Classification	All Arterials and Collectors					Local Street
	≥50 mph	45 mph	40 mph	35 mph	30 mph	Any speed
Access to All Residential Uses ¹	425'	360'	300'	250'	60'	-- ²
Access to Industrial	425'	360'	300'	250'	200'	60'
Access to all other uses	425'	360'	300'	250'	200'	50'

Table Notes:
¹ Residential uses, other than apartment, shall not have driveway access on Arterials and Major Collectors.
² For new lots, a minimum of 50' corner clearance shall be provided between a street intersection and the closest access point on either side of the street.

2. *Opposite Sides of Street.* In order to prevent conflicting left-turn movements, connections on opposite sides of arterial and collector streets shall be directly opposite each other or offset by a distance of no less than 150 feet. This provision shall not apply when a permanent median protects against such turning movements.
3. *Limited-Access Driveways.* The Director may consider shorter access spacing than set out in Table 7.1.2.A, *Access Spacing, Same Side of Street*, for limited-access driveways. Limited-access driveways include right-in / right-out only driveways, right-in only, right-out only, or hooded/protected-turn access points. In no case shall a limited-access driveway be established at a spacing closer than 200 feet to any other access point on an arterial or collector street.
4. *Sight Visibility Triangle.* A sight triangle is established at all intersections with a public street where no structures, landscaping, fences, signs, etc., shall be permitted to obstruct visibility between three and eight feet off the ground. Trees are permitted if branches are maintained above eight feet. The sight visibility triangle does not apply to development in the DN or DT district that is subject to build-to requirements. As set out in Table 7.1.2.B, *Minimum Sight Triangle Distance Requirements*, the sight triangle area shall be measured from the corner curb, equidistant within the tangent, in each direction for the following distances and then connected to form the sight triangle. Where the intersection includes two different street types, the measurement for the higher classification street shall apply.

Table 7.1.2.B Minimum Sight Triangle Distance Requirements	
Speed Classification	Minimum Sight Triangle Distance
Arterial Street	35'
Collector Street	25'
Local Street	20'

Section 7.1.3 Inter-Parcel Connectivity

- A. **Generally.** Neighboring non-residential development parcels shall be connected through private driveway cross-access.

B. Required Standards.

1. The cross-access driveway connection shall be a minimum width of 24 feet, sufficient for two-way directional traffic, and should generally run parallel to the principal street.
2. The location of the connection shall generally be within the first 60 feet of depth of the parcel proposed for development. The location may be adjusted for natural features such as terrain, heritage trees, existing hydrological resources, or other constraints such as existing development, at the discretion of the Director.
3. Driveway stub-outs shall be constructed to the lot boundary even if the abutting development did not provide for a connection, so as to allow for the potential future cross-access connection between properties.
4. Driveway stub-outs are not required to connect to abutting parcels zoned DN or DT that are subject to build-to requirements.

Section 7.1.4 Alternatives to Access Standards

A. **Generally.** The access management requirements of this Division may be modified according to the standards of this Section.

B. **Reduction of Spacing Requirements.** The spacing requirements of Section 7.1.2, *Street Access and Driveway Standards*, may be reduced if the Director determines the following conditions apply and that the general purposes of this Division have been met.

1. Safety and operational considerations of the proposed access point is not contrary to the purpose of this Division; and
2. No other alternatives exist, and construction of the access point is along the property line farthest from the intersection or closest access point. To provide reasonable access under these conditions, but also the safest operation, a limited-access driveway may be required by the Director, as set out in Subsection 7.1.2.B.3, *Limited-Access Driveways*. In such a case, the applicant shall also demonstrate that:
 - a. The inability to meet the access spacing requirements was not due to the owner subdividing the property after the effective date of these regulations without providing internal access;
 - b. The abutting landowner refused a request to provide cross-access; and
 - c. A recorded instrument to ensure that the connection will be provided and access will be consolidated upon the earlier of:
 - i. Approval for development, substantial improvement, or redevelopment, of the abutting property, if providing such connection is a requirement of the development approval; or
 - ii. The applicant's parcel and the abutting parcel coming under common ownership.

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Article 8, Parking, Loading, Stacking, and Lighting

DIVISION 8.1 GENERALLY

Section 8.1.1 General Requirements

- A. **Purpose.** The purpose of this Article is to establish standards for the adequate provision of parking, loading, stacking, and outdoor lighting.
- B. **Applicability of Division.** All new development or redevelopment, substantial improvement, or expansion of existing development shall comply with the standards of this Article.
 - 1. *New Development.* All new parcels proposed for development shall include outdoor lighting and the required number of parking, loading, and stacking spaces as set out in this Article.
 - 2. *Existing Development.* Modifications to existing development which result in changes of use or changes to site conditions shall provide improvements as set out in Division 12.5, *Nonconforming Sites*.
- C. **Location of Parking, Loading, Stacking and Lighting.** All areas for parking, loading, stacking, and outdoor lighting required by this Article shall be located on an individual property and not on a public street, unless exempted by Section 8.2.3, *Alternate Parking Arrangements* or Subsection 8.2.1.B, *Required Parking, Downtown Districts*.
- D. **Plans Required.** Plans for the location, design, and layout of parking, loading, stacking, and outdoor lighting shall be indicated on the Site Development Plan.
- E. **Timing of Completion.** Required parking, loading, stacking, and outdoor lighting will be ready for use and approved by the Director prior to issuance of a Certificate of Occupancy.
- F. **Maintenance.** Required parking, loading, stacking, and outdoor lighting shall be kept in good condition.

DIVISION 8.2 OFF-STREET PARKING

Section 8.2.1 Required Off-Street Parking Spaces

- A. **Required Parking, Generally.** The parking spaces required for individual uses provided in this subsection are set out in Table 8.2.1.A, *Required Parking*, and are delineated by the land use classifications set out in Division 3.1, *Land Uses by Zoning District*, for all zoning districts except in the Downtown (DN) and Downtown Transition (DT) districts. Required off-street parking for the Downtown (DN) and Downtown Transition (DT) districts is set out in Subsection 8.2.1.B, *Required Parking, Downtown Districts*.

Table 8.2.1.A Required Parking	
Land Use	Required Off-Street Parking Spaces
Agriculture and Ranch Use	
Animal raising or production	None
Commercial Stables	None
Crop Production and Sales	None
Game Ranch	None
Residential Uses	
Cottage or Tiny House	1 space per dwelling unit

**Table 8.2.1.A
Required Parking**

Land Use	Required Off-Street Parking Spaces
Single-Family, Detached or Attached	2 spaces per dwelling unit
Industrialized Housing	2 spaces per dwelling unit
Manufactured Home	2 spaces per dwelling unit
Duplex	2 spaces per dwelling unit
Townhouse	2 spaces per dwelling unit
Apartment, Triplex, or Quadplex	1.5 spaces for dwelling units 1 BR and efficiency 2 spaces for dwelling units 2 BR and greater
Live-work unit	3 spaces per dwelling unit
Loft Apartment	1 space per dwelling unit
Civic Uses	
Aviation Uses, Fixed Wing	Determined by the aviation institution ¹
Aviation Uses, Rotary Wing	Determined by the aviation institution ¹
Cemetery	Determined by the cemetery institution ¹
Child-care Facility, Day-Care Center	1 space per 400 sf GFA
Child-care Facility, Residential	1 space for every 2 bedrooms
College / University	Determined by the university ¹
Community Assembly / Amenity	1 space per 300 sf GFA
Education, Elementary or Middle School	2 spaces per classroom, plus 1 per 4 seats of auditorium or flex performance space
Education, High School	10 spaces per classroom, plus 1 per 4 seats of auditorium or flex performance space
Government	1 space per 250 sf GFA up to 10,000 sf GFA. Above 10,000 sf GFA determined by governmental entity ¹
Housing and Services for the Aging	1 space per 3 living units
Hospital	Determined by the hospital ¹
Neighborhood Amenity	1 space per 300 sf GFA
Religious Assembly	1 space per 300 sf GFA
Social Service Institution	1 space per 300 sf GFA
Transportation Facilities	Determined by Director ¹
Utilities, Local / Neighborhood	No parking required
Utilities, Major	Determined by the Director ¹
Wireless Transmission Facility	No parking required
Commercial Uses	
Animal Clinic or Services	1 space per 300 sf GFA
Bar or Night Club	1 space per 100 sf GFA
Brewery / Distillery / Winery	1 space per 100 sf GFA of public area, plus 1 space per 1,000 sf GFA of brewing/manufacturing area
Business or Trade School	Determined by the school ¹
Campground	1 space per camp site
Food and Drink Establishment (general)	1 per 100 sf GFA, including outdoor seating
Food and Drink Establishment (neighborhood)	1 per 100 sf GFA, including outdoor seating
Hotel / Lodging, Full Service Hotel / Lodging, Limited Service Hotel / Lodging, Resort	1 space per guest room, plus 1 space per 300 sf GFA of meeting rooms/conference center, offices, and all recreation facilities open to the public, plus 50% of required parking for restaurants/bars open to the public
Medical Clinic	1 space per 250 sf GFA
Office	1 space per 300 sf GFA

Table 8.2.1.A Required Parking	
Land Use	Required Off-Street Parking Spaces
Office, Medical	1 space per 250 sf GFA
Office Showroom	1 space per 400 sf GFA
Parking, Commercial	N/A
Pawn Shop	1 space per 250 sf GFA
Personal Services	1 space per 250 sf GFA up to 10,000 sf GFA, plus 1 space per 500 sf GFA above 10,000 GFA
Recreation / Entertainment, Indoor	1 space per 250 sf GFA
Recreation / Entertainment, Outdoor	Determined by Director ¹
Recreational Vehicle (RV) Park	1 space per RV space
Retail Sales, General	1 space per 250 sf GFA up to 10,000 sf GFA, plus 1 space per 500 sf GFA above 10,000 GFA
Retail Sale and Services, Heavy Equipment	1 space per 300 sf GFA up to 25,000 sf GFA, plus 1 space per 1,000 sf GFA above 25,000 GFA
Retail Sales and Services, Large Scale	1 space per 250 sf GFA up to 25,000 sf GFA, plus 1 space per 1,000 sf GFA above 25,000 GFA
Shopping Center	1 space per 200 sf GFA up to 20,000 sf GFA, plus 1 space per 500 sf GFA above 20,000 GFA
Special Event Venue	Determined by Director ¹
Vehicle Gas or Fueling Station	1 space per 250 sf GFA
Vehicle Sales and Rentals	1 space per 500 sf GFA of office space and indoor showroom, plus parking requirement for any applicable vehicle services
Vehicle Services	1 space per 200 sf GFA, plus 3 spaces per service bay
Industrial Uses	
Contractor Services	1 space per 500 sf GFA
Heavy Industrial Services	1 space per 2,000 sf GFA
Light Industrial Services	1 space per 1,000 sf GFA
Research and Development	1 space per 500 sf GFA
Resource Extraction	Determined by establishment owner ¹
Scrap and Salvage Yard	1 space per 5,000 sf GFA of storage area up to 20,000 sf GFA
Storage, Self	1 space per 250 sf GFA of office/retail space
Storage Yard	1 space per 500 sf GFA of office space
Warehouse	1 space per 1,250 sf GFA
Waste Related Services	1 space per 1,250 sf GFA
Table Notes:	
¹ Where parking is to be determined by the Director or the business or establishment owner, the applicant shall present the Director with a justification for the proposed number and location of parking spaces. Such justification may potentially include a parking study and/or cite examples from other communities to demonstrate the adequacy of the proposed number of spaces.	

B. Required Parking, Downtown Districts.

1. Required parking in the Downtown (DN) district and the Downtown Transition (DT) district shall be determined as set out in Table 8.2.1.B, *Required Parking, Downtown Districts*.

Table 8.2.1.B Required Parking, Downtown Districts	
Land Use	Required Parking Spaces
Downtown District	
Loft Apartment	No parking required (up to four dwelling units). 1 space per dwelling unit starting with the fifth dwelling unit and all additional dwelling units.
Hotel	0.5 space per guest room, plus parking at a rate of 1 space per 2,000 GFA for uses such as bars, restaurants, retail, and services open to the general public
All Other Non-Residential Uses	No new/additional parking required for existing square footage. 1 space per 1,000 sf GFA for new or additional square footage.
Downtown Transition District	
Apartment	1 space per dwelling unit
Loft Apartment	No parking required (up to two dwelling units). 1 space per dwelling unit starting with the third dwelling unit and all additional dwelling units.
Hotel	1 space per guest room
All Other Non-Residential Uses	1 space per 500 sf GFA

2. Required parking in the Downtown (DN) district may be achieved through the following:
 - a. *Off-street Parking Spaces.* Off-street parking spaces may not be located between the building and the right-of-way. If an alley or alley right-of-way is present, any off-street parking spaces that are provided may take direct access from the alley. Off-street parking lots shall be screened from adjacent public streets by either the building or an alternative screening method presented to the Director. Driveways shall take access from a side street or alley.
 - b. *On-Street Parking Spaces.* Construction of on-street parking spaces is allowed to meet, in part or in full, minimum parking requirements, provided that the spaces are fronting the parcel proposed for development and are improved to the City’s downtown parking specifications for on-street parking. The Director shall consider the adequacy of parking on the existing street and whether improvements will be required to fulfill this option.
 - c. *Fee-in-Lieu of Parking Spaces.*
 - i. For non-residential uses in the Downtown District, a fee-in-lieu of all or a portion of the required parking spaces may be paid to the City of Marble Falls Downtown Parking Fund. Payments to the fund will be on a per parking space basis and are set out in Appendix C, Master Fee Schedule, of the City Code of Ordinances. Payments to the Downtown Parking Fund will be used for the sole purpose of constructing and improving public parking on public property within the Downtown District including on-street parking, public parking lots, and public parking garages.
 - ii. Residential and hotel uses shall generally not be eligible to pay the fee-in-lieu unless the Director determines that all other off-street and on-street options have been exhausted and circumstances warrant the paying of the fee.
 - iii. The fee in lieu of parking spaces shall be paid in full to the City prior to the issuance of a Building Permit.

3. Required parking in the Downtown Transition (DT) district may be achieved through the following:
 - a. *Off-street Parking Spaces.* Off-street parking spaces may not be located between the building and the right-of-way. If an alley or alley right-of-way is present, any off-street parking spaces that are provided may take direct access from the alley. Off-street parking lots shall be screened from adjacent public streets by either the building or an alternative screening method presented to the Director.
 - b. *On-Street Parking Spaces.* Construction of on-street parking spaces is allowed to meet, in part or in full, minimum parking requirements, provided that the spaces are fronting the parcel proposed for development and are improved to the City’s downtown parking specifications for on-street parking.

The Director shall consider the adequacy of parking on the existing street and whether improvements will be required to fulfill this option.

- C. **Parking Spaces Types.** Required parking shall be comprised of the following types of spaces as set out in this subsection and per the dimensions set out in Table 8.2.4, *Parking Space and Aisle Width Dimensions*.
1. *Standard Parking Spaces.* All nonresidential, multifamily, and mixed-use parcels proposed for development shall be comprised of a minimum of 85 percent standard spaces.
 2. *ADA Parking Spaces.* As required by the Americans with Disabilities Act (ADA), a certain number of required disabled parking spaces are required as part of new development and redevelopment (see Section 4.1.2, *Accessible Sites and Exterior Facilities: New Construction*, of the Texas Accessibility Standards). Required ADA parking spaces shall not count against the minimum 85 percent standard spaces required.
 3. *Alternative Parking Spaces.* The remaining 15 percent can be allocated to the following alternative parking space types, provided that each space type includes clearly identifiable signage and surface markings.
 - a. Compact Spaces.
 - b. Motorcycle Parking.
 - c. Electric Charging Stations.
 4. Bicycle parking / racks is encouraged but shall not count towards the minimum parking requirements.
- D. **Use of Required Parking Spaces.** Required parking spaces shall be available for the temporary stopping or parking of vehicles and shall comply with the following.
1. Designated locations for parking shall be used only for such purposes and for no other permanent or temporary use (e.g., display, storage, or repair). Any future reconsideration of these areas shall be approved by the Director on the Site Development Plan.
 2. Existing off-street parking shall not be reduced for reasons such as change in tenancy, unless the principal building on site is reduced in size or removed, or unless otherwise approved by the Director.

Section 8.2.2 Rules for Calculation of Required Parking Spaces

- A. **Generally.** The number of required parking spaces is calculated according to the formulas set out in Section 8.2.1, *Required Off-Street Parking Spaces, Access, and Use*. Alternatives to these standards may be considered by the Director as set out in Section 8.2.3, *Alternative Parking Arrangements*.
- B. **Terms.** Terms used as variables for parking calculations are measured as follows:
1. *Per Square Foot (sf.) of Gross Floor Area (GFA).* The Gross Floor Area represents the interior space of a building, plus (unless otherwise specified) the area of any parts of the parcel proposed for development that are delineated and used in a manner that is comparable in function to the use of the inside of the building (e.g., outdoor dining areas).
 2. *Per Dwelling Unit, Per Guest Room or Per Bedroom (BR).* The phrase "per dwelling unit" or "per guest room" or "per bedroom" means that the number of parking spaces is calculated based on either the number of overnight guest rooms, residential dwelling units or, in some cases, the number of bedrooms in the dwelling units.
- C. **Calculations and Rounding.** If the final calculation of the number of required parking spaces includes the fraction of less than one-half, the required number of spaces shall be rounded down to the next lower number. A fraction of one-half or more shall be rounded up to the next higher number (e.g., 1.24 = 1 parking space; 1.58 = 2 parking spaces).

- D. **Multiple Uses or Mixed-Uses.** If several mixed-use or nonresidential uses occupy a single parcel or building, the off-street parking requirements shall be the cumulative total for all uses set out for individual uses in this Division.
- E. **Unlisted Uses.** Required parking spaces for unlisted uses will be determined by the Director using one of the following methods.
 - 1. *Comparable Determination.* The Director shall classify the use using the same standards set out in Subsection 3.1.1.E, *Unlisted Uses*.
 - 2. *Parking Study.* The Director shall require a parking study by the developer or owner/operator to determine an adequate number of parking spaces.
 - 3. *Alternate Parking Arrangements.* The Director shall determine alternative parking arrangements as set out in Section 8.2.3, *Alternative Parking Arrangements*.

Section 8.2.3 Alternative Parking Arrangements

- A. **Generally.** The Director may consider alternative parking arrangements which account for unique circumstances pertaining to the proposed land use or parcel proposed for development. These flexible alternative parking arrangements include:
 - 1. *Shared parking.* Shared parking should be encouraged where complimentary uses have varying peak parking demands and adequate facilities are available. A parking agreement shall be enforced through a written agreement among owners of record to be for periods of five years before renewal. The agreement shall address the size and type of developments, tenants, rate of parking turnover, anticipated peak parking loads, and pedestrian safety. The agreement shall also address maintenance responsibilities.
 - 2. *Off-site parking.* Nonresidential, multifamily, or mixed-use parking spaces may be proposed on a separate lot from the principal use if located within 600 feet from the site and demonstrates adequate pedestrian access ways and lighting. Off-site parking shall require a parking agreement which delineates the dedicated spaces in an off-site public or private parking lot or garage. Off-site parking is not permitted if located across an arterial roadway.
 - 3. *Reduction in parking spaces.* To consider reduced parking, a parking study shall be completed that justifies the reduction. The parking study shall be prepared by a qualified transportation planner or traffic engineer at the applicant's sole expense and shall include ITE-based recommendations on traffic demand.
 - 4. *On-street parking.* In unique circumstances, the Director may consider the allowance and construction of on-street parking spaces if it is determined that there is little or no negative impact on surrounding properties or the function of the public street.
 - 5. *Alley access.* Where alley access is available, parking spaces may be arranged to be directly accessed from the alley without maneuvering space on-site.
- B. **Approval.** Approval of alternative parking arrangements shall be concurrent with review and approval of the Site Development Plan.

Section 8.2.4 Parking Dimensions and Parking Lot Design

- A. **Generally.** The minimum parking dimensions and standards of this Section are established to ensure durable construction and the safe maneuvering of vehicles and pedestrians as part of new parcels proposed for development.

B. **Required Dimensions.** All off-street parking spaces and drive aisles shall be designed and configured as set out in Table 8.2.4, *Parking Space and Aisle Width Dimensions*.

Table 8.2.4 Parking Space and Aisle Width Dimensions					
Parking Space Type	Parking Space			Aisle Width	
	Width	Length	Parking Angle	One-Way	Two-Way
Standard Compact	9'	18'	45°	13'	24'
	8'	16'	60°	16'	26'
			90°	24'	26'
Parallel	7'	20'	--	13'	24'
Motorcycle	4.5'	8'	--	13'	24'

C. **Design Standards.**

1. *Access to Required Parking Spaces.* All off-street parking spaces shall be accessible from a private, on-site drive aisle with maneuvering space outside of the public right-of-way and shall not be permanently obstructed for any reason.
2. *Surface Materials.* All off-street vehicle parking, driveways, drive aisles, loading spaces, and approaches to parking spaces shall be constructed and maintained on an all-weather surface such as asphalt, concrete, or similar approved material to ensure a dust-free condition and provide for long-term durability. The City Engineer may consider permeable pavement, pavers, grasscrete or similar material or other pervious material in certain situations such as overflow parking, tree protection, rural development, or for alternative parking arrangements approved by the Director. Gravel, crushed granite, or grass shall not be used as a surface material.
3. *Curbs.* New parcels proposed for development which include nonresidential, mixed-use, or apartment uses shall provide concrete curbs along the perimeter of all parking lots and driveways and interior islands, unless approved to use LID techniques as set out in Section 5.3.2, *Low Impact Development Techniques*, for treatment of stormwater runoff.
4. *Turnarounds.* Parking lot drive aisles that exceed 150 feet in length shall have a secondary egress point or an approved fire truck turnaround.
5. *Pavement Markings and Signage.* Parking (including ADA-accessible markings), loading, and fire lanes and associated directional arrows shall be clearly marked on the surface at four-inch widths and frequently maintained to ensure compliance.
6. *Tree Islands and Landscaping.* Interior tree islands, end cap islands, and associated plantings shall be located and maintained as set out in Division 9.2, *Landscaping*.
7. *Pedestrian Accessways.* New parcels proposed for development shall include parking lot design which provides for a connected, delineated pedestrian accessway between the main entrance of each principal building to all ADA parking spaces and existing/future sidewalks for each abutting right-of-way.
8. *Vertical Clearance.* All parking spaces and drive aisle lanes shall have a vertical clearance of at least 10 feet.
9. *Solid Waste Enclosures.* Solid waste enclosures shall comply with the standards set out in Section 4.6.3, *Mechanical Equipment and Solid Waste Receptacles*.

DIVISION 8.3 OFF-STREET STACKING

Section 8.3.1 Off-Street Stacking Requirements

- A. **Generally.** Off-street vehicle stacking requirements apply to parcels proposed for development which contain drive-through service in order to provide sufficient queuing space for vehicles prior to a transaction taking place, or for areas where the stacking of vehicles could cause imminent danger to the flow of traffic in the public right-of-way.
- B. **Required Stacking Approach Distances.** The minimum approach distance for stacking lanes shall be as set out in Table 8.3.1, *Vehicle Stacking Approach Requirements*.

Type of Stacking	Minimum Stacking Approach Distance
Controlled Entry / Gated Entrances	40'
All Other	60'

- C. **Design Standards.**
1. *Stacking Lanes.*
 - a. Stacking lanes shall be a minimum of 10 feet in width.
 - b. The number of stacking lanes shall be determined by the developer or owner/operator.
 - c. The minimum linear approach distance for each stacking lane shall be fully located within the parcel proposed for development and not in the public right-of-way.
 - d. The location of stacking lanes may not impede designated pedestrian or vehicular movements including parking spaces, loading zones, or points of ingress/egress to the site.
 - e. Stacking lanes shall not be located between the front façade of the building and the principal street frontage.
 - f. The transaction space (e.g., a service window) can be counted as part of the minimum approach distance.
 2. *By-Pass Lanes.*
 - a. A by-pass lane is required on any parcel proposed for development which includes a vehicle stacking lane, provided there is no drive aisle providing for the same vehicular circulation.
 - b. The by-pass lane shall be at least 10 feet in width and shall run parallel to the stacking lane to provide for continual flow of vehicular movement around the site.
 - c. For controlled entry / gated entrances (e.g., a key code kiosk or guard entry station), a turnaround space shall be provided between the kiosk and gate to allow a vehicle to exit the entrance queue.

DIVISION 8.4 OFF-STREET LOADING

Section 8.4.1 Required Loading

- A. **Generally.** The minimum loading dimensions and standards of this Section are established to ensure the safe maneuvering of delivery and other vehicles and pedestrians as part of new parcels proposed for development. Off-street loading shall be required where the use or operations of such development necessitates the need for the delivery of bulk materials and loading docks. At no time shall goods or materials be loaded or unloaded from the right-of-way of a public street, nor any part of a parked delivery

vehicle be allowed to extend into the right-of-way of a public street, except in the Downtown (DN) or Downtown Transition (DT) districts.

- B. **Required Dimensions.** Off-street loading spaces, excluding maneuvering areas, shall be at least 12 feet wide and 20 feet long unless off-street loading will involve the use of semi-tractor trailer combinations or other vehicles in excess of 25 feet in length, in which case the minimum size of a space shall be 12 feet by 54 feet. All off-street loading spaces must have a minimum of vertical clearance of 14 feet.
- C. **Design Standards.**
 - 1. The approach and maneuvering area for off-street loading spaces shall provide for the adequate on-site turning movements of delivery vehicles into and out of the lot or parcel proposed for development so that it does not pose a material threat to public safety, require or force the delivery vehicle, or any part of the delivery vehicle, to extend into right-of-way of a public street, or force the delivery vehicle to travel over infrastructure or landscaping that is not designed for such use.
 - 2. The location of off-street loading spaces shall not interfere with any fire exits or emergency access facilities to either a building or site.
 - 3. Loading spaces for semi-tractor trailer combinations or other vehicles in excess of 25 feet in length shall be located on the side or rear of the building and shall be buffered from view of public street rights-of-way and abutting properties as set out in Division 9.3, *Buffering*.
- D. **Use of Required Loading Spaces.** Required loading spaces shall be available for the temporary stopping or parking of delivery vehicles and shall comply with the following.
 - 1. Designated locations for loading shall be used only for such purposes and for no other permanent or temporary use (e.g., display, storage, or repair). Any future reconsideration of these areas shall be approved by the Director on the Site Development Plan.
 - 2. Existing on-site, off-street loading areas shall not be reduced for reasons such as change in tenancy, unless the principal building on site is reduced in size or removed, or unless otherwise approved by the Director.

DIVISION 8.5 OUTDOOR LIGHTING

Section 8.5.1 Outdoor Lighting for Vehicles and Pedestrians

- A. **Generally.** The outdoor lighting standards of this Section are established to ensure implementation of lighting best practices which result in glare reduction and reduced light trespass, lower energy usage, improved visibility that fosters a safer environment, improved public and environmental health, and a better view of the beautiful Texas Hill Country night skies.
- B. **Required Outdoor Lighting Standards.**
 - 1. All roads, driveways, sidewalks, parking lots, and building entrances of nonresidential, multifamily, or mixed-use parcels proposed for development shall be sufficiently illuminated to ensure the security of property and safety of persons using such areas and facilities. Where the proposed improvements are located on private property, the responsibility for lighting such areas shall fall upon the developer or owner/operator.
 - 2. The outdoor lighting requirements for individual uses are set out in Table 8.5.1, *Required Outdoor Lighting*.

Table 8.5.1 Required Outdoor Lighting	
Required Lighting	Standard
Streets, driveways, and sidewalks	Lighting for streets, driveways, and sidewalks shall comply with the standards set out in Section 6.3.3, <i>Street Lights</i> .
Parking lots serving nonresidential, apartment, and mixed-use buildings	Parking lots serving nonresidential or mixed-use buildings shall be lit during nighttime hours of operation. Parking lots serving apartment buildings shall be lit during nighttime hours.
Entrances and exits in nonresidential, apartment, and mixed-use buildings	Buildings with a nonresidential, apartment, or mixed principal use shall have adequately lighted entrances and exits to ensure the safety of persons and the security of the building.
Canopy lighting	The areas immediately below an outdoor canopy (e.g., over fuel sales, automated bank machines, etc.) shall be illuminated. Canopy light fixtures shall be full cut-off/walled lighting fixtures or recessed into the canopy so that the bottom of each lighting fixture is flush with the ceiling of the canopy.

C. **Design Standards.**

1. *All Fixtures.*

- a. No freestanding light fixture shall be greater than 25 feet in height.
- b. All lighting fixtures that are mounted within 15 feet of a residentially used or zoned property, or public right-of-way, shall be classified as IES Type III or Type F (asymmetric forward throw). These fixtures shall be fitted with a "house side shielding" reflector on the side facing the residentially used or zoned property, or public right-of-way.

2. *Primary Fixtures.* Primary fixtures, for which illumination provides for security of property and safety of persons, shall be "cut-off" fixtures that limit lighting that is visible or measurable at the property line and shall conform with the Illuminating Engineering Society of North America ("IES") criteria for full cut-off fixtures (i.e., 100 percent of light output is below 90 degrees, and 90 percent of light output is below 80 degrees from a vertical line through the fixture).

3. *Decorative Fixtures.* Decorative fixtures, for which illumination is more intended for aesthetic purposes, shall comply with the following.

- a. Lighting fixtures that illuminate landscape plantings, pedestrian walkways, signage, or product display areas shall also conform to the full cut-off fixture requirement.
- b. Light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal, or platform shall use a narrow cone beam of light that will not extend beyond the illuminated object.
- c. For upward-directed architectural, landscape, and decorative lighting, direct light emissions shall not be visible above the primary building roofline.
- d. "No cut-off" fixtures may be used only for decorative purposes, provided they have luminaires that produce no more than 1,500 lumens (approximately equal to a 100-watt incandescent bulb) and they have a maximum height of 15 feet.

Article 9, Trees, Landscaping, and Buffering

DIVISION 9.1 TREE PRESERVATION

Section 9.1.1 Generally

- A. **Purpose.** The purpose of this Division is to provide for the preservation, protection, and mitigation of existing trees during development of land. Existing trees, particularly native species, add natural beauty and distinct local character, add shade, promote water conservation, provide natural buffering, and increase property values. Preservation of as many existing trees as practicable is the intent of these requirements.
- B. **Applicability.** The standards of this Division apply to all development, redevelopment, and substantial improvement within the City limits. Clear-cutting of property or removal of protected or heritage trees is prohibited without approval of a permit denoting compliance with the provisions of this Section. Properties clear-cut for any reason are not eligible for approval of a Preliminary Plat or Site Development Permit for a period of three years.
- C. **Exemptions.** The following are exemptions from the standards of this Division:
1. Existing single-family lots of record;
 2. Agricultural vegetation removal;
 3. Trees that are dead, diseased, or determined to be a safety hazard as determined by the Director or their designee; and
 4. Street and utility improvements. However, to the extent practicable, all efforts shall be made to preserve trees located within existing and planned street rights-of-way and utility easements.

Section 9.1.2 Tree Protection and Mitigation

- A. **Applicability.**
1. *Single-Family, Duplex, and Townhouse Residential.* Subdivision plats for single-family and duplex residential development within the City limits shall account for heritage trees within the property in accordance with the provisions of this Section.
 2. *All Other Development.* All other development, including nonresidential and multifamily, within the City limits shall account for heritage trees and protected trees within the property in accordance with the provisions of this Section.
- B. **Protected and Heritage Trees Defined.**
1. *Protected Tree.* A Live Oak, Post Oak, Shumard Oak, Bur Oak, Chinquapin Oak, Monterey Oak, Bald Cypress, American Elm, Cedar Elm, Pecan, Walnut, Texas Ash, or Southern Magnolia tree with a diameter breast height (DBH) of 12 inches or greater.
 2. *Heritage Tree.* A Live Oak, Post Oak, Shumard Oak, Bur Oak, Chinquapin Oak, Monterey Oak, Bald Cypress, American Elm, Cedar Elm, Pecan, Walnut, Texas Ash, or Southern Magnolia tree with a diameter breast height (DBH) of 24 inches or greater.
- C. **Tree Survey and Tree Preservation Plan.**
1. *Tree Survey.* A tree survey and tree preservation plan must be approved prior to any removal of protected or heritage trees. The tree survey shall graphically identify the location, size, and species of any trees required to be protected per Table 9.1.2, *Tree Protection and Mitigation Standards*. Certain areas of the parcel proposed for development may be designated as no-cut zones on the tree survey.

These areas are not required to be surveyed and shall not factor into the minimum preservation percentages and mitigation requirements, provided no trees are removed.

2. *Tree Preservation Plan.* The preservation plan shall identify which trees are to be preserved, which are to be removed, and provide calculations for the mitigation of those removed. Tree surveys shall be performed by a licensed surveyor, landscape architect, or arborist. If there are no protected trees or heritage trees on the site, the licensed surveyor, landscape architect, or arborist shall certify in writing that no such trees exist and a survey is not necessary.

D. **Tree Protection and Mitigation Standards.** Protected and heritage trees meeting the minimum size requirements set out in Table 9.1.2, *Tree Protection and Mitigation Standards*, shall be protected.

Table 9.1.2 Tree Protection and Mitigation Standards			
Protected Tree Type	Minimum Diameter Breast Height (DBH) ¹	Min. % Preserved of Combined Total Diameter Inches ²	Mitigation Replacement Ratio
Protected Tree	12" or greater	20%	1:1 replacement ratio for 50% of the total diameter inches removed (replaced in caliper inches)
Heritage Tree	24" or greater	20%	2:1 replacement ratio for 100% of the total diameter inches removed (replaced in caliper inches)

Table Notes:
¹ A tree connected at ground level with multiple trunks at DBH shall be measured by aggregating the total of the three largest trunks that each measure ≥8 inches at DBH.
² This applies to trees located within the limits of construction of the site or subdivision boundary.

E. **Alternative Standards.**

1. *On-Site Preservation Alternative.* If 20 percent of the combined total diameter of protected or heritage trees cannot be preserved on site, then removal of those trees shall be limited to the minimum extent possible and mitigated at two times the minimum replacement ratio.
2. *Fee-In-Lieu Alternative.* If replacement tree plantings cannot be fully accommodated on site, then the Director may consider an alternative fee-in-lieu payment to the City of Marble Falls Tree Replacement Fund. Payments to the fund will be on a per inch basis and are set out in Appendix C, Master Fee Schedule, of the City Code of Ordinances. Payments to the Tree Replacement Fund will be used for the sole purpose of planting trees on public property including parks, along streets, and in common open spaces and can also be used for pruning, irrigation, and maintenance of those trees. Replacement trees and fee-in-lieu payment may be combined to satisfy the requirement.

F. **Tree Credits for Landscaping.** Trees that are either preserved or planted on site as mitigation for removal are eligible to be counted towards the landscaping requirements of this Article.

G. **Tree Protection During Construction.** No construction or disturbance shall occur within an area that constitutes more than 50 percent of the total critical root zone (CRZ) and one-half the radial distance of the CRZ for each tree being preserved. During construction, this defined area shall be flagged and encircled with protective fencing and a three-inch layer of mulch spread beneath the drip line.

DIVISION 9.2 LANDSCAPING

Section 9.2.1 Generally

A. **Purpose and Intent.** The purpose of this Division is to establish landscaping standards that protect and preserve the appearance and character of the City, improve the compatibility of abutting uses, protect the

health and quality of life of the residents through the benefits of trees and landscaping, and conserve scarce water resources by promoting the planting of native and drought-resistant trees and shrubs.

- B. **Applicability of Standards.** This Division applies to all new development, redevelopment, and substantial improvements in the City limits, and where specifically indicated, to existing trees and landscaping. The application of this Division may be limited by Article 12, *Nonconformities*.
- C. **Alternative Landscape Standards.** Alternative landscape standards may be proposed and submitted to the Director for approval of an Administrative Exception per Section 11.5.4, *Administrative Exception*, provided the aesthetic, buffering and environmental intent of the requirements of this Chapter are met. The Director may approve alternatives including but not limited to site design, spacing, locations, numbers and species. The use of above ground architectural planters may contribute toward up to 10% of the fulfillment of landscape requirements, as approved by the Director.

Section 9.2.2 Landscape Plan Required

- A. **Generally.** Compliance with the standards of this Division shall be demonstrated by the submittal and approval of a landscape plan. A landscape plan is required as follows:
 - 1. *Single-Family, Duplex, and Townhouse Residential.* Residential bufferyards, common area amenities, and any other area which is used to comply with minimum open space area requirements shall be delineated and submitted with the subdivision's Construction Plans. A landscape plan is not required for landscaping required or provided on an individual single-family, duplex, or townhouse lot.
 - 2. *All Other Development.* Apartment, civic, commercial, industrial, and mixed-use landscaping, open space, and bufferyard requirements shall be delineated and submitted with the Site Development Plan.
- B. **Contents of Landscape Plan.** The landscape plan shall include the elements that are set out in this Section and shall be prepared by a landscape design professional. The landscape plan shall include the following information:
 - 1. *Plan Drawing.* A plan view, drawn to scale, depicting:
 - a. The location and species of each plant;
 - b. The location of existing protected and heritage trees for which mitigation replacement is requested;
 - c. The location and dimensions of property lines and easements, building footprints, pervious surfaces, fences/walls, water features and utilities; and
 - d. A schematic irrigation plan.
 - 2. *Landscape Calculations.* A table depicting size and quantity calculations for each tree and shrub as required by this Division.
 - 3. *Additional Information.* The Director is also authorized to require additional information on the landscape plan as needed to administer the requirements of these regulations.
- C. **Installation and On-Going Maintenance.** Required landscaping shall be installed and maintained in accordance with the approved plans and as set out below:
 - 1. *Installation.*
 - a. Required landscaping shall be installed prior to issuance of a Certificate of Occupancy. The Director may grant a temporary Certificate of Occupancy to allow for postponement of the installation of required landscaping during periods of drought or extreme weather conditions. If installation of required landscaping is postponed, the developer shall be required to maintain appropriate erosion control measures.
 - b. On-site construction changes that affect an approved landscape plan shall be reviewed and approved by the Director.

2. *On-Going Maintenance.*
 - a. Landscape areas and plantings required by this Division shall be continuously maintained and all plant materials that become diseased or die shall be replaced by the owner/operator in a reasonably quick manner. Landscaping in common open space areas shall be maintained by a property owners' association that is established pursuant to the requirements of Section 4.1.5, *Property Owners' Associations, Covenants, Conditions and Restrictions*, or other entity acceptable to the City. The maintenance responsibility shall be set out in the approved landscape plan required by this Division.
 - b. The City may inspect each site periodically after issuance of the Certificate of Occupancy to ensure compliance with this Division.
 - c. Trees and plants shall be pruned and cared for in a manner that is most healthful for the particular species. Topping off trees or excessive canopy raising and pruning is prohibited for preserved and replacement trees. Screening and bufferyard plants shall be maintained at the appropriate height and fullness to provide the opacity necessary for its function. Adequate soil, mulch, and proper irrigation shall be maintained for all species throughout their lifespan.

Section 9.2.3 General Landscaping Requirements

- A. **Generally.** The selection of plant species and materials shall comply with the following:
1. *Approved Landscape Plants.* Only approved plant materials, as set out in the City-published Approved Plant List, shall count towards the landscape requirements of this Section. The City shall make this list available to the public and may make periodic updates to the list as necessary.
 2. *Quality of New Plantings.* All landscape material shall be in compliance with the standards of the American Nursery and Landscape Association.
 3. *Minimum Size and Spacing of Plants at Installation.* Plant material shall be of the sizes set out in Table 9.2.3, *Minimum Size and Spacing of Plants at Installation.*

Table 9.2.3 Minimum Size and Spacing of Plants at Installation			
Type of Plant Material	Minimum Size at Installation	Minimum Permeable Planting Area (unless otherwise specified in this Division) ¹	Min. Spacing between Plantings
Shade Tree	3 in. caliper	64 sf	30'
Ornamental Tree	1.5 in. caliper	32 sf	15'
Large Shrub	5-gallon container	N/A	N/A
Table Notes:			
¹ The minimum permeable planting area is intended to allow for mature tree growth, to prevent damage from vehicles, and to avoid unnecessary maintenance to structures, walks, drives, and parking areas.			

4. *Landscape Berms.* The slope of either side of a landscape berm shall not exceed 50% or 1:2.

Section 9.2.4 Single-Family, Duplex and Townhouse Landscaping

- A. **Generally.** New landscaping on single-family, duplex, and townhouse parcels proposed for development shall comply with the standards of this Section. Any plants in excess of the minimum required plants may be installed in any location on the lot provided that the additional plantings have adequate room for healthy growth and stability, do not negatively affect drainage of stormwater, and do not restrict sight triangle visibility.

- B. **Shade Trees.** Within the front yard setback outside of any utility easement, one shade tree shall be planted for the first 50 feet of frontage and one shade tree for each additional 40 feet of frontage, or fraction thereof. Trees shall be installed prior to the issuance of the Certificate of Occupancy.
- C. **Substitution of Trees.** Existing trees preserved within the front yard setback may count toward the shade tree requirement if shown to be in a healthful condition and providing shade canopy comparable to a full-grown shade tree. If existing trees are to remain, the tree protection measures of Subsection 9.1.2.G, *Tree Protection During Construction*, shall apply.
- D. **Landscaped Area.** Areas of residential lots that are not covered by buildings, driveways, swimming pools, or other improved hard surfaces that have been disturbed during construction shall be hydro mulched or sodded with a warm-weather grass variety or landscaped with groundcovers, plants, mulch, or pervious rock bed unless they are covered by natural woodlands or other natural areas. Artificial or synthetic turf is permitted only in a rear yard and shall not count as a pervious surface.
- E. **Street Trees.** Street trees located in the public right-of-way that are installed with new development shall be maintained by the developer, lot owner, tenant, property owners' association, or other entity having a legal interest in the ownership of the subdivision or lots in the subdivision. The maintenance responsibility shall be set out in the landscape plan that is required by this Division.
- F. **Residential Perimeter Screening.** For residential parcels proposed for development consisting of single-family, duplex, or townhouse uses along major collector and arterial streets, perimeter screening shall be required as set out in Section 4.6.4, *Fences and Walls*.

Section 9.2.5 Nonresidential, Mixed-Use, and Apartment Landscaping

- A. **Generally.** New landscaping on nonresidential, mixed-use, and apartment parcels proposed for development shall comply with the standards of this Section. Any plants in excess of the minimum required plants may be installed in any location on the lot provided that the additional plantings have adequate room for healthy growth and stability, do not negatively affect drainage of stormwater, and do not restrict sight triangle visibility.
- B. **Shade Trees.** Two shade trees, or one shade tree and three ornamental trees, shall be installed for every 50 linear feet of street frontage, or fraction thereof. The shade tree(s) shall be located within the front or street side setback. In the DN and DT districts subject to build-to requirements, the shade tree(s) shall be spaced every 30 linear feet and placed in tree wells located within the street furniture/landscape zone of the public right-of-way adjacent to the street edge and meeting the standards for tree wells per the City's TCSS, provided a 6-foot minimum unimpeded pedestrian way is maintained.
- C. **Substitution of Trees.** Existing trees preserved within the front yard setback may count toward the shade tree requirement if shown to be in a healthful condition and providing shade canopy comparable to a full-grown shade tree. If existing trees are to remain, the tree protection measures of Subsection 9.1.2.G, *Tree Protection During Construction*, shall apply.
- D. **Groundcover Materials.** Areas that are not covered by buildings, driveways, swimming pools, or other improved hard surfaces that have been disturbed during construction shall be sodded with a warm-weather grass variety or landscaped with groundcovers, plants, mulch, or pervious rock bed unless they are covered by natural woodlands or other natural areas. Artificial or synthetic turf is permitted only in a rear yard and shall not count as a pervious surface.
- E. **Street Yard Landscape Area.** A landscaped street edge ensures an aesthetic visual buffer between the street or sidewalk and building or parking area. New nonresidential development shall include a street yard

landscaped area 10 feet deep from the lot line along all public streets, except where a build-to requirement conflicts. At the approval of the Director, the 10-foot area may be located within the public-right-of-way with the appropriate approvals and/or licenses, or set back further from the lot line to avoid utility conflicts or provide for better site design. All street yard landscaped areas shall provide two shade trees and 10 shrubs for every 500-sq. ft. of defined street yard landscaped area.

- F. **Perimeter Parking Lot Screening.** Screening is required in order to minimize visual impacts of parked vehicles, vehicle lights, and parking lots, and to provide a continuous, appealing buffer area. Parking lots shall be screened along street frontage, access drives, and from abutting properties as follows:
1. *Minimum Requirements.* All parking lot screening shall be a minimum of three feet in height and be achieved through one or more of the following methods:
 - a. A vegetated hedge of an evergreen species;
 - b. A vegetated or grassy berm;
 - c. An opaque or semi-opaque fence or wall meeting the material requirements in Section 4.6.4, *Fences and Walls* (maximum height 3.5 feet);
 - d. A vegetated climbing wall or screen of an evergreen species (maximum height 3.5 feet); or
 - e. A combination of any of the above.
 2. *Exceptions.* Screening shall not be required in the following situations:
 - a. If change in grade or elevation provides an equivalent level of screening for the parking, as determined by the Director.
 - b. Parking spaces provided in a multi-tenant shopping center in conjunction with shared access and/or shared parking between those properties.
 - c. Parking space directly accessed from an alley shall not be required to screen from the alley or adjacent property but shall be required to screen from an adjacent street right-of-way.
- G. **Parking Lot Landscaping.** Parking lots are required to be landscaped as follows:
1. Each row of parking shall include an interior or endcap island for every 12 parking spaces, which shall include the following landscaping features:
 - a. One shade tree per parking row, provided that no parking space is located further than 50 feet from the trunk of a tree; and
 - b. Groundcover, perennials, native grasses, mulch or accented rock.
 2. Each interior or endcap tree island, or any tree planting area in or along the perimeter of a parking lot, shall have a minimum non-compacted, pervious area of at least 100 square feet and have a minimum interior dimension of 10 feet wide, exclusive of the curb dimensions. Paving material may be used within the first foot of any interior or endcap tree island to allow people to access their vehicle and to minimize the impact to landscaping.
 3. Each interior or endcap tree island, or any tree planting area in or along the perimeter of a parking lot, shall be protected by vertical six-inch curbs (or wheel stops when a vehicle directly faces the landscaping) per the specifications of the City Engineer. Curbs may be punctuated to allow for stormwater flows into biological treatment areas, as applicable, pursuant to an approved drainage plan, provided that the punctuations do not interfere with their protective function (see Subsection 9.2.5.H, *Use of Islands for Low Impact Development*, below).
 4. Parking lot lighting shall not be located within, or interfere with, the future growth area of shade trees.
- H. **Use of Islands for Low Impact Development.** Wherever possible, landscape areas may be used for low impact development (LID) to satisfy stormwater management requirements. These landscape areas may have

larger minimum size areas to ensure engineering best management practices (BMPs) are met (see Division 5.4, *Low Impact Development*).

DIVISION 9.3 BUFFERING

Section 9.3.1 Zoning District Bufferyards

- A. **Generally.** Bufferyards are required to ensure compatibility between different areas of use, housing type, or density by providing a landscaped buffer between properties. Bufferyards are open spaces that are generally comprised of pervious surfaces with trees, plants, and other types of screening installed in accordance with this Division.
- B. **Bufferyard Classifications.** Bufferyards are classified according to zoning district for properties that are not separated by a public or private street. Table 9.3.1.A, *Bufferyard Classifications*, establishes the bufferyard which applies to parcels proposed for development based on the abutting land to be buffered.

Table 9.3.1.A Bufferyard Classifications										
Type of Development Proposed	Zoning District of Adjacent Parcel									
	FR, RE, ENZ.1 ¹	NR, ENZ.2 ¹	DR ¹	TR, ENZ.3, ENZ.5 ¹	MR, ENZ.4 ¹	NC	GC	DN, DT	BP	IN
Single-family development in any district	--	--	--	--	--	--	--	--	--	--
Duplex, manufactured home, tiny house, townhouse, triplex, or quadplex development in any district	A	A	A	--	--	--	--	--	--	--
Apartment development in a TR, DR, MR, or ENZ.4 district	B	B	B	B	A	--	--	--	--	--
Nonresidential development in a residential district	B	B	B	B	B	--	--	--	--	--
Nonresidential development in the NC zoning district	B	B	B	B	A	A	A	A	B	B
Nonresidential development in the GC zoning district	C	C	C	C	C	B	--	B	B	B
Nonresidential development in the DN or DT zoning districts	C	C	A	A	A	--	--	--	B	B
Nonresidential development in the BP zoning district	C	C	C	C	C	C	C	C	--	B
Nonresidential development in the IN zoning district	D	D	D	D	D	D	D	D	C	--
Table Notes:										
¹ Bufferyard requirements may be reduced by the director if the adjacent residentially zoned property is developed with a nonresidential use.										

C. **Bufferyard Requirements.** Table 9.3.1.B, *Bufferyard Requirements*, establishes the bufferyard standards to each bufferyard type.

Table 9.3.1.B Bufferyard Requirements					
Bufferyard Type	Width	Required Plantings per 100 Linear Feet (number of)			Opaque Wall or Fence (height)
		Shade Trees ² (evergreen variety)	Ornamental Trees (evergreen variety)	Large Shrubs (evergreen variety)	
Type A	10'	3	4	20	N/A ¹
Type B	15'	4	6	20	N/A ¹
Type C	25'	6	8	20	6' ³
Type D	40'	10	10	25	8' ³

Table Notes:

¹ The six-foot tall opaque wall or fence is not required for Type A and Type B bufferyards but may be utilized as a substitute for all of the required Large Shrub plantings.

² Existing trees preserved within the bufferyard may count toward the shade tree or ornamental tree requirement if shown to be in a healthful condition and providing shade canopy comparable to a full-grown shade tree. If existing trees are to remain, the tree protection measures of Section 9.1.2.G, *Tree Protection During Construction*, shall apply.

³ A berm, at least two feet in height and containing the required plantings may be substituted for a wall or fence.

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Article 11, Administration

DIVISION 11.1 REVIEW AND DECISION-MAKING AUTHORITY

Section 11.1.1 Generally

- A. **Generally.** This Article establishes the review and decision-making authority for each application for permit or approval as either requiring administrative approval or a public meeting or hearing and approval by an elected or appointed body. This Article establishes how the designated decision-making authority exercises that authority as it relates to decisions required by these regulations.
- B. **No Implied Limitation.** The provisions of this Article shall not be a limitation regarding the conduct of the Council, boards, commissions, or City staff where additional responsibilities or authority are set out elsewhere in these regulations, the City's Code of Ordinances, or through policies adopted by the City Council, or a board or commission approved by the City Council.
- C. **Delegation of Duties.** Assigned City staff decision-makers may delegate duties to other City staff to perform such functions and duties as may be required by these regulations; provided that such delegation is to other City staff or outside entities which are technically proficient to undertake such duties. Such designation does not relieve the decision-makers of overall responsibility for any final action, report, recommendation or additional duty described in these regulations.
- D. **Recordkeeping.** A record of files related to all applications established in this Article shall be kept by City staff for public inspection in a format consistent with open records laws.

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.
- 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.

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. As it relates to these regulations, the Planning and Zoning Commission shall act upon the permits and applications set out 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 11.1.4 Zoning Board of Adjustment

- A. **Generally.** The Zoning Board of Adjustment is authorized by Sec. 211.008, Board of Adjustment, of the Tex. Local Gov't. Code and Chapter 17, Planning, of the City's Code of Ordinances.
- B. **Role and Responsibilities.** The Zoning Board of Adjustment is the delegated authority in hearing and deciding Zoning Variances. As it relates to these regulations, the Zoning Board of Adjustment, shall act upon the applications set out in Section 11.1.16, *Summary of Decision-Making Authority*.

Section 11.1.5 (Reserved)

Section 11.1.6 (Reserved)

Section 11.1.7 (Reserved)

Section 11.1.8 City Manager

- A. **Generally.** The City Manager position and its authority is established in Sec. 4.01, City Manager, of the City's Home Rule Charter.
- B. **Role and Responsibilities.** The City Manager shall be the chief administrative officer of the City, and shall be responsible to the City Council for the proper administration of all the affairs of the City. As it relates to these regulations, the City Manager has the authority to assign and appoint the responsibilities to the Director, City Engineer, Building Official, Floodplain Administrator, or any other member of City staff or person acting on behalf of City staff. The City Manager may also choose to establish a development review committee or similar informal body to participate in the technical review and comment of development applications for the City.

Section 11.1.9 Director

- A. **Generally.** The Director is a representative of the City staff appointed by the City Manager to be the administrator of these regulations. Such duties may be allocated and reallocated by the City Manager in the exercise of the responsibilities of that office without amendment to these regulations.
- B. **Role and Responsibilities.** As it relates to these regulations, the Director shall act upon the permits and applications set out in Section 11.1.16, *Summary of Decision-Making Authority*.

Section 11.1.10 City Engineer

- A. **Generally.** The City Engineer is a representative of the City staff appointed by the City Manager to serve as the official Engineer of the City of Marble Falls and shall perform the duties and responsibilities as described by these regulations and other regulations set out in the City's Code of Ordinances.
- B. **Role and Responsibilities.** As it relates to these regulations, the City Engineer shall act upon the permits and applications set out in Section 11.1.16, *Summary of Decision-Making Authority*. The City Engineer shall also maintain the City's Technical Criteria and Specification Standards (TCSS) manual and other technical specification manuals as may be necessary to review and implement these regulations.

Section 11.1.11 Building Official

- A. **Generally.** The Building Official is a representative of the City staff appointed by the City Manager to safeguard the public health, safety, and general welfare of the City through ensuring compliance with the City's adopted building codes and other provisions set out in these regulations.

- B. **Role and Responsibilities.** As it relates to these regulations, the Building Official shall act upon the permits and applications set out in Section 11.1.16, *Summary of Decision-Making Authority*.

Section 11.1.12 Floodplain Administrator

- A. **Generally.** As it relates to these regulations, the Floodplain Administrator is a representative of the City staff appointed by the City Manager to administer and implement all floodplain management provisions of these regulations and other appropriate sections of 44 CFR (Emergency Management and Assistance—National Flood Insurance Program Regulations) pertaining to floodplain management.
- B. **Role and Responsibilities.** The Floodplain Administrator shall act upon the permits and applications set out in Section 11.1.16, *Summary of Decision-Making Authority*. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
1. *Recordkeeping.* Maintain and hold open for public inspection all records pertaining to the provisions of this Section.
 2. *Permit Review.*
 - a. Review permit applications to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
 - b. Review, approve or deny all applications for Floodplain Development Permits required by adoption of this Section.
 - c. Review permit applications for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
 3. *Interpretation of Boundaries of Areas of Special Flood Hazards.* Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
 4. *Responsibilities Pertaining to Alterations to or Relocations of Watercourses.*
 - a. Notify, in riverine situations, adjacent communities and the state coordinating agency which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - b. Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
 5. *Floodplain Information and Determination.*
 - a. When base flood elevation data has not been provided in accordance with Subsection 5.2.2.B, *Basis for Establishing the Areas of Special Flood Hazard*, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, to administer the provisions of Section 5.2.3, *Provisions for Flood Hazard Reduction, of these regulations*.
 - b. When a regulatory floodway has not been designated, the Floodplain Administrator shall require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

6. *Required Map Provisions.* Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all the provisions required by [CFR] Section 65.12.

Section 11.1.13 (Reserved)

Section 11.1.14 (Reserved)

Section 11.1.15 (Reserved)

Section 11.1.16 Summary of Decision-Making Authority

- A. **Generally.** This Section establishes 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 for each application for permit or approval 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
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
Subdivision - Amending Plat					D				11.4.7
Subdivision - Development Plat	D	R							11.4.5
Subdivision - Final Plat	D	R							11.4.3
Subdivision - Minor Plat					D				11.4.4
Subdivision - Plat Vacation	D	R							11.4.9
Subdivision - Preliminary Plat	D	R							11.4.2
Subdivision - Replat	D* ¹	R* ¹							11.4.6
Subdivision Waiver and Suspension	D	R							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:									
¹ If required by State Law.									

Section 11.2.1 General Application Procedures

- A. **Generally.** This Section establishes general application procedures and internal review procedures that shall apply to all applications for a permit or approval that are set out in this Article.
- B. **Pre-Application Meeting.**
1. *Generally.* Prior to the submission of an application for permit or approval, a pre-application meeting may be required or recommended between a potential applicant and the Director, or a designated representative of either party, and any other pertinent representatives or staff. The pre-application meeting is intended for the City and potential applicant to exchange non-binding information to promote an efficient development review process. The Director shall determine and publish which application types require a pre-application meeting.
 2. *Pre-Application Forms and Materials.* The Director may determine and publish forms or documents that include information requirements, materials checklist, contact information, and any other information necessary to sufficiently describe the potential application.
 3. *Vesting Rights.* Neither a pre-application meeting, nor any forms, materials, and information submitted for a pre-application meeting, shall be considered a vesting instrument, nor shall it vest a permit, application, or any type of approval.
- C. **Application Forms.**
1. *Generally.* Every application for approval or permit required by these regulations shall be submitted on forms prepared by the Director, along with supporting materials and application fee.
 2. *Forms.* In addition to the requirements outlined herein for each type of development application, the City is hereby authorized to prepare application forms to collect information and materials necessary to process each type of application.
 - a. Application forms shall include specific information including, but not limited to, information requirements, checklists, architectural or engineering drawing sizes, language blocks for plats, applicant contact information, materials and any other information necessary to facilitate the review of the application for compliance with and administration of these regulations, as prepared by the Director.
 - b. The forms and paperwork are available in paper or digital format at the City office where applications are submitted and/or reviewed.
 - c. The Director shall periodically review and may revise forms for each type of application from time to time.
 - d. It is the applicant's responsibility to be familiar with, and to comply with, these policies and procedures.
- D. **Fees.**
1. *Generally.* Every application shall be accompanied by the prescribed fees set forth in Appendix C, Master Fee Schedule, of the Code of Ordinances. The City shall not accept an application for review without the required application fee. The adopted fees may be revised from time to time by the City Council and shall not require amendment of these regulations.
 2. *Payable.* All required fees shall be made payable to "The City of Marble Falls."
 3. *Required for Administrative Completeness.* All applications shall be accompanied by the prescribed fees to be considered administratively complete.

4. *Fee Refunds.*
 - a. *Withdrawn Applications.* Withdrawn applications that have not been determined to be administratively complete may be refunded 50 percent of the application fee.
 - b. *Administratively Complete Applications.* Once an application has been determined to be administratively complete, the prescribed fees shall not be refundable, except when submitted in error.

E. Determination of Administrative Completeness.

1. *Generally.* An application shall not be considered as officially submitted, accepted for review, or filed until it has been determined by the Director to be administratively complete.
2. *Considerations for Determination of Administrative Completeness.* The Director, or designee, shall review each submitted application to determine if the minimum items needed for proper review of such application are present. An application must be determined to be administratively complete in order to begin the review process.
 - a. A submitted application shall not be determined to be administratively complete until, at a minimum, the following has been received by the City:
 - b. Completed application form;
 - c. Payment of all applicable fees; and
 - d. All the application requirements and supplemental information indicated as required per the application form for the specific type of application.
 - e. A submitted application shall not be determined to be administratively complete until, at a minimum, the following has been completed by the applicant:
 - i. Pre-application meeting with staff has been held (if required); and
 - ii. All required preceding approvals (e.g., proper zoning, approved plats, etc.) have been acquired.
3. *Timeframe for Administrative Completeness Review.* No more than ten business days after the receipt of an application by the City, the Director shall review the application for administrative completeness. Failure by the Director to make a determination of administrative completeness or to provide notice of administrative incompleteness, as set out in Subsection 11.2.1.E.4, *Administratively Incomplete Applications*, below, within this time frame shall result in the application being deemed administratively complete on the eleventh business day following receipt.
4. *Administratively Incomplete Applications.* Applications that do not include all required information and materials shall be considered administratively incomplete.
 - a. The Director shall notify the applicant in writing of the determination and shall provide a written explanation of missing or incomplete items that are necessary to complete the application.
 - b. The Director may elect to extend the time period of determination of administrative completeness for the applicant to submit the missing or incomplete items. The Director shall provide, in writing, a specified timeframe to the applicant for the incomplete item(s) to be resubmitted. If the item(s) is not resubmitted within this time period, the application shall be deemed rejected and shall not be reviewed for technical completeness, shall not be considered filed, and shall be returned to the applicant.
 - c. The applicant may request an additional meeting for explanation of the missing or incomplete items.
 - d. After an application has been determined to be administratively incomplete and rejected, a new application and fee shall be required for any future submittals.
5. *Administratively Complete Applications.* Administratively complete applications shall be processed according to the applicable development approval procedures of this Article. The determination of an

administratively complete application does not constitute a determination of technical completeness or compliance with applicable regulations nor imply that the application successfully meets any review criteria.

F. Determination of Technical Completeness.

1. *Generally.* Upon receipt of an administratively complete application, the City shall commence technical compliance review of the submitted application. This may include review by a development review committee, which may be designated by the City Manager.
2. *Determination of Technical Completeness.* An application shall not be deemed to be technically complete until staff has determined the application and any supporting documents meet all applicable requirements of these regulations and are in compliance with any other applicable City or State requirements.
3. *Technically Incomplete Applications.* Applications that do not include all required information and materials shall be considered technically incomplete.
 - a. The Director shall notify the applicant in writing of any revisions deemed necessary for the application to be determined to be technically complete. The applicant may request a meeting for explanation of the missing or incomplete items.
 - b. The applicant shall submit any necessary corrections to the City no later than fourteen (14) calendar days prior to the public meeting at which it is scheduled to be considered, if applicable.
 - c. An application presented to the Commission and/or City Council prior to determination of technical completeness may be subject to denial.
4. *Technically Complete Applications.* Technically complete applications shall be processed according to the applicable development approval procedures of this Article. The determination of a technically complete application by City staff does not constitute or imply an approval by the decision-making authority.

G. Proof of Land Ownership.

1. *Generally.* Except as provided by these regulations, any application for permit or approval shall be initiated only by the property owner or owner of an interest in the land. A property owner may authorize a representative to submit an application for permit or approval provided that the application includes a signed statement from the property owner authorizing the representative to file the application on the owner's behalf.
2. *Written Verification Required.* Along with the application, the applicant shall provide written verification of land ownership of the subject land parcel or parcels, provided to the City at the time of submittal. The Director shall have the authority to determine what document(s) the City will require to prove ownership, such as one of the following:
 - a. General warranty deed;
 - b. Special warranty deed;
 - c. Title policy; or
 - d. Certified copy of a tax certificate from Burnet Central Appraisal District.

H. Payment of All Indebtedness Attributable to a Specific Property.

1. *Generally.* No person who owes delinquent taxes, delinquent fees, delinquent paving assessments, or any other delinquent debts or obligations to the City of Marble Falls, and which are directly attributable to a piece of property, shall be allowed to proceed forward to final permit or approval for said property until the taxes, assessments, debts or obligations directly attributable to said property have been first

fully discharged by payment, or until an arrangement satisfactory to the City Manager (or designee) has been made for the payment of such debts or obligations.

2. *Applicant's Responsibility.* It shall be the applicant's responsibility to provide evidence or proof that all taxes, assessments, debts or obligations have been paid at the time of submission for any application for approval under these regulations.

I. Concurrent Applications.

1. *Generally.* An applicant may concurrently submit different applications related to the same development within each of the following application groups. Approval of all relevant applications within each group must be obtained prior to submission of an application in the subsequent group.
 - a. Policy Applications
 - b. Annexation (Voluntary)
 - c. Zoning Map Amendment (Rezoning)
 - d. Conditional Use Permit
 - e. Variance
 - f. Special Exception
 - g. Preliminary Plat
 - h. Development Applications
 - i. Final Plat
 - j. Site Development Plan
 - k. Building Permit
2. *Fees.* The applicant is subject to the fees for each application.
3. *Consideration for Concurrent Applications.* Consideration for each application shall remain in the appropriate sequence of development. Any application submitted concurrently is subject to the approval of all related applications. Denial or disapproval of any individual application from a group of concurrently submitted applications shall stop consideration of all subsequent applications, if such approval is necessary for the subsequent applications to proceed.
4. *Withdrawal of Individual Applications.* An applicant may withdraw an individual application from a group of concurrently submitted applications. A withdrawal may stop consideration of subsequent applications if such application requires the approval of the withdrawn application.

J. Application Continuances.

1. *Generally.* An applicant may request a continuance of the application in writing prior to a public meeting, or on the record during the meeting prior to when a recommendation or decision is made. The Director may approve a continuance request if the request is made prior to the public posting of the public meeting or may choose to defer the decision of the continuance request to the administering body. A request for a continuance by an applicant after the public meeting has been posted or at the public meeting itself may be granted by the administering body upon a motion and decision of the body to table the agenda item.
2. *Costs Associated with Continuance.* If the continuance was requested by the applicant, the applicant shall pay all additional costs associated with rescheduling and/or for re-notice of the proceeding.

K. Expired and Stale Applications

1. *Generally.* Applications that become stale as set out in this Article shall be deemed expired and become immediately null and void and the City will subsequently close the application file. An expired application will end all claims to vesting pertaining to the expired application.

2. *Stale Applications.* Applications for development approval must be diligently pursued by the applicant to remain active or otherwise face expiration for inactivity. An accepted application for which there has been no action taken by an applicant for a period of six months or more from the date of the last action shall be determined to be stale and processed as withdrawn by the applicant, causing the file to be closed. The Director shall notify the applicant in writing 30 days in advance of the pending closure and may allow the applicant additional time to act to continue pursuit of approval.

L. Limit on Reapplications.

1. *Generally.* If any application for permit or approval is denied by the final deciding authority, a substantially identical application shall not be filed within six months from the date of the denial, except as provided herein.
2. *Allowed Successive Reapplications.* The decision-making body that rendered the final decision to deny may allow a successive reapplication within the six-month timeframe if the applicant can demonstrate:
 - a. There are substantial changes to the circumstances relevant to the issues or facts considered during review of the prior application, or new or additional information is available that was not available at the time of the review of the prior application, that might reasonably affect the decision-making body’s review of the application;
 - b. The new application is substantially different than the prior application and has corrected any defects or substantive issues or addresses concerns or issues that were significant to the decision to deny the prior application; or
 - c. The final decision on the application was based on a material mistake of fact.
3. *Successive Reapplication Procedures.* An allowed successive reapplication shall be considered a new application and is subject to the application procedures and fees for a new application. Successive reapplications shall establish grounds warranting reconsideration of the application, including demonstrating how the new, additional, or changed information affects review of the application.

Section 11.2.2 Public Hearings

- A. **Generally.** This Section establishes general procedures for applications for permits or approvals that require a public hearing by the City Council or a City board or commission established in Division 11.1, *Review and Decision-Making Authority*. Procedures for each type of application requiring a public hearing are set out in the following sections of this Article.
- B. **Public Hearings.**
 1. *Required Public Hearings.* Applications that require a public hearing in accordance with state law or these regulations are identified in Table 11.2.2, *Required Public Hearings*, below.

Table 11.2.2 Required Public Hearings			
Application Procedure	Meeting Body		
	City Council	Planning and Zoning Commission	Zoning Board of Adjustment
Annexation (Voluntary)	X		
Appeal	X		
Conditional Use Permit	X	X	
Floodplain Development Variance	X		
Planned Development District	X	X	
Special Exception	X		
Subdivision - Replat	X ¹	X ¹	

Table 11.2.2 Required Public Hearings			
Application Procedure	Meeting Body		
	City Council	Planning and Zoning Commission	Zoning Board of Adjustment
Text Amendment	X	X	
Zoning Variance			X
Zoning Map Amendment (Rezoning)	X	X	
Table Notes: ¹ If required by state law.			

Section 11.2.3 Public Notice

- A. **Generally.** Public notice required by these regulations shall be provided pursuant to the requirements of this Section and applicable requirements of state law. The provisions herein are in addition to open meeting notice requirements established by state law and shall not exempt the City from meeting the notice requirements of all public meetings and hearings as required by the Home Rule Charter and Chapter 551, Open Meetings, of the Tex. Gov't Code.
- B. **Required Public Notice.** With regards to applications for permit or approval, notice of all public meetings and public hearings required by these regulations shall be provided as prescribed in Table 11.2.3, *Required Public Notice*, below.

Table 11.2.3 Required Public Notice		
Application Procedure	Published Notice	Mailed Notice
Annexation (Voluntary)	X	
Appeal	X	
Conditional Use Permit	X	X
Floodplain Development Variance	X	
Subdivision - Replat ¹	X	X
Special Exception	X	X
Text Amendment	X	
Variance	X	X
Zoning Map Amendment (Rezoning)	X	X
Table Notes: ¹ If public hearing required by state law.		

- C. **Responsibility of Required Public Notice.** The Director shall determine responsible parties for all published and mailed notices as required by these regulations.
- D. **Timing of Required Public Notice.**
1. Notice of a public meeting shall be posted in a place readily accessible to the general public at all times for at least 72 hours before the scheduled time of the meeting, except as provided by state law.
 2. Unless otherwise noted, public notices of a public hearing shall be published or mailed as required by these regulations at least 15 days in advance of the public hearing.
 3. If the notice requirement is not met in the required time frame, then the public hearing item shall be delayed until the notice requirement is met.

- E. **Published Notice.**
1. A public notice shall be published at least once in the public newspaper of general circulation within the City, as designated by the City Manager.
 2. The notice shall contain information pursuant to Subsection 11.2.3.G, *Content of Published and Mailed Notices*, below.
- F. **Mailed Notice.**
1. A written notice shall be sent to owners of record of real property within 200 feet of the boundary of the subject property.
 2. Measurements shall be taken from the boundary of the subject property or properties, inclusive of public streets.
 3. Such notice may be served by using the last known address as listed on the municipal tax roll and depositing the notice, postage paid, with the United States Postal Service (USPS).
 4. The notice shall contain information pursuant to Subsection 11.2.3.G, *Content of Published and Mailed Notices*, below.
- G. **Content of Published and Mailed Notices.** Published and mailed public notices shall include the following specific information:
1. The general location of land that is the subject of the application;
 2. The legal description or street address;
 3. The type of application sought, including the specific nature or intent of the application;
 4. The time, date, and location of the public hearing;
 5. A phone number and email address to contact the City; and
 6. A statement that interested parties may appear at the public hearing.

DIVISION 11.3 PERMITS AND APPROVALS

Section 11.3.1 Annexation (Voluntary)

- A. **Generally.** The City Council may, by ordinance, annex land into the City limits pursuant to the various processes of Chapter 43, Municipal Annexations, of the Tex. Local Gov't Code and the Home Rule Charter. This Section describes annexation proceedings deemed to be voluntary on the part of a property owner.
- B. **Initiation of Voluntary Annexation.** Voluntary annexation of land may be initiated by the submittal of an annexation petition application by the property owner(s) or their authorized representative.
- C. **Application Requirements.** The Director shall ensure that a completed application has been submitted by the applicant pursuant to Section 11.2.1, *General Application Procedures*, and includes the information and materials necessary for City Council to render an informed decision.
- D. **Procedures.** All proposed voluntary annexations shall follow the procedure set out in this Section.
1. *Staff Review.* For each annexation application, the City Manager or designee shall review the application and prepare a findings report, which shall be presented to the City Council at a public meeting.
 2. *City Council Review.*
 - a. In accordance with the annexation procedures prescribed by Chapter 43, Municipal Annexations, of the Tex. Local Gov't Code, the City Council shall hold the required public meetings. Notice of required public hearing shall be provided pursuant to Section 11.2.2, *Public Hearings*, and Section 11.2.3, *Public Notice*.

- b. After reviewing the annexation petition and holding the requisite public meetings, the City Council shall take final action by an affirmative vote of a majority of the body, to:
 - i. Approve the annexation; or
 - ii. Deny the annexation.
- E. **Initial Zoning.** Land brought into the City Limits through an annexation process shall be initially zoned to the Farm and Ranch (FR) district effective upon annexation, as set out in Section 2.1.3, *Zoning of Annexed Land*. It is intended that further rezoning of the land from the initial zoning district will be acted upon using the guidance of the Future Land Use Plan set out in the City's Comprehensive Plan.
- F. **Effect of Approval.** An affirmative approval of a voluntary annexation by the City Council, following the procedures set out in this Section, shall be in effect in the manner provided by the Home Rule Charter or state law.

Section 11.3.2 Zoning Map Amendment (Rezoning)

- A. **Generally.** The City Council may, by ordinance, amend or change the boundaries of the existing zoning districts or change the district classification (rezone) of a property pursuant to this Section.
- B. **Initiation of a Zoning Map Amendment.** A Zoning Map Amendment may be initiated in one of the following ways:
 - 1. Application by the property owner(s);
 - 2. Motion and affirmative majority vote of the City Council; or
 - 3. Motion and affirmative majority vote of the Planning and Zoning Commission.
- C. **Application Requirements.** The Director shall ensure that a completed application has been submitted by the applicant pursuant to Section 11.2.1., *General Application Procedures*, and includes the information and materials necessary for City Council to render an informed decision.
 - 1. If the Zoning Map Amendment is related to another application, additional information and maps shall be submitted as required by those applicable regulations.
 - 2. If the Zoning Map Amendment is a proposed Planned Development District, a concept plan pursuant to Section 11.3.5, *Concept Plan*, a written development plan and exhibits, and other supplemental information shall be submitted as required in the submittal forms. Planned Development Districts shall meet the requirements set out in Division 4.4, *Master Planned Communities and Planned Development Districts*.
 - 3. For a Zoning Map Amendment initiated by the City Council or Planning and Zoning Commission, the application submittal shall be prepared by the Director pursuant to the intention of the motion, and no fee shall be required.
- D. **Procedures.** All proposed Zoning Map Amendment requests shall follow the procedures set out in this Section.
 - 1. *Staff Review.* For each Zoning Map Amendment request, the Director shall review the application considering the approval criteria established in Subsection 11.3.2.E, *Review Criteria*, below, and may refer the application to other departments as deemed necessary. The Director shall prepare a findings report, which shall be presented to the Planning and Zoning Commission and City Council at the same public meeting as the public hearing and may also provide a recommendation.
 - 2. *Planning and Zoning Commission Review.*
 - a. The Planning and Zoning Commission shall hold a public hearing, pursuant to the requirements set out in Section 11.2.2, *Public Hearings*, and Section 11.2.3, *Public Notice*, on any Zoning Map Amendment prior to making its recommendation to City Council.

- b. The Planning and Zoning Commission may table its recommendation on the Zoning Map Amendment to continue a public hearing; to obtain additional information; or for further consideration. Such postponement of the final recommendation of a Zoning Map Amendment by the Planning and Zoning Commission may not exceed the second scheduled public meeting of the Planning and Zoning Commission following the initial decision to table.
- c. Following a public hearing, the Planning and Zoning Commission shall make a final recommendation to the City Council by an affirmative vote of a majority of the body to:
 - i. Approve the Zoning Map Amendment; or
 - ii. Deny the Zoning Map Amendment.
- d. The recommendation to the City Council shall be considered the final report as required by Section 211.007(b) of the Tex. Local Gov't Code. Failure of the Planning and Zoning Commission to make a recommendation and final report to the City Council shall be considered a recommendation for denial.

3. *City Council Review.*

- a. The City Council shall hold a public hearing, pursuant to the requirements set out in Section 11.2.2, *Public Hearings*, and Section 11.2.3, *Public Notice* on any Zoning Map Amendment prior to making its decision.
- b. The City Council may refer the proposed Zoning Map Amendment back to Planning and Zoning Commission for further consideration; continue a public hearing; or table the action. A continuance, or postponement, of the final decision of a Zoning Map Amendment may not exceed 90 days.
- c. Following a public hearing, the City Council shall take final action by an affirmative vote of a majority of the elected body, to:
 - i. Approve the Zoning Map Amendment; or
 - ii. Deny the Zoning Map Amendment.

E. **Review Criteria – Zoning Map Amendments.** In the review and consideration of a proposed Zoning Map Amendment, the Director, Planning and Zoning Commission, and City Council shall consider the following criteria:

1. *Consistency with Comprehensive Plan.* The proposed zoning promotes the goals, objectives, and policies of the City's Comprehensive Plan and is consistent with the Future Land Use Plan, Thoroughfare Plan, and Sidewalk and Trail Corridor Opportunities Plan;
2. *Promotion of Public Health and Safety.* The proposed zoning promotes the health, safety or general welfare of the City and the safe orderly, and healthful development of the City;
3. *Suitability of the District's Land Uses.* The subject property is suitable for uses allowed by the proposed zoning district, and the allowed uses and development regulations of the proposed zoning are compatible with the development and conforming uses of nearby property and with the character of the neighborhood;
4. *Development Adequacy of the Property.* The dimensions of the subject property are sufficient to comply with the development regulations of the proposed zoning district to reasonably accommodate the uses and development allowed by the proposed zoning district; and
5. *Adequate Infrastructure.* The proposed zoning is consistent with the existing or planned provisions for streets, water, wastewater, and other public utilities or services to the subject property or area in which the subject property is located.

F. **Protests.**

1. *Eligible Protests.* For a legal protest against a proposed Zoning Map Amendment, a written instrument shall be filed with the City prior to the close of the public hearing that includes signatures from either:
 - a. Persons owning 20 percent or more of the land area adjoining and within 200 feet of the area proposed for Zoning Map Amendment, but excluding land outside the City or the City's extra-territorial jurisdiction; or
 - b. Persons owning 20 percent or more of the land area included within the proposed Zoning Map Amendment related to modifications to an approved Planned Development District.
2. *Effect on Decision.* If an eligible protest against a proposed amendment is confirmed by the City prior to the close of the public hearing of the proposed Zoning Map Amendment, then approval of the Zoning Map Amendment shall require a three-fourths majority vote of the City Council.

G. **Effect of Approval.** An affirmative approval of a Zoning Map Amendment by the City Council, following the procedures set out in this Section, shall be in effect in the manner provided by the Home Rule Charter or state law.

Section 11.3.3 Planned Development District Zoning

- A. **Generally.** The City Council may, by ordinance, create a Planned Development District as identified in Section 4.4.3, *Planned Development Districts*, and pursuant to the Zoning Map Amendment (Rezoning) requirements established in Section 11.3.2, *Zoning Map Amendment (Rezoning)* and the supplemental standards and procedures established herein.
- B. **Application Requirements.** The Director shall ensure that a completed application has been submitted by the applicant pursuant to Section 11.2.1, *General Application Procedures*, and includes the information and materials necessary for City Council to render an informed decision. The Director may require the submission of additional information as needed to meet the objectives of these requirements.
- C. **Planned Development Regulating Documents.** The ordinance adopting a Planned Development District becomes the regulating document and as such the following elements shall be required with an application for a Planned Development District in order to be considered complete:
 1. *Statement of Purpose of Planned Development District.* The ordinance granting a Planned Development District shall include a statement as to the purpose and intent of the Planned Development District granted therein.
 2. *Development Plan.* The ordinance granting a Planned Development District shall include a Development Plan identifying the terms and standards necessary for the development of the property, and shall contain at a minimum the following:
 - a. The combination of permitted uses and associated special development standards within the district, including, but not limited to uses, density, lot area, lot width, lot depth, yard depths and widths, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, project phasing or scheduling, management associations, and other requirements as the City Council and Planning and Zoning Commission may deem appropriate.
 - b. In the case where a base zoning district is identified as being modified, a specific list of modifications and reason for modification shall be cited.
 - c. Graphical and narrative descriptions of use and design integration and compatibility should be utilized to facilitate understanding of the proposed regulations.
 - d. One conventional zoning district as a base zoning district shall be selected to apply to all uses and development regulations wherever the proposed Planned Development District is silent or does not

apply. Multiple base zoning districts may be selected to accommodate a mixture of land uses in different geographic areas.

3. *Conceptual Plan or Site Development Plan.* In order to facilitate understanding of the proposed Planned Development District during the review and public hearing process, applications shall include either a Concept Plan for Conceptual Planned Developments, as set out in Section 11.3.5., *Concept Plan*, or Site Development Plan for Detailed Planned Developments, as set out in Section 11.5.3, *Site Development Plan*. The plans shall graphically demonstrate the applicant's intent for the development of the proposed Planned Development and compliance with this Section and Section 4.4.3, *Planned Development Districts*. These plans, if approved, shall be a component of the ordinance and regulate future development of the district. The Director shall clearly describe and publish such required information in a form or checklist.

D. Procedures.

1. The creation of a Planned Development District shall be considered a Zoning Map Amendment request and shall follow the regular procedures set out in Subsection 11.3.2.D, *Procedures*.
2. Creation of lots for development of a Planned Development or property within a Planned Development shall follow the applicable procedures established in Division 11.4, *Subdivision Permits and Approvals*.

E. Review Criteria. In the review and consideration of a proposed Planned Development District, the Director, Planning and Zoning Commission, and City Council shall consider that the Development Plan and Concept Plan for the district provide a framework for an enhanced land design and integration of uses and ensure that the proposal clearly exceeds the minimum standards of these regulations. As part of the consideration, the applicant shall provide the reason(s) as to why the proposed development cannot be accommodated by these regulations.

1. *Compliance with Applicable Criteria of Planned Development Districts.* The Planned Development District shall comply with the criteria established in Section 4.4.3, *Planned Development Districts*.
2. *Consistency with the Comprehensive Plan.* As the intent of the Planned Development District is to provide for use as well as design flexibility, any combination of uses may be considered for the district as long as each use is specifically identified along with any appropriate conditions or limitations of each. The elements of the proposed Planned Development District shall be consistent with and promote the goals of the Comprehensive Plan.
3. *Enhanced Project Design.* It is the intent of these regulations to encourage outstanding project design for Planned Development Districts in order to implement the policies contained in the City's Comprehensive Plan. In exchange for greater flexibility in development of a project, Planned Development Districts are expected to develop to a standard that is greater than the regulatory standards applicable to non-Planned Development Districts. The following standards will be used to evaluate project design:
 - a. The arrangement of all uses and improvements should reflect the natural capabilities and limitations of the site as well as the characteristics and limitations of adjacent property.
 - b. Development must be compatible with the immediate environment of the site and neighborhood relative to architectural design; scale, bulk and building height; historical character; and disposition and orientation of buildings on the lot.
 - c. Buildings, transportation improvements, and open space areas, must be arranged on the site so that activities are compatible with the neighborhood.
 - d. Buildings, transportation improvements, open space, and landscaping, must be designed and arranged to produce an efficient, functionally organized, and cohesive development.

- e. Buildings, transportation improvements, open space and landscaping, must be in favorable relationship to the existing natural topography, natural vegetation and creeks, exposure to sunlight and wind, and long or scenic views.
 - f. The project should preserve and enhance the natural character of the site and should be designed to reflect the existing topography and natural systems. Vegetative communities located in floodplains, existing tree stands and along steep slopes should be maintained as open areas and wildlife habitat. Creeks and streams should be preserved and enhanced as amenities.
 - g. The project should preserve historic elements of the site, including features such as farm structures and dwellings, stone wells, entry features, windmills, or other features that illustrate the historic resources of the site.
 - h. The project should be integrated with the City's open space network as described in the Parks and Open Space Plan of the Comprehensive Plan, including provision of a trail that would connect to the overall trail system of the City. Public or common uses and open space should be connected together to promote pedestrian usage. Utilization of open space should be enhanced through provision of amenities.
4. *Compatibility with Nearby Uses.* The Planned Development District shall be compatible with nearby uses. Impacts to adjoining property shall be mitigated and where the development does not meet ordinance requirements, the application shall describe the mitigation measures being utilized to offset the requirements of the ordinance that are not being met.
5. *Impact on Traffic.* The Planned Development District shall not create undue traffic congestion or a traffic hazard. At the time of the application for a Planned Development District, the City Engineer may require a Traffic Impact Analysis (TIA), pursuant to Subsection 6.2.1.D, *Traffic Impact Analysis*, to identify potential traffic impacts generated by the proposed Planned Development District. Such TIA must be approved by the City Council prior to or concurrently with the approval by the City Council of the Planned Development District. The TIA shall not be considered part of the Planned Development District Concept Plan or the Planned Development District ordinance, but may be used to condition the traffic circulation and controls, density or intensity of uses, or the timing, sequence, or phasing of development within the district based upon the existence of a supporting roadway network adequate to accommodate the traffic expected to be generated. The TIA shall be updated with each development within the Planned Development District at time of Site Development Plan submittal.
- F. **Effect of Approval.** An affirmative approval of a Planned Development District by the City Council, following the procedures set out in this Section, is considered a Zoning Map Amendment and shall be in effect in the manner provided by the Home Rule Charter or state law.
- G. **Development of or in a Planned Development District.** An approved Planned Development District shall regulate the use and development of property within the district boundaries, and all building permits and development requests shall be in accordance with the approved Planned Development District until it is amended by the City Council.
- 1. No development shall begin and no building permit shall be issued for any land within a Planned Development District until a Site Development Plan is approved that is consistent with the Planned Development District ordinance, Concept Plan and associated development standards.
 - 2. The Planned Development District shall not modify the procedures of the application or approval process for development or building within the Planned Development District. Such processes shall follow and adhere to the normal procedures and requirements established by these regulations.

- H. **Modifications and Amendments to Planned Development Districts.** Revisions or modifications to adopted regulating documents of a Planned Development District shall be as follows:
1. *Concept Plan.* Revisions or modifications to an approved Concept Plan shall be pursuant to Section 11.3.5, *Concept Plans*.
 2. *Site Development Plan.* Revisions or modifications to an approved Site Development Plan shall be pursuant to Section 11.5.3, *Site Development Plan*.
 3. *Development Plan.* Revisions or modifications to an approved Development Plan shall be pursuant to this Section.
- I. **Expiration of Approved Planned Development Districts.** Approval of a Planned Development District, including any Concept Plan, Site Development Plan, and development standards, shall expire if no progress toward completion of the project is made within 10 years following issuance of such approval by the City Council. Expiration of a particular approval or permit, or of the project as a whole will be determined in accordance with the requirements of Chapter 245 of the Texas Local Government Code.
- J. **Revocation of Approved Planned Development Districts.**
1. *Generally.* The City Council may hear and consider an application to nullify an approved Planned Development District and any associated regulating documents.
 2. *Property Owner Requests.* The property owner may nullify an approved Planned Development District and any associated regulating documents by making an application for rezoning to the zoning district in place prior to the approval of the Planned Development District or to a new zoning district classification.
 3. *City Initiated Revocations.* The City may initiate a revocation by rezoning the property to the zoning district in place prior to the approval of the Planned Development District if it is determined that:
 - a. The project has expired pursuant to Subsection 11.3.3.I, *Expiration of Approved Planned Development Districts*, above;
 - b. The applicant misrepresented any material fact on the application or supporting materials;
 - c. The project fails or ceases to comply with the applicable standards, criteria, or conditions of the Planned Development District ordinance;
 - d. The Planned Development District violates its reversionary clause;
 - e. The Planned Development District violates any statute, law, or regulation; or
 - f. The Planned Development District constitutes a real or potential threat to the health, safety, or welfare of the public.

Section 11.3.4 Conditional Use Permit

- A. **Generally.** A Conditional Use Permit is required to allow conditional uses as identified in Division 3.1, *Land Uses by Zoning District*.
- B. **Initiation of Application.** An application for a Conditional Use Permit may be filed by the property owner(s), or a person having a contractual interest in the subject property.
- C. **Application Requirements.** The Director shall ensure that a completed application has been submitted by the applicant pursuant to Section 11.2.1, *General Application Procedures*, and includes the information and materials necessary for City Council to render an informed decision.
- D. **Procedures.** All applications for a Conditional Use Permit shall follow the procedure set out in this Section.
1. *Staff Review.* For each Conditional Use Permit request, the Director shall review the application considering the approval criteria established in Subsection 11.3.4.E, *Review Criteria*, below, and may refer the application to other departments as deemed necessary. The Director shall prepare a findings

report, which shall be presented to the Planning and Zoning Commission and City Council at the same public meeting as the public hearing and may also provide a recommendation.

2. *Planning and Zoning Commission Review.*

- a. The Planning and Zoning Commission shall hold a public hearing, pursuant to the requirements set out in Section 11.2.2, *Public Hearings*, and Section 11.2.3, *Public Notice*, on an application for a Conditional Use Permit prior to making its recommendation to City Council.
- b. Following a public hearing, the Planning and Zoning Commission shall make a final recommendation to the City Council by an affirmative vote of a majority of the body to:
 - i. Approve the Conditional Use Permit;
 - ii. Approve with conditions, pursuant to Subsection 11.3.4.F, *Conditions of Approval*, below; or
 - iii. Deny the Conditional Use Permit.
- c. The Planning and Zoning Commission may table its recommendation to continue a public hearing; to obtain additional information; or for further consideration. Such postponement of the final recommendation of a Conditional Use Permit by the Planning and Zoning Commission may not exceed 40 days following the closing of a public hearing on the Conditional Use Permit.
- d. Failure of the Planning and Zoning Commission to make a recommendation to the City Council shall be considered a recommendation for denial.

3. *City Council Review.*

- a. The City Council shall hold a public hearing, pursuant to the requirements set out in Section 11.2.2, *Public Hearings*, and Section 11.2.3, *Public Notice*, on any Conditional Use Permit prior to making its decision.
- b. The City Council may refer the application back to Planning and Zoning Commission for further consideration; continue a public hearing; or table the action. A continuance, or postponement, of the final decision of a Conditional Use Permit may not exceed 90 days.
- c. Following a public hearing, the City Council shall take final action by an affirmative vote of a majority of the body, to:
 - i. Approve the Conditional Use Permit;
 - ii. Approve with conditions; or
 - iii. Deny the Conditional Use Permit.

E. **Review Criteria.** In the review and consideration of a Conditional Use Permit, the Director, Planning and Zoning Commission and City Council shall consider the following criteria:

1. *Compliance with Zoning District Regulations.* The conditional use shall comply with the purpose and intent and all applicable regulations of the zoning district in which it is located.
2. *Compliance with Applicable Criteria of the Conditional Use.* The conditional use shall comply with the applicable criteria established in Section 3.2.1, *Restricted and Conditional Uses*.
3. *Impact on Public.* The conditional use shall not endanger, be detrimental, or otherwise adversely affect the health, safety, and welfare of the public.
4. *Operation of Existing or Permitted Uses.* The conditional use shall not impair the operation of existing or permitted uses on the subject property or on abutting properties or be injurious to property or improvements in the immediate area.
5. *Compatibility with Nearby Uses.* The conditional use shall be compatible with nearby uses in the immediate area with respect to building height, bulk and scale, setbacks, open spaces, landscaping, site development, and access and circulation features.
6. *Provision of Public Infrastructure.* The conditional use shall ensure adequate provision of streets, water, wastewater, and other public infrastructure and utilities.

7. *Consideration of Site Development.* The site development of a conditional use shall effectively mitigate impacts of the conditional use on the surrounding area and abutting properties. This includes consideration of, but not limited to, drainage, landscaping, buffering and screening, traffic control, pedestrian and vehicle access and circulation, parking, loading areas, lighting, and any other impacts the use may have on the surrounding area.
- F. **Conditions of Approval.** Upon consideration of the review criteria, the Director and Planning and Zoning Commission may recommend, and the City Council may establish, conditions of approval as deemed necessary to ensure compatibility with surrounding uses and to preserve the public health, safety and welfare, and to promote compliance with the review criteria set out in Subsection 11.3.4.E, *Review Criteria*, above.
- G. **Effect of Approval.**
 1. An affirmative approval of a Conditional Use Permit by the City Council, following the procedures set out in this Section, shall be in effect in the manner provided by the Home Rule Charter or state law.
 2. A Conditional Use Permit granted pursuant to these provisions that has not expired, shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the Conditional Use Permit application.
- H. **Modifications to Approved Conditional Use Permits.** Once a Conditional Use Permit is approved, the project shall be built and operate in the manner specified as part of the Conditional Use Permit approval. Any modification shall require the submittal of a revised application for approval.
- I. **Expiration of Conditional Use Permit.**
 1. *Expiration.* An approved Conditional Use Permit shall expire if construction has not commenced or a Site Development Plan, building permit, or Certificate of Occupancy, as required, is not issued and construction begun within two (2) years of the approval of the Conditional Use Permit or submittal date of the most recently dated application for permit or approval.
 2. *Extension.* A Conditional Use Permit subject to expire may be extended by the Director for a period not to exceed one year, provided that the extension is requested prior to the expiration date.
 3. *Discontinuance.* A Conditional Use Permit shall expire one year following the discontinuation of the use for which the permit was approved and issued. Any legally established pre-existing conditional use that is not being used at the effective date of these regulations shall expire one (1) year following the effective date of these regulations, if at the expiration date the conditional use remains inactive.
- J. **Revocation of Approved Conditional Use Permit.** The City Council may revoke approval of a Conditional Use Permit if it is determined that:
 1. The applicant misrepresented any material fact on the application or supporting materials;
 2. The conditional use fails or ceases to comply with the applicable standards, criteria, or conditions for issuance of the permit;
 3. The operation of the conditional use violates any statute, law, or regulation; or
 4. The operation of the conditional use constitutes a real or potential threat to health, safety, or welfare to the public.

Section 11.3.5 Concept Plan

- A. **Generally.** A Concept Plan is a general plan for the development of property which demonstrates the nature of the parcel proposed for development to evaluate the impacts of the development on abutting uses and

compliance with the City's long-range plans. A Concept Plan is not an individual application type but rather a required component of the following applications:

1. Conditional Use Permit;
2. Planned Development District; and
3. Master Planned Community.

- B. **Initiation of Concept Plan.** A Concept Plan may be filed as a component of one of the application types in Subsection 11.3.5.A above by the property owner(s), a person having a contractual interest in the subject property, or their authorized representative.
- 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 City Council 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:
1. *Concept Plan Components.* Concept Plans themselves are a component of an application intended to demonstrate compliance. As such, the Concept Plan shall include plans and documents that demonstrate compliance with the requirements of that application. This may include, but is not limited to, conceptual layout of the property, proposed layout of streets, blocks, drainage, general utilities, and other improvements and uses. The Director shall clearly describe and publish such required information for each application type in a form or checklist.
 2. *Site Development Plan in lieu of Concept Plan.* A Site Development Plan may be submitted with an application in lieu of a Concept Plan if the Director determines that the Site Development Plan demonstrates the intent of a Concept Plan.
- D. **Review Criteria.** In the review and consideration of a proposed Concept Plan, the Director, Planning and Zoning Commission, and City Council shall consider the following criteria:
1. Consistency with the City's Comprehensive Plan, Future Land Use Plan, Thoroughfare Plan, Sidewalk and Trail Corridor Opportunities Plan, and other applicable adopted City plans, regulations, policies, and technical manuals.
 2. Compliance with any approved and valid plat, zoning, and other agreement or ordinance applicable to the subject property.
 3. The impact of the development relating to the preservation and conservation of existing natural resources on the site and the impact on the natural resources of the abutting properties and neighborhood, including trees, environmentally-sensitive areas, watercourses and areas subject to flooding.
 4. The relationship of the development to abutting properties in terms of harmonious design, facade treatment, setbacks, building materials, maintenance of property values, and any possible negative impacts.
 5. The provision of a safe and efficient vehicular and pedestrian circulation system, consistent with the Thoroughfare Plan and Sidewalk and Trail Corridor Opportunities Plan of the City and providing access for public safety.
 6. The location, size, accessibility, and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.
 7. The adequacy of water, sewer, drainage, solid waste disposal, and other utilities necessary for essential services to residents and occupants.

- E. **Effect of Approval.** Any proposed use or development depicted on the Concept Plan shall not be deemed as formally authorized or approved by the City until a final Site Development Plan is approved for the development. The Concept Plan approval is a general acknowledgment by the City that the proposed development conforms to the City's zoning regulations and that it can be adequately served by required public facilities or services. The City's approval of a particular Concept Plan is approval of a specific project. Once a project is constructed in accordance with the Concept Plan, any use permitted in the zoning district (but not including conditional uses) is an authorized use within the project, unless such use or uses are expressly prohibited in the zoning ordinance approving the project.
- F. **Amendments to Approved Concept Plans.** Modifications to an approved Concept Plan shall be processed in the same manner as an amendment for the associated application for which the Concept Plan is a component.
- G. **Expiration of Approved Concept Plans.** Concept Plan approval shall expire as follows:
 - 1. The approval of a Concept Plan shall expire five (5) years after the approval date of the Concept Plan or five (5) years from the date of any subsequent approval in connection with the project if no progress towards completion of the project has occurred. Any Concept Plan that has an approval date that is prior to May 11, 2000 and that does not have an expiration date, and for which no progress has been made toward completion of the project as of May 11, 2000, is hereby deemed to have expired as of May 11, 2004 and shall no longer be considered as a valid project. Any other Concept Plan approval that does not have an expiration date, and where no progress towards completion of the project has occurred shall have expired on December 18, 2017.
 - 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 public meetings before the Planning and Zoning Commission and the City Council and an extension may be granted by the City Council. 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 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 shall either extend the approval of the Concept Plan or deny the request. The 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 may also specify a shorter time for extension of the approval than the original approval period.

Section 11.3.6 Zoning Variance

- A. **Generally.** In accordance with Chapter 211, Municipal Zoning, and Chapter 213, Municipal Comprehensive Plans, of the Tex. Local Gov't Code, the Zoning Board of Adjustment shall have the authority to hear and grant requests for a variance from zoning requirements of these regulations in accordance with the procedures established in this Section.
- B. **Applicability.**
 - 1. *Generally.* The Zoning Variance is intended to provide relief from the terms of the zoning regulations when, because of special circumstances applicable to the property, the strict application of the zoning regulations deprives such property of privileges enjoyed by other property in the vicinity under identical

zoning classification to ensure that any adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity in the district in which such property is situated. A Zoning Variance shall only be authorized for relief of zoning regulations that directly impact the undue hardship, such as setback dimensions, lot dimensions, floor area, structure height, building coverage, and lot coverage.

2. *Insufficient Grounds for Zoning Variance.* The following conditions do not constitute sufficient grounds for granting a Zoning Variance:
 - a. That the property be used for its highest and best use;
 - b. A financial or economic hardship, if the property can be used within the requirements of these regulations;
 - c. Self-created hardships; or
 - d. That the development regulations are an inconvenience.
 - e. Initiation of Application. An application for a Zoning Variance may be filed by the property owner(s), or a person having a contractual interest in the subject property, or their authorized representative.

C. **Application Requirements.** The Director shall ensure that a completed application has been submitted by the applicant pursuant to Section 11.2.1, *General Application Procedures*, and includes the information and materials necessary for Zoning Board of Adjustment to render an informed decision.

D. **Procedures.**

1. *Staff Review.* For each Zoning Variance request, the Director shall review the application considering the approval criteria established in Subsection 11.3.5.E, *Review Criteria*, below, and may refer the application to other departments as deemed necessary. The Director shall prepare a findings report, which shall be presented to the Zoning Board of Adjustment at the same public meeting as the public hearing and may also provide a recommendation.
2. *Zoning Board of Adjustment Review.*
 - a. The Zoning Board of Adjustment shall hold a public hearing, pursuant to the requirements set out in Section 11.2.2, *Public Hearings*, and Section 11.2.3, *Public Notice*, on an application for a Zoning Variance prior to making its decision.
 - b. After reviewing the Zoning Variance application and following a public hearing, the Zoning Board of Adjustment shall take final action by an affirmative vote of a three-fourths majority of the appointed body to:
 - i. Approve the Zoning Variance;
 - ii. Approve the Zoning Variance with conditions; or
 - iii. Deny the Zoning Variance.
 - c. The Zoning Board of Adjustment may table its recommendation to continue a public hearing; to obtain additional information; or for further consideration. Such postponement of the final decision of a Zoning Variance by Zoning Board of Adjustment may not exceed 40 days following the closing of a public hearing.
 - d. Failure of the Zoning Board of Adjustment to make a decision shall deem the Zoning Variance denied.

E. **Review Criteria.** In the review and consideration of a Zoning Variance application, the following criteria shall be considered:

1. *Hardship Shall Exist.* The applicant shall show that, due to unique conditions of the property, compliance with the requirements of these regulations will create an undue hardship and will effectively prohibit or unreasonably restrict the use of the property. Such hardship shall be unique conditions of the property (e.g., size, shape, or topography) and not be self-created by the owner/operator.

2. *Compatibility of the Zoning Variance.* The Zoning Variance shall be compatible with the City's Comprehensive Plan, the City's other long-range plans, abutting land uses, and the purpose and intent of these regulations. The Zoning Board of Adjustment shall take into account the nature of the existing or proposed use of the subject property, existing uses in the surrounding vicinity of the subject property, and the probable effect the Zoning Variance will have upon traffic conditions and upon health, safety, and welfare of the public.
 3. *Limitations on Permitted Zoning Variance.* The requested Zoning Variance shall focus on only what is necessary to relieve the undue hardship. The Zoning Variance shall not:
 - a. Allow a use not otherwise permitted in the zoning district;
 - b. Modify provisions of a restricted use or conditional use;
 - c. Increase density above that which is permitted in the zoning district;
 - d. Extend a nonconforming use of land; or
 - e. Change the zoning boundaries of the Official Zoning Map.
 4. *Impact on the Public.* The Zoning Variance shall not be detrimental to the public health, safety, and welfare or injurious to other property in the area or to the City.
- F. **Conditions of Approval.** The Zoning Board of Adjustment may establish conditions of approval as deemed necessary to ensure compatibility with abutting uses and to preserve the public health, safety and welfare, and to promote compliance with the review criteria set out in Subsection 11.3.5.E, *Review Criteria*, above.
- G. **Effect of Approval.**
1. A decision of the Zoning Board of Adjustment on a Zoning Variance shall become effective immediately.
 2. An affirmative decision on a Zoning Variance shall run with the land and shall continue to be valid upon a change of ownership of the site or structure to which it applies.
 3. In the case where a Zoning Variance is submitted in conjunction with another application, approval of the other application may be a condition of approval of the Zoning Variance.
- H. **Expiration of Zoning Variance.**
1. *Expiration.* An approved Zoning Variance shall expire if construction has not commenced or a Site Development Plan, building permit, or Certificate of Occupancy, as required, is not issued and construction begun within one year of the approval of the Zoning Variance or submittal date of the most recently dated application for permit or approval.
 2. *Extension.* A Zoning Variance subject to expire may be extended by the Zoning Board of Adjustment for a period not to exceed 90 days, provided that the extension is requested prior to the expiration date.
- I. **Revocation of Zoning Variance Approval.** Upon violation of any applicable provision of the Zoning Variance approval, or if granted subject to conditions, upon failure to comply with conditions, the Zoning Board of Adjustment may suspend or revoke a Zoning Variance upon notification to the applicant of the use of property subject to the Zoning Variance.

Section 11.3.7 Special Exception

- A. **Generally.** The City Council shall have the authority to hear and grant requests for a Special Exception from certain provisions of nonconformities in accordance with the procedures established in this Section and in Article 12, *Nonconformities*.
- B. **Applicability.** Special Exceptions shall not be contrary to the public interest and the spirit of these regulations. No Special Exception shall be granted unless the City Council finds the specific criteria identified

in these regulations are met. The only Special Exception that may be granted by the City Council are the following:

1. Extension of the time period for determining abandonment of a nonconforming situation (Subsection 12.1.5.C).
 2. Expansion or enlargement of a legally nonconforming use (Section 12.2.3).
 3. The right to continue to operate a legally nonconforming use if the value of damage or destruction is 50 percent or more of the market value of the structure on the date of the damage (Section 12.2.4).
 4. The right to operate, occupy or maintain a legally nonconforming structure if the value of damage or destruction is 50 percent or more of the market value of the structure on the date of the damage (Section 12.3.3).
 5. Expansion or enlargement of nonconforming building or structures (Section 12.3.5).
 6. Expansion of nonconforming sites (Section 12.5.4).
 7. Continuation of nonconforming setbacks of site improvements (Section 12.5.5).
- C. **Initiation of Application.** An application for a Special Exception may be filed by the property owner(s), or a person having a contractual interest in the subject property, or their authorized representative.
- D. **Application Requirements.** The Director shall ensure that a completed application has been submitted by the applicant pursuant to Section 11.2.1, *General Application Procedures*, and includes the information and materials necessary for City Council to render an informed decision.
- E. **Procedures.**
1. *Staff Review.* For each Special Exception request, the Director shall review the application considering the approval criteria established in Subsection 11.3.7.F, *Review Criteria*, below, and may refer the application to other departments as deemed necessary. The Director shall prepare a findings report, which shall be presented to the City Council at the same public meeting as the public hearing and may also provide a recommendation.
 2. *City Council Review.*
 - a. The City Council shall hold a public hearing, pursuant to the requirements set out in Section 11.2.2, *Public Hearings*, and Section 11.2.3, *Public Notice*, on an application for a Special Exception prior to making its decision.
 - b. After reviewing the Special Exception application and following a public hearing, the City Council shall take final action by an affirmative vote of a three-fourths majority of the appointed body to:
 - i. Approve the Special Exception;
 - ii. Approve the Special Exception with conditions; or
 - iii. Deny the Special Exception.
 - c. The City Council may table its recommendation to continue a public hearing; to obtain additional information; or for further consideration. Such postponement of the final decision of a Special Exception by City Council may not exceed 40 days following the closing of a public hearing on a Special Exception.
 - d. Failure of the City Council to make a decision shall deem the Special Exception denied.
- F. **Review Criteria.** The City Council shall review the application pursuant to the criteria for the applicable Special Exception established in Article 12, *Nonconformities*.
- G. **Conditions of Approval.** The City Council may establish conditions of approval as deemed necessary to ensure compatibility with abutting uses and to preserve the public health, safety and welfare, and to promote compliance with these regulations.

H. **Effect of Approval.**

1. A decision of the City Council on a Special Exception shall become effective immediately.
2. An affirmative decision on a Special Exception shall run with the land and shall continue to be valid upon a change of ownership of the site or structure to which it applies.
3. In the case where a Special Exception is submitted in conjunction with another application, approval of the other application may be a condition of approval of the Special Exception.

I. **Expiration of Special Exception.**

1. *Expiration.* An approved Special Exception shall expire if construction has not commenced or a Site Development Plan, building permit, or Certificate of Occupancy, as required, is not issued and construction begun within one year of the approval of the Special Exception or submittal date of the most recently dated application for permit or approval.
2. *Extension.* A Special Exception subject to expire may be extended by the City Council for a period not to exceed 90 days, provided that the extension is requested prior to the expiration date.

J. **Revocation of Special Exception Approval.** Upon violation of any applicable provision of the Special Exception approval, or if granted subject to conditions, upon failure to comply with conditions, the City Council may suspend or revoke a Special Exception upon notification to the applicant of the use of property subject to the Special Exception.

Section 11.3.8 Floodplain Development Variance

A. **Generally.** The City Council shall hear and render judgment on variances from the requirements of Division 5.2, *Flood Damage Prevention*.

B. **Application Requirements.** The Director shall ensure that a completed application has been submitted by the applicant pursuant to Section 11.2.1, *General Application Procedures*, and includes the information and materials necessary for City Council to render an informed decision.

C. **Applicability.** The applicability of this Section is subject to the following exceptions and limitations:

1. The City Council shall hear and render judgment on a Floodplain Development Variance only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of these regulations.
2. Floodplain Development Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.
3. Floodplain Development Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the historic structure's continued designation as a historic structure and the Floodplain Development Variance is the minimum necessary to preserve the historic character and design of the structure.
4. Floodplain Development Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

D. **Prerequisites for Granting Floodplain Development Variances.**

1. Floodplain Development Variances shall only be issued upon a determination that the Floodplain Development Variance is the minimum necessary, considering the flood hazard, to afford relief.
2. Floodplain Development Variances shall only be issued upon:
 - a. Showing a good and sufficient cause;

- b. A determination that failure to grant the Floodplain Development Variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a Floodplain Development Variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
3. Floodplain Development Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- a. The criteria outlined in Division 5.2, *Flood Damage Prevention*, are met; and
 - b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. **Review Criteria.** Floodplain Development Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the prerequisites in Subsection 11.3.8.D, *Prerequisites for Granting Floodplain Development Variances*, have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the Floodplain Development Variance increases.
- F. **Conditions of Approval.** Upon consideration of the factors noted above and the intent of this Article, the City Council may attach such conditions to the granting of Floodplain Development Variances as it deems necessary to further the purpose and objectives of Division 5.2, *Flood Damage Prevention*.
- G. **Notification.** Any application to which a Floodplain Development Variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- H. **Annotation and Recordkeeping.** The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report Floodplain Development Variances to the Federal Emergency Management Agency upon request.

Section 11.3.9 Text Amendment

- A. **Generally.** The City Council may, by ordinance, amend, supplement, or change the text of these regulations pursuant to this Section.
- B. **Initiation of a Text Amendment.**
- 1. *Generally.* A text amendment may be initiated by the City Council by an affirmative vote of the majority of the body.
 - 2. *Petitions and Recommendations.*
 - a. The Director may recommend to the City Council an initiation of a text amendment.
 - b. A citizen or property owner may petition the City Council to consider the initiation of a text amendment.
- C. **Procedures.** All proposed text amendments shall follow the procedures set out in this Section.
- 1. *Staff Review.* For each text amendment, the Director shall prepare final draft language of the proposed text amendment that meets the approval criteria established in Subsection 11.3.9.D, *Review Criteria*, below, and may refer the application to other departments as deemed necessary. The Director shall prepare a findings report, which shall be presented to the Planning and Zoning Commission and City Council at the same public meeting as the public hearing and may also provide a recommendation.

2. *Planning and Zoning Commission Review.*

- a. The Planning and Zoning Commission shall hold a public hearing, pursuant to the requirements set out in Section 11.2.2, *Public Hearings*, and Section 11.2.3, *Public Notice*, on any text amendment prior to making its recommendation to City Council.
- b. After reviewing the text amendment and following a public hearing, the Planning and Zoning Commission shall make a final recommendation to the City Council by an affirmative vote of a majority of the appointed body to:
 - i. Approve the text amendment;
 - ii. Approve the text amendment with stated modifications; or
 - iii. Deny the text amendment.
- c. The recommendation to City Council shall be considered the final report as required by Section 211.007(b) of the Tex. Local Gov't Code. Failure of the Planning and Zoning Commission to make a recommendation and final report to the City Council, shall be deemed to be a recommendation of denial.

3. *City Council Review.*

- a. The City Council shall hold a public hearing, pursuant to the requirements set out in Section 11.2.2, *Public Hearings*, and Section 11.2.3, *Public Notice* on any text amendment prior to making its decision.
- b. The City Council may refer the proposed amendment back to Planning and Zoning Commission for further consideration; continue a public hearing; or table the action.
- c. Following a public hearing, the City Council shall take final action by an affirmative vote of a majority of the body, to:
 - i. Approve the text amendment;
 - ii. Approve the text amendment with stated modifications; or
 - iii. Deny the text amendment.

D. **Review Criteria.** In the review and consideration of a proposed text amendment, the Director, Planning and Zoning Commission, and City Council shall consider the following criteria.

- 1. Whether the proposed text amendment promotes the health, safety, and welfare of the City;
- 2. Whether the proposed text amendment promotes the safe, orderly, and healthful development of the City; and
- 3. Whether the proposed text amendment is consistent with the City's Comprehensive Plan and other long-range plans of the City.

E. **Effect of Approval.** An affirmative approval of a text amendment by the City Council shall amend the text of these regulations in the manner provided by the Home Rule Charter or state law.

DIVISION 11.4 SUBDIVISION PERMITS AND APPROVALS

Section 11.4.1 General Procedures

A. **Generally.** This Section establishes the procedures and application requirements for all subdivision-related applications.

B. Statutory Procedures.

1. *Approval Required.* Before any land is filed for record with the county clerk, the property owner shall apply for and secure City Council approval of the required subdivision plat, in accordance with the following procedures, unless otherwise provided within these regulations.
 - a. Minor subdivisions may be approved for residential or nonresidential properties. Minor Plat approval by the City Manager (or designee) requires the submission of a Final Plat drawing and other submission materials required by Section 11.4.4, *Minor Plat*. Lots may be conveyed or sold only when the plat has been approved by the City Manager and the plat has been filed with the appropriate county.
 - 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 reviewed by the Planning and Zoning Commission 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.
2. *Zoning Requirements.* A property within the City's corporate limits that is being proposed for platting or development shall be properly zoned by the City prior to submission of an application for approval of any plat.
 - a. The proposed development layout or subdivision design shown on the proposed plat shall be in conformance with all standards and requirements prescribed in the City's zoning ordinance and these regulations.
 - b. Noncompliance with the requirements of the zoning district in which the subject property is located, or lack of the proper zoning, shall constitute grounds for denial of the plat.
 - c. In situations where the zoning on a particular piece of property cannot be ascertained by the City, the burden of proof regarding the property's zoning shall rest with the property owner. Proof of proper zoning shall consist of appropriate documentation, such as a copy of the ordinance establishing the zoning, which shall be reviewed by City officials as to its validity and authenticity.
3. *Comprehensive Plan.* A plat submitted for a property located within the City's corporate limits or extraterritorial jurisdiction shall be in accordance with the City's Comprehensive Plan, including all adopted water, sewer, storm drainage, future land use, park, recreation, open space and thoroughfare plans.
4. All plats shall be prepared by a licensed or registered professional land surveyor.
5. *Submission Procedures and City Review Process for All Types of Plats.*
 - a. *Submission Timing.*
 - i. For the purpose of these regulations, the official "filed" date for any type of plat shall be the date upon which an application is determined to be administratively complete in accordance with Subsection 11.2.1.E, *Determination of Administrative Completeness*, after which the statutory period required for approval or disapproval of the plat shall commence. Plat applications which do not include all required information and materials required by the application form will be considered administratively incomplete, will not be accepted as

“filed” by the City, and will not be scheduled on a Commission agenda until the proper information is provided to City officials.

- ii. An administratively complete plat application shall be received by the City at least twenty-four (24) calendar days, but no more than thirty (30) calendar days prior to the Commission meeting at which it is to be considered, unless the applicant waives the thirty-day requirement for action on the plat in writing. Due to state-mandated notification requirements, any residential Replat that requires public notification (see Section 11.4.6, *Replat*) shall be received by the City at least thirty (30) calendar days prior to the Commission meeting at which it is to be considered. Such Replat application shall also be accompanied by a written waiver of the thirty-day requirement for action on the plat due to timing constraints imposed by publication of the required notice in the City's official newspaper.
- 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 City Council to render an informed decision.
 - c. *Technical Review.*
 - i. Upon receipt of an administratively complete application, the City shall commence technical compliance review of the submitted plat. This may include a review by a development review committee, which may be designated by the City Manager.
 - ii. Following technical review of the plat and supporting documents, City staff shall inform the applicant of any revisions deemed necessary for the plat to be determined to be technically complete, including the kind and extent of improvements to be installed.
 - iii. The applicant shall submit a corrected version of the plat (and Construction Plans, if applicable) to the City no later than fourteen (14) calendar days prior to the Commission meeting for which it is scheduled. Failure to submit the corrected plat to the City at least fourteen (14) calendar days prior to the Commission meeting shall cause the plat application to be forwarded to the Commission as is without the necessary corrections.
 - iv. A plat application shall not be deemed to be technically complete until staff has determined the plat and any supporting documents meet all applicable requirements of these regulations, are in compliance with any other applicable City or State requirements, and contain all required elements mandated by the Texas Local Government Code, Section 212.004(b). A plat application presented to the Commission prior to staff determining the plat to be technically complete shall be subject to denial.
 - v. The applicant may request, in writing, a waiver of the thirty-day approval requirement in order to allow him or her more time to correct deficiencies, address concerns, or otherwise improve the plat pursuant to the City's regulations at any time prior to the Commission meeting at which the plat is scheduled for consideration. After receipt of the request, the City may delay action on the plat beyond thirty (30) calendar days following the date the application is deemed administratively complete.
 - d. *Action by the Commission and City Council.*
 - i. All subdivision plat applications (except Minor Plats and Amending Plats) shall be reviewed by the 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 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. The City Council shall review and take action on the plat application within thirty (30) calendar days following the Commission’s action. Affirmation 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 Commission prior to consideration of the Final Plat by the Commission, then the 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, except as otherwise provided herein. By 12:01 a.m. on the two hundred seventieth day following 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	<p>All of the following shall occur within one hundred and eighty-three (183) calendar days following Preliminary Plat approval:</p> <ul style="list-style-type: none"> 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. <p>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).</p>
Final Plat	<p>Final Plat reviewed by the Planning and Zoning Commission and approved by the City Council 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 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 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 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 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 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 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

- A. **Generally.** This Section establishes the procedures and application requirements for Preliminary Plats.
- B. **Procedures.**
 1. *Generally.* Following the pre-application meeting (as described in Section 11.2.1, *General Application Procedures*) regarding the overall general development strategy for the property, the applicant shall prepare a Preliminary Plat for the construction of the subdivision and all associated public improvements and other supplementary materials, as required by these regulations or by the City.
 2. *Preliminary Plat Area.*
 - a. The Preliminary Plat shall constitute only that portion of the property or subdivision which the applicant proposes to construct and record provided, however, that such portion conforms to all the requirements of these regulations and with any other applicable regulations and codes of the City.
 - b. A Preliminary Plat, shall include all contiguous property under the ownership or control of the applicant unless otherwise approved by the City Manager (or designee) and the Director. It may contain more than one (1) phase which, if so, shall be clearly identified.
 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 City Council meetings, 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 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 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 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.
6. *Approval Required for Construction.* No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the Preliminary Plat and Construction Plans by the City, nor prior to issuance of all appropriate construction permits by the City and other appropriate entities or agencies. The applicant shall also provide copies of letters from applicable local utility companies stating that each utility company has reviewed the Preliminary Plat and stating any requirements, including easements, they may have. This requirement may be deferred until the Final Plat is submitted if such deferral request is submitted to the City in writing and approved by the Director prior to the Commission meeting at which the Preliminary Plat will be considered. No excavation, grading, tree removal or site clearing activities shall occur prior to approval of the Preliminary Plat and the Construction Plans. However, removal or clearing of brush, undergrowth or man-induced debris, may be authorized by the Director, at his or her discretion, if such request is submitted in writing by the property owner or developer, if such activities are in conformance with all applicable City ordinances and codes, and if such activities will not be detrimental to the public health, safety or general welfare.
7. *Construction Plans.*
 - a. With submittal of the Preliminary Plat application, the applicant shall submit the required number of sets of the complete Construction Plans for all streets, alleys (if any), storm sewers and drainage structures, water and sanitary sewer facilities, screening and retaining walls, landscaping and irrigation, and any other required public improvements for the area covered by the Preliminary Plat.
 - b. The Construction Plans shall also contain any plans deemed necessary to show or document compliance with the City's ordinances pertaining to nonpoint source pollution control, and any other applicable codes and ordinances of the City that are related to development of a land parcel.

- c. Cost estimates for the completion of all public improvements shall also be submitted with the Construction Plans for review (and approval, if necessary) by the City Engineer.
 - d. For the purposes of these regulations, complete sets of Construction Plans shall include those items listed on a form provided by the Director, as well as any additional plans or sheets deemed necessary and requested by the City Engineer.
 - e. The applicant shall have the Construction Plans prepared by their own professional engineer(s), subject to approval of the Construction Plans by the City Engineer. The City Engineer (or designee) shall review, or cause to be reviewed, the Construction Plans and specifications and if approved, shall mark them "approved" and provide an approved copy to the applicant for use during construction. If not approved, then the deficiencies shall be noted (on the plans themselves and/or in memo format, a copy of which shall also be retained by the city) and returned to the applicant for correction, whereupon the applicant's engineer shall correct the plans as requested and shall resubmit them back to the City Engineer for re-review. A full set of the City-approved and stamped Construction Plans shall be available for inspection on the job site at all times.
 - f. After approval of the Preliminary Plat by the 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.
 - g. Construction Plans shall be prepared by or under the direct supervision of a professional engineer licensed in the State of Texas, as required by state law governing such professions and in accordance with these regulations and the City's Technical Construction Standards and Specifications (TCSS). All Construction Plans submitted for City review shall be dated and shall bear the responsible engineer's registration number, his or her designation of "professional engineer" or "P.E.", and the engineer's seal. Construction Plans shall be approved by the City Engineer only when such plans meet all of the requirements of these regulations and the TCSS.
 - h. As part of the Construction Plans, a drainage plan showing how the drainage of each lot relates to the overall drainage plan for the plat under consideration shall be submitted. The drainage plan shall be made available to each builder within the proposed subdivision and all builders shall comply with the drainage plan.
8. *Effect of Approval.* Approval of a Preliminary Plat authorizes the property owner, upon fulfillment of all requirements and conditions of approval and upon 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 an application for Final Plat approval (see Section 11.4.3, *Final Plat*).
9. *Revisions to Approved Preliminary Plat.* It is generally recognized that minor revisions to the Preliminary Plat will probably be needed before the Final Plat is approved and filed at the county. Such minor revisions as slight enlargement or shifting of easements or lot lines, addition of private or franchise utility easements, 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 without having to re-approve the Preliminary 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 reconfiguration of lot lines or easements, relocation of driveways or 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 Preliminary 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 Preliminary Plat, and such re-approval shall 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 Preliminary Plat approval, and other requirements.

Section 11.4.3 Final Plat

- A. **Generally.** This Section establishes the procedures and application requirements for Final Plats.
- 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 Planning and Zoning Commission and City Council upon the Preliminary Plat. The Final Plat shall not be reviewed by the Planning and Zoning Commission and approved by the City Council 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 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 City Council unless the following standards have been met:
1. The plat substantially conforms with the approved Preliminary Plat and other studies and plans, as applicable;
 2. The construction and installation of required public improvements and City utilities has been completed and the improvements have been accepted by the City as conforming to the City's regulations and design standards (or the proper assurances for construction of the improvements have been submitted and approved by the City, per Division 6.4, *Requirements for Acceptance of Subdivisions by the City of Marble Falls*); and
 3. The plat conforms to the Comprehensive Plan and to applicable zoning, subdivision and any other applicable codes or ordinances of the City that are related to development of a land parcel.
- E. **Letter and Certification of Compliance.** When all of the improvements are found to be constructed and completed in accordance with the approved plans and specifications and with the City's standards, and

upon receipt by the City of Marble Falls of a maintenance bond or certificate of deposit in accordance with Division 6.4, *Requirements for Acceptance of Subdivisions by the City of Marble Falls*, of this Division from each contractor, three (3) sealed Sets Of "As Built" (Or "Record Drawing") plans and one (1) sealed set of "As-Built" or "Record Drawing" mylars and a digital copy of all plans (in a format as determined by the City) shall be submitted with a letter stating the contractor's compliance with these regulations, and bearing sealed certification by the design engineer that all public improvements have been constructed in substantial compliance with all City construction standards set forth in the TCSS and other applicable City design documents. After such letter and certification are received, the City Council shall receive and accept for the City of Marble Falls the title, use and maintenance of the improvements according to Division 6.4, *Requirements for Acceptance of Subdivisions by the City of Marble Falls*. The Final Plat shall not be approved or filed at the county prior to receipt of the above letter and certification and any other required items, nor prior to acceptance of the improvements by the City, except as provided for in this Division.

F. Timing of Public Improvements.

1. The 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 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 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 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 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 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 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 re-approve 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 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 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 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

- A. **Generally.** This Section establishes the procedures and application requirements for Minor Plats.
- B. **Application and Procedural Requirements.** A Minor Plat shall meet all of the informational and procedural requirements set forth for a Final Plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required submission fee (per the City's current fee schedule), and a certificate or some other acceptable form of verification from the appropriate appraisal district showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Subsection 11.2.1.H, *Payment of All Indebtedness Attributable to a Specific Property*. A copy of all application materials for a Minor Plat shall be submitted to the Director for review in the same manner as for a Final Plat, or the application shall be deemed incomplete.
- 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.
- D. **Notice and Public Hearing Not Required for Minor Plat.** Notice, a public hearing, and the approval of other lot owners are not required for the approval a Minor Plat.
- E. **Document Title.** The Minor Plat shall be entitled and clearly state that it is a "Minor Plat."
- F. **Filing Minor Plats at the County.** The Minor Plat shall be filed at the county in the same manner as prescribed for a Final Plat, and approval of a Minor Plat shall expire if all filing materials are not submitted to the City and if the plat is not filed at the county within the time periods specified for a Final Plat.

Section 11.4.5 Development Plat

- A. **Generally.** This Section establishes the procedures and application requirements for Development Plats.
- B. **Authority.** This Section is adopted pursuant to the Texas Local Government Code, Chapter 212, Subchapter B, and Sections 212.041 through 212.050, as amended.
- C. **Applicability.** For purposes of this Section, the term "development" means the construction of any building, structure or improvement of any nature (residential or nonresidential), or the enlargement of any external dimension thereof. This Section shall apply to any land lying within the City or within its extraterritorial jurisdiction in the following circumstances:
1. The development of any tract of land which has not been platted or replatted prior to the effective date of these regulations, unless expressly exempted herein; or
 2. The development of any tract of land for which the property owner claims an exemption from the City's subdivision ordinance, including requirements to Replat, which exemption is not expressly provided for in such regulations; or
 3. The development of any tract of land for which the only access is a private easement or street; or
 4. The division of any tract of land resulting in parcels or lots each of which is greater than five (5) acres in size, and where no public improvement is proposed to be dedicated or constructed.
- D. **Exceptions.** No Development Plat shall be required, where the land to be developed has received Final Plat or Replat approval prior to the effective date of these regulations. The City Council may, from time to time, exempt other development or land divisions from the requirements of this Section.
- 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 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 otherwise enforce the City's building code in the City's extraterritorial jurisdiction in relation to any Development Plat required by this subdivision ordinance.
- F. **Standards of Approval.** The Development Plat shall not be approved until the following standards have been satisfied:
1. The proposed development conforms to all City plans, including but not limited to, the Comprehensive Plan, utility plans and applicable capital improvements plans;
 2. The proposed development conforms to the requirements of the zoning (if located within the City's corporate limits) and subdivision regulations of this Code;
 3. The proposed development is adequately served by public facilities and services, parks and open space in conformance with City regulations;
 4. The proposed development will not create a safety hazard on a public roadway (such as by not providing adequate on-site parking or vehicle maneuvering space for a restricted-access/gated entrance);
 5. Appropriate agreements for acceptance and use of public dedications to serve the development have been tendered; and
 6. The proposed development conforms to the design and improvement standards contained in these regulations and in the City's TCSS, and to any other applicable codes or ordinances of the City that are related to development of a land parcel.

- G. **Conditions.** The 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 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.
- I. **Submittal Requirements.**
 - 1. In addition to all information that is required to be shown on a Final Plat, a Development Plat shall:
 - a. Be prepared by a registered professional land surveyor;
 - b. Clearly show the boundary of the Development Plat;
 - c. Be accompanied by a Site Development Plan showing each existing or proposed building, structure or improvement or proposed modification of the external configuration of the building, structure or improvement involving a change therein (the Site Development Plan shall also show all other Site Development Plan items as required by these regulations for informational purposes);
 - d. Show all easements and rights-of-way within or adjacent to the Development Plat; and
 - e. Be accompanied by the required number of copies of the plat, a completed application form, the required submission fee (per the City's current fee schedule), and a certificate or some other form of verification from the appropriate appraisal district showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Subsection 11.2.1.H, *Payment of All Indebtedness Attributable to a Specific Property*.
 - 2. A copy of all application materials for a Development Plat shall be simultaneously submitted to the Director for review in the same manner as for a Final Plat, or the application shall be deemed incomplete.

Section 11.4.6 Replat

- A. **Generally.** This Section establishes the procedures and application requirements for a Replat.
- B. **Replat Required.** Unless otherwise expressly provided for herein, a property owner who proposes to replat any portion of an already approved and filed Final Plat, other than to amend or vacate the plat, shall first obtain approval for the Replat under the same standards and by the same procedures prescribed for the Final Platting of land by this Division. All improvements shall be constructed in accordance with the same requirements as for a construction or Final Plat, as provided herein.
- 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:
 - 1. Is signed and acknowledged by only the owners of the property being replatted;
 - 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
 - 3. Does not attempt to amend or remove any covenants or restrictions previously incorporated in the Final Plat.

- D. **Previous Requirements or Conditions of Approval Which are Still Valid.** In addition to compliance with Subsection 11.4.6.C, *Replatting Without Vacating Preceding Plat*, above, a Replat without vacation of the preceding plat shall conform to the requirements of this Section if:
1. During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
 2. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.
- E. **Notice of Public Hearing.** Notice of the public hearing required under Subsection 11.4.6.C, *Replatting Without Vacating Preceding Plat*, above shall be given before the fifteenth calendar day before the date of the hearing by publication in an official newspaper or a newspaper of general circulation in Burnet County. Notice of the public hearing shall also be given by written notice before the fifteenth calendar day before the date of the hearing, with a copy or description of any requested waivers/suspensions, sent to the property owners, as documented on the most recently approved ad valorem tax roll of the City, of lots that are in the original subdivision and that are within two hundred (200) feet of the lot(s) to be replatted. In the case of a subdivision in the extraterritorial jurisdiction, the most recently approved county tax roll shall be used. The written notice may be delivered by depositing the notice, properly addressed with appropriate postage paid, in a post office or postal depository within the boundaries of the City.
- 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.
- G. **Exception.** Compliance with Subsection 11.4.6.D, *Previous Requirements or Conditions of Approval Which are Still Valid*, above is not required for approval of a Replat for any part of a preceding plat if the area to be replatted was designated or reserved for other than single- or two-family (i.e., duplex) residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat. For example, for a Replat involving nonresidential property, a public hearing shall be held, pursuant to Subsection 11.4.6.C, *Replatting Without Vacating Preceding Plat*, above, but notice of the hearing does not have to appear in the newspaper and written notices do not have to be mailed to individual property owners within two hundred (200) feet of the subject property.
- H. **Requirement to Include Original Subdivision and Lot Boundaries.** Any Replat which adds or deletes lots shall include the original subdivision and lot boundaries. If a Replat is submitted for only a portion of a previously platted subdivision, the Replat shall reference the previous subdivision name and recording information and shall state on the Replat the specific lots which have changed along with a detailed "purpose for Replat" statement.
- I. **Public Hearing Not Required for Replat of Vacated Plat.** If the previous plat is vacated as prescribed in Section 212.013 of the Texas Local Government Code, as amended, and as provided in Section 11.4.9, *Plat Vacation*, a public hearing is not required for a Replat of the area vacated. It would, instead, be submitted as a "Final Plat" and reviewed accordingly.

- J. **Replat of Subdivisions.** The Replat of the subdivision shall meet all the requirements for a Final Plat for a new subdivision that may be pertinent, as provided for herein.
- K. **Document Title.** The title shall identify the document as a "Final Plat" of the "_____ Addition, Block _____, Lot(s) _____, Being a Replat of Block _____, Lot(s) _____ of the _____ Addition, an addition to the City of Marble Falls, Texas, as recorded in Volume/Cabinet _____, Page/Slide _____ of the Plat Records of Burnet County, Texas".
- L. **Application Submittal.**
1. An application submittal for a Replat shall be the same as for a Final Plat and shall be accompanied by the required number of copies of the plat, a completed application form, the required submission fee (per the City's current fee schedule), and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Subsection 11.2.1.H, *Payment of All Indebtedness Attributable to a Specific Property*.
 2. A copy of all application materials for a Replat shall be simultaneously submitted to the Director for review in the same manner as for a Final Plat, or the application shall be deemed incomplete.
- M. **Filing Replat at the County.** The Replat shall be filed at the county in the same manner as prescribed for a Final Plat, and approval of a Replat shall expire if all filing materials are not submitted to the Director, and if the Replat is not filed at the county within the time periods specified for a Final Plat.

Section 11.4.7 Amending Plat

- A. **Generally.** This Section establishes the procedures and application requirements for Amending Plats.
- B. **Submission and Procedural Requirements.** Other than noted, the procedure for approval of plat amendment(s) shall be the same as in Section 11.4.3, *Final Plat*. An Amending Plat shall meet all of the informational and procedural requirements set forth for a Final Plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required submission fee (per the City's current fee schedule), and a certificate or some other acceptable form of verification from the appropriate appraisal district showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Subsection 11.2.1.H, *Payment of All Indebtedness Attributable to a Specific Property*. A copy of all application materials for an Amending Plat shall be submitted to the Director for review in the same manner as for a Final Plat, or the application shall be deemed incomplete.
- 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:
1. Correct an error in a course or distance shown on the preceding plat;
 2. Add a course or distance that was omitted on the preceding plat;
 3. Correct an error in a real property description shown on the preceding plat;
 4. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 5. Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
 6. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;

7. Correct an error in courses and distances of lot lines between two adjacent lots if:
 - a. Both lot owners join in the application for amending the plat;
 - b. Neither lot is abolished;
 - c. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
 - d. The amendment does not have a material adverse effect on the property rights of the owners in the plat;
8. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
9. Relocate one (1) or more lot lines between one (1) or more adjacent lots if:
 - a. The owners of all those lots join in the application for Amending the plat;
 - b. The amendment does not attempt to remove or modify recorded covenants or restrictions or easements; and
 - c. The amendment does not increase the number of lots; or
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:
 - 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 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.

E. **Notice and Public Hearing Not Required for Amending Plat.** Notice, a public hearing, and the approval of other lot owners are not required for the approval and issuance of an Amending Plat.

F. **Document Title.** The Amending Plat shall be entitled and clearly state that it is an "Amending Plat". It shall also state the specific lots affected or changed as a result of the Amending Plat and shall include the original subdivision plat boundary. All references to "Final Plat" or "Replat" shall be removed.

G. **Filing Amending Plats at the County.** The Amending Plat shall be filed at the county in the same manner as prescribed for a Final Plat, and approval of an Amending Plat shall expire if all filing materials are not submitted to the City, and if the plat is not filed at the county within the time periods specified for a Final Plat.

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 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:

1. Granting the waiver/suspension will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the waiver/suspension will not prevent the orderly subdivision of other property in the vicinity;
2. The conditions upon which the request for a waiver/suspension is based are unique to the property for which the waiver/suspension is sought, and are not applicable generally to other property;
3. Because of the particular physical surroundings, shape and/or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;
4. The waiver/suspension will not in any manner vary the provisions of the zoning regulations or Comprehensive Plan or any other adopted plan(s) or ordinance(s) of the City;
5. An alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein.

B. **Criteria for Waivers/Suspensions from Development Exactions.** Where 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 a conditional (or temporary) waiver/suspension from that provision in conjunction with the Preliminary Plat approval by the City Council. All waivers/suspensions shall have final approval or disapproval by the City Council. Any waiver or suspension recommended for denial by the Planning and Zoning Commission shall require a three-fourths ($\frac{3}{4}$) majority for approval by the City Council.
3. Such findings of the City Council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the 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 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 City Council 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

- A. **Generally.** This Section establishes the procedures and application requirements for vacating a plat.
- 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 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).
- C. **By All Lot Owners.** If some or all of the lots covered by the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.
- 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 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 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 City Council, on its motion, may vacate the plat of an approved subdivision or addition when:
 - a. No lots within the approved plat have been sold within five (5) years following the date that the plat was signed by the City;
 - b. The property owner has breached an improvement agreement and the City is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by property owner or its successor; or
 - c. The plat has been of record for more than five (5) years and the City determines that the further sale of lots within the subdivision or addition presents a threat to public health, safety or welfare, except that the vacation shall apply only to lots owned by the property owner or its successors.
 - 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 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 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.

DIVISION 11.5 ADMINISTRATIVE PERMITS AND APPROVALS

Section 11.5.1 Land Disturbance Permit

- A. **Generally.** A Land Disturbance Permit is intended to control erosion and sedimentation runoff and protect the natural topography and vegetation of land, including natural drainage conditions, protected trees, and significant tree stands.
- B. **Applicability.** A Land Disturbance Permit is required for parcels proposed for development in the City limits and extraterritorial jurisdiction when any of the following, but not limited to the following, exist:
1. Any excavation, fill, or land disturbing activity greater than two feet in depth.
 2. Construction, paving, or re-paving of any driveway, private street, parking lot, sidewalk, or path.
 3. Construction of any paved or improved hard surface larger than 1,000 square feet in area.
 4. Construction or installation of any sewer pipe, swale, or ditch for drainage purposes, except footing tiles or roof drainage interior to a structure.
- C. **Exceptions.** Except as required by nonpoint source pollution control plan review, a Land Disturbance Permit is not required for the following:
1. A single-family detached or duplex dwelling unit located on an individually platted lot in an improved subdivision;
 2. Farm and ranch uses; or
 3. Development that has an approved Site Development Plan and the land disturbance is in compliance with the plan.
- D. **Application Requirements.** The Director shall ensure that a completed 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 City Engineer to render an informed decision.
- E. **Review Criteria.** A Land Disturbance Permit shall be issued if the City Engineer finds that:
1. All applicable requirements of this Section and these regulations have been met; and
 2. Any required state or federal approvals have been granted.
- F. **Conditions of Permit.** All Land Disturbance Permits shall be issued upon the following conditions:
1. The applicant shall install and maintain all erosion control measures;
 2. The applicant shall maintain all road drainage systems, stormwater drainage systems, and other facilities;
 3. The applicant shall remove sediment resulting from land disturbing activities from abutting surfaces or drainage courses;
 4. The applicant shall allow the designated City staff to enter the site to verify compliance or to perform any work necessary to bring the site to compliance with approved permit; and
 5. The applicant shall submit a revised Land Disturbance Permit for approval if the nature of the project changes from that proposed under the approved permit.

Section 11.5.2 Floodplain Development Permit

- A. **Generally.** Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her.
- B. **Applicability.** A Floodplain Development Permit shall be required for development that encroaches in the floodplain.
- C. **Application Requirements.**
1. A completed application pursuant to Section 11.2.1, *General Application Procedures*.
 2. Applications for a Floodplain Development Permit may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
 - a. Elevation (in relation to mean sea level), of the lowest floor (including basement, if applicable) of all new and substantially improved structures;
 - b. Elevation in relation to mean sea level to which any nonresidential structure shall be flood-proofed;
 - c. A certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure shall meet the flood-proofing criteria of Section 5.2.3, *Provisions for Flood Hazard Reduction*;
 - d. Description of the extent to which any watercourse or natural drainage will be altered or relocated because of proposed development; and
 - e. Maintain a record of all such information in accordance with Subsection 11.1.12.B.1, *Recordkeeping*.
- D. **Review Criteria.** The Floodplain Administrator shall decide to approve, approve with conditions, or deny a Floodplain Development Permit based on all applicable provisions of Division 5.2, *Flood Damage Prevention*, and the following relevant factors:
1. The danger to life and property due to flooding or erosion damage;
 2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 3. The danger that materials may be swept onto other lands to the injury of others;
 4. The compatibility of the proposed use with existing and anticipated development;
 5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 8. The necessity to the facility of a waterfront location, where applicable;
 9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
 10. The relationship of the proposed use to the City's Comprehensive Plan for that area.

Section 11.5.3 Site Development Plan

- A. **Generally.** A Site Development Plan is intended to demonstrate compliance with the development standards and other requirements, as applicable, of these regulations. Approval of the Site Development Plan shall be the basis for site development and issuance of a Building Permit but does not release the applicant of the

responsibility to submit plans for a Building Permit. A Site Development Plan may be submitted concurrently to or with application for a Building Permit.

B. Applicability.

1. Approval of a Site Development Plan shall be required for the development of any property within the City limits, except as identified in Subsection 11.5.3.C, *Exceptions*, below.
2. For property located in the City’s extraterritorial jurisdiction, approval of a Site Development Plan may be required in accordance with Chapter 28, Nonpoint Source Pollution Control, of the City’s Code of Ordinances.

C. Exceptions. Other than nonpoint source pollution control plan review, a Site Development Plan shall not be required for:

1. A single-family detached or duplex dwelling unit located on an individually platted lot in an improved subdivision; or
2. A change of use on a property that requires no required site upgrades pursuant to Division 12.5, *Nonconforming Sites*.

D. Application Requirements.

1. *Generally.* The Director shall ensure that a completed 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 Director to render an informed decision.
2. *Plan Components.* A completed Site Development Plan application shall be comprised of the following components, unless determined by the Director ahead of the application to not be applicable to a particular site. The details of each component shall be further described in forms approved by the Director and made publicly available. Compliance plans for architecture, lighting, and signage (if necessary) may be deferred to the submission of the Building Permit.
 - a. Cover sheet;
 - b. Dimensional site plan;
 - c. Utility plan;
 - d. Architecture plan;
 - e. Tree preservation plan;
 - f. Landscape plan;
 - g. Lighting plan;
 - h. Grading and drainage plan;
 - i. Flood study; and
 - j. Phasing plan.

E. Site Development Plan Review.

1. *Review Criteria.* The Director shall approve the Site Development Plan as long as it is determined that the plan is in compliance with these regulations, the City’s Comprehensive Plan, and any other adopted City plans, regulations, policies, and technical manuals.
2. Site Development Plan review and evaluation shall be performed with respect to the following:
 - a. The impact of the development to natural resources and the environment;
 - b. A safe and efficient vehicular and pedestrian circulation system;
 - c. The location and configuration of parks and open space areas; and
 - d. The adequacy of public utilities essential for occupants of the site.

F. **Effect of Approval.** The approval of the Site Development Plan shall be considered authorization to proceed to the application for a Building Permit and other applicable construction permits.

G. **Expiration of Approved Site Development Plans.**

1. *Generally.*

- a. Site Development Plan approval shall expire two years after the date of approval of the Site Development Plan. If the Site Development Plan includes a phasing plan, each phase shall expire two years from the approval of the prior phase and in no case shall the overall phasing plan exceed 10 years.
- b. Any existing Site Plan that has an approval date that is prior to May 11, 2000 and that does not have an expiration date, and for which no progress has been made toward completion of the project as of May 11, 2000, is hereby deemed to have expired as of May 11, 2004 and shall no longer be considered as a valid project. Any other Site Plan approval that does not have an expiration date, and for which no progress has been made toward completion of the project has occurred shall have expired on December 18, 2014.

2. *Extension of Approved Site Development Plan.*

- a. Prior to the expiration of an approved Site Development Plan, an applicant may petition the City, in writing, for a one-time extension of the Site Development Plan approval for a period of one year.
- b. The extension shall be considered and approved in the same manner and under the same approval authority as that of the original Site Development Plan (Site Plan) approval.
- c. In determining whether to grant a request for extension, the Director or 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 and ensure that the extension will have no negative impacts on the property, abutting uses, nearby public infrastructure, and will not be contrary to the public interest.
- d. Additional conditions as are necessary to ensure compliance with the original conditions of approval and to protect the public health, safety and welfare may be applied to the extension.
- e. Any such extension must be approved prior to the expiration of the approval, and if not approved then the Site Development Plan (Site Plan) will expire as set out in Subsection 11.5.3.G.1 above, unless the applicant demonstrates that progress toward completion of the project has occurred as set out in herein.

H. **Amendments to Approved Site Development Plans.**

1. *Minor Amendments.* Minor amendments to approved Site Development Plans do not require further applications and may be administratively approved provided that such amendments do not substantially change the design or nature of the original Site Development Plan, have an adverse impact on the public, abutting properties, or persons who would occupy or use the property, and would not otherwise result in a violation of these regulations, or other adopted City regulations, policies, and technical manuals. The Director shall determine whether an amendment is considered minor but shall generally be limited as follows:

- a. Minor adjustments to the location or configuration of roadways, sidewalks, utilities, parking areas, buildings, landscape features, ponds and any other improvements depicted on the Site Development Plan;
- b. Adjustments of 25 percent or less of total building square footage from the approved Site Development Plan;
- c. Adjustments of 25 percent or less of the total square footage of any landscape areas on the Site Development Plan;

- d. The proposed adjustments do not increase the site’s overall parking lot area; and
 - e. The proposed adjustments do not increase the site’s approved lot cover.
2. *Other Amendments.* All other amendments to an approved Site Development Plan shall require the submission of a new Site Development Plan application. Approval of a new Site Development Plan shall void the previously approved Site Development Plan.
- I. **Revocation of Approved Site Development Plan.** The Director may revoke approval of a Site Development Plan if the Director determines that:
- 1. The conditions of the approval have not been met;
 - 2. The plan contains, or is based upon, incorrect information or if it is determined that it was obtained using fraud or deceit; or
 - 3. The site is developed in a manner that adversely affects the health, safety, or welfare of persons residing or working on or in proximity to the site in a way that is detrimental to the public welfare or injurious to property or improvements.

Section 11.5.4 Administrative Exception

- A. **Generally.** In order to provide a method, to correct human error, allow for minor numerical adjustments, or consider alternative design schemes for particular development standards of these regulations, specified deviations from the applicable development standards may be permitted through an Administrative Exception.
- B. **Permitted Administrative Exceptions.** The Director shall have the authority to determine an Administrative Exception for the following situations:
- 1. That the language of a particular standard in these regulations is incorrect, unclear, or in error and to authorize an adjustment or interpretation to correct such error.
 - 2. Adjustments of up to 10 percent of any numerical standard set forth in these regulations, except for the following:
 - a. A request for an increase in the number of units permitted on a lot or parcel;
 - b. Any numerical standard established by other processes, including Conditional Use Permit, Variance, Planned Development District, a previous Administrative Exception adjustment, other similar process, or by action of City Council, Planning and Zoning Commission, or Zoning Board of Adjustment.
 - c. Any numerical adjustment greater than 10 percent shall require a request for a Zoning Variance, per the requirements set out in Section 11.3.6, *Zoning Variance*.
 - 3. Alternative design or compliance plan(s) for the following situations:
 - a. Alternative Building Design (per Section 4.3.4); and
 - b. Alternative Landscaping (per Subsection 9.2.1.C).
- C. **Initiation of Application.** An application for an Administrative Exception may be filed by the property owner, or a person having a contractual interest in the subject property, or their authorized representative.
- D. **Application Requirements.** The Director shall ensure that a completed application has been submitted by the applicant pursuant to Section 11.2.1., *General Application Procedures*, and includes the information and materials necessary to render an informed decision.

- E. **Review Criteria.** The Director shall consider the Administrative Exception and may seek the review and approval of other City staff as deemed necessary. The Director shall then approve, approve with conditions, or deny an application for Administrative Exception based on the following criteria:
 1. The Administrative Exception serves an obvious and needed purpose;
 2. The Administrative Exception will not materially or adversely affect abutting land uses and the physical character of uses in the immediate vicinity of the subject property.
 3. The Administrative Exception ensures an equal or better level of design or land use compatibility as the otherwise applicable standards.
 4. The Administrative Exception will be consistent with the purposes and intent of these regulations.
- F. **Conditions of Approval of Administrative Exception.** The Director may impose conditions on the approval of an Administrative Exception as are necessary to protect abutting property owners and to ensure the public health, safety, and welfare.
- G. **Compliance with All Other Provisions.** The property owner or applicant shall comply with all other provisions of these regulations not specifically relieved by the Administrative Exception.
- H. **Deferral of Administrative Exception.** The Director may decide to defer the consideration of an Administrative Exception to the Zoning Board of Adjustment if the proposed exception does not meet the spirit and intent of these regulations or if the Director determines that the proposed exception should be considered in a public meeting. A deferred Administrative Exception shall be subsequently designated as a Zoning Variance application, at no additional cost to the applicant, and shall follow the process set out in Section 11.3.6, *Zoning Variance*.
- I. **Expiration of Approved Administrative Exceptions.**
 1. An approved Administrative Exception shall expire if the companion application expires, according to the specified expiration in this Article.
 2. If the Administrative Exception is a stand-alone application, the approval will expire in two years if the exception is not utilized in a manner consistent with the approval.

Section 11.5.5 Building Permits

- A. **Generally.** No Building Permit shall be issued for a lot, building site, building or use unless the lot or building site has been officially recorded by a Final Plat approved by the City Council and filed for record at the appropriate County, and unless all public improvements, as required by these regulations for Final Plat approval, have been completed, except as otherwise provided for within these regulations.
- B. **Exceptions.**
 1. A building "foundation only" permit may be issued for a nonresidential or multifamily development provided that a Preliminary Plat has been approved by the City Council, and provided that the Construction Plans have been released by the City Engineer. However, the Building Permit shall not be issued and building construction shall not be allowed to surpass the construction of fire protection improvements. In other words, the building shall not proceed above the slab level until all required fire lanes have been completed, and until all water lines serving fire hydrants have been completed, inspected and tested.
 2. The City Building Official may release some residential Building Permits for not more than ten (10) percent of the lots within a new residential subdivision, provided that a Preliminary Plat has been approved by the City Council and the Construction Plans have been approved by the City Engineer, and provided that all public improvements have been completed for that portion of the development including, but not limited to, those required for fire and emergency protection, such as streets providing

at least two (2) points of emergency access, alleys, water lines serving fire hydrants, and other similar, required public safety improvements. No lot may be sold nor title conveyed until the Final Plat has been approved by the City Council and recorded at the County.

3. No Certificate of Occupancy shall be issued for a building or the use of property unless all subdivision improvements have been completed and a Final Plat has been approved by the City Council and recorded at the County. Notwithstanding the above, the City Manager (or designee) may authorize the conditional occupancy of a structure provided that an agreement providing cash escrow, a letter of credit, or other sufficient surety is approved by the City Manager (or designee) for the completion of all remaining public improvements, and provided that the structure is safely habitable in accordance with the City's building codes.

Section 11.5.6 Certificate of Occupancy

- A. **Generally.** No existing building and no building erected or structurally altered, shall be occupied, used or changed in use until a Certificate of Occupancy has been issued by the Building Official.
- B. **Purpose of Certificate of Occupancy.** A Certificate of Occupancy states that the building and proposed use of building or land complies with these regulations, all other applicable building and health laws and ordinances, and all other ordinances relating to electrical and plumbing installation.
- C. **Applicability.** A Certificate of Occupancy shall be required for the following:
 1. A newly constructed building;
 2. An altered building; or
 3. Any change of use.
- D. **Application Requirements.** Applications for a Certificate of Occupancy shall include a completed application and corresponding materials pursuant to Section 11.2.1, *General Application Procedures* and forms established by the Director.
- E. **Review Criteria.** The Building Official shall issue a Certificate of Occupancy if the Building Official finds that the building and proposed use of building or land complies with all provisions of these regulations and other applicable building, electrical, plumbing, fire, and health codes and ordinances.
- F. **Temporary Certificate of Occupancy.** Pending the issuance of a permanent Certificate of Occupancy, the Building Official may issue a temporary Certificate of Occupancy to allow for the completion of alterations or for partial occupancy of a building pending its completion, provided that such temporary occupancy will not jeopardize life or property. A temporary Certificate of Occupancy may be required to be accompanied by fiscal surety and shall not exceed six months in duration. Such temporary certificate shall not be construed as in any way altering the respective rights, duties, or obligations of the owners relating to the use or occupancy of the premises.

DIVISION 11.6 APPEALS

Section 11.6.1 Appeals of Administrative Decision

- A. **Generally.** Pursuant to the authority granted to the City by Chapter 211, Municipal Zoning Authority, of the Tex. Local Gov't Code, any person, department, board, or bureau of the City affected by a decision of an administrative official acting in the enforcement of these regulations may appeal to the City Council.

B. Applicability.

1. *Appeals of Decisions.* Decisions or the failure to act by an administrative official are subject to appeal that shall be heard and decided upon by the City Council.
2. *Matters Not Subject to Appeal.*
 - a. Recommendations by an administrative body are not subject to appeal.
 - b. A denial of a continuance is not subject to appeal.
 - c. A determination that an application is not complete is not subject to appeal.
 - d. The decisions of an appeal are not subject to further review by the City Council. An appeal of the decision of an appeal shall be processed pursuant to Section 11.6.2, *Appeals to District Court*.

C. Appeal Procedures. Pursuant to Chapter 211.010, Appeal to Board, of the Tex. Local Gov't Code, the procedures of an appeal are as follows.

1. *Timing.* A notice to appeal shall be filed with the City within 10 calendar days from the date of the decision or action.
2. *Notice of Appeal Content and Application Fee.*
 - a. The notice of appeal shall specify the grounds of the appeal.
 - b. The applicant shall pay an application fee at the time the notice of appeal is filed.
3. *Transmission of Record.* The deciding administrative official shall transmit to the City Council the whole record from which the action appealed is being taken.

D. Public Hearing. The City Council shall schedule a public hearing, pursuant to Section 11.2.2, *Public Hearings*, no later than 30 calendar days after the date the appeal was filed.

E. Appeal Review Criteria. The City Council will make its decision on an appeal based on the requirements of these regulations and the information presented to the City Council by the applicant and City staff.

1. *Burden of Proof.* The decision of the administrative official is assumed to be valid and the applicant has the burden of proof to present sufficient evidence to justify a reversal in the action or decision being appealed. The deciding administrative official may bring evidence and argument to the contrary.
2. *Findings.* All findings necessary to the permit or appeal decision shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, and in no case, may findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

F. Decision on Appeal. The City Council shall review the appeal, conduct a public hearing, and take final action on the appeal.

1. In exercising its powers set out in this Section, the City Council may, in conformity with the provisions of these regulations and state law, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination.
2. A concurring vote of three-fourths of the full City Council shall be required to overturn the decision of the administrative official.
3. Failure of the City Council to act on the appeal within the appropriated timeframe shall be considered a denial of the appeal.

Section 11.7.1 Chapter 245 Determination

- A. **Application for Establishment of Chapter 245 Rights.** The provisions of this Section shall apply to any application for a permit or any other approval of a project for which an applicant desires to establish development rights under Chapter 245 of the Texas Local Government Code. There are two basic types of Chapter 245 determinations.
1. The first type of Chapter 245 determination involves a demonstration by the applicant that a project is vested with Chapter 245 development rights because the original application for a permit gave the City Fair Notice of the project and of the nature of the permit being sought and neither a permit nor the project have expired.
 2. The second type of Chapter 245 determination involves a demonstration by the applicant that a project or permit is entitled to be reviewed in accordance with the regulations of the City in effect on the date that the original application for the first permit in the series of permits was filed because progress toward the completion of the project has been made by the applicant even though the permit and/or project time limits have expired.
 3. An applicant, in order to establish development rights for a particular project, may need to demonstrate both Fair Notice of the project and that progress toward completion of the project has been made.
- B. **Expiration of Existing Permits.** Any Site Development Plan (Site Plan) or Concept Plan or other land development approval that has an approval date that is prior to May 11, 2000 and that does not have an expiration date, and for which no progress has been made toward completion of the project as of May 11, 2000, is hereby deemed to have expired as of May 11, 2004 and shall no longer be considered as a valid project. Any Concept Plan that has an approval date that is after May 11, 2000 and before December 18, 2012 and that does not have an expiration date, and where no progress towards completion of the project has occurred shall have expired on December 18, 2017 and shall no longer be considered valid. Any Site Development Plan (Site Plan) or other land use approval that has an approval date after May 11, 2000 and before December 18, 2012 shall have expired on December 18, 2014 and shall no longer be considered valid. Any Concept Plan with an approval date after December 18, 2012 and that does not have an expiration date shall expire five years after the approval date where no progress towards completion of the project has occurred. Any Site Development Plan (Site Plan) or other land use approval with an approval date after December 18, 2012 shall expire two years from the date of the approval unless extended prior to the expiration date.
- C. **Applications for Chapter 245 Determination.**
1. An application related to a demonstration that the City has Fair Notice of the project shall be submitted in a form prescribed by the City and shall be initially reviewed for completeness to ensure that all required items are available for technical review purposes. The application shall state the proposed date of applicable rules for the first permit in the series of permits, and the applicant shall supply documentation in support of the request. The burden of proof is on the applicant to provide sufficient written information to substantiate a claim under this Section. One or all of the following items may be considered as part of the Fair Notice Documentation:
 - a. Any of the documentation described in Subsection 11.7.1.C.3 below.
 - b. Documentation that clearly shows specific land uses, densities and intensities.
 - c. Documentation that shows the layout of streets, public easements, parking areas and building footprints.

- d. Any other documentation that the applicant believes provides evidence of Fair Notice.
2. Chapter 245 development rights shall only apply to the specified land uses, densities and intensities set forth in the Fair Notice Documentation provided by the applicant. Any modification of the land uses, densities or intensities from those set out in the Fair Notice Documentation shall be considered a new project subject to current City ordinances.
3. An application related to a demonstration that a permit or project has not expired because progress has been made toward completion of the project shall be submitted in a form prescribed by the City and shall be initially reviewed for completeness to ensure that all required items are available for technical review purposes. The application shall state the proposed date of applicable rules for the first permit in the series of permits and shall clearly describe each permit that has been issued and the date of approval for each subsequent permit. The applicant shall provide a statement in narrative form that describes the efforts that have been undertaken toward completion of the project and shall supply documentation in support of the request. The burden of proof is on the applicant to provide sufficient written information to substantiate a claim under this Section. One or all of the following items may be considered:
 - a. Copy of an application for a Final Plat or plan that was previously submitted to a regulatory agency;
 - b. Proof that a good-faith attempt was previously made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project;
 - c. Documentation of costs that have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;
 - d. Documentation of fiscal security posted with a regulatory agency to ensure performance of an obligation required by the regulatory agency; or
 - e. Documentation of utility connection fees or impact fees for the project paid to a regulatory agency.
4. The provisions of Subsection 11.7.1.C.3 above shall only apply to the project and specified land uses, densities and intensities set forth in the permits that have been previously approved by the City. Any modification of the land uses, densities or intensities shall be considered a new project and subject to current City regulations.
5. Any application for a Chapter 245 determination that is not deemed complete by the City shall be rejected, and the applicant shall be notified in writing of the missing or incomplete items within 10 working days of the submission of the application. An incomplete application shall expire if the missing or incomplete items are not provided by the applicant within 45 days of the date of initial submission of the application.
6. Each application shall be reviewed by the City Manager, in consultation with the City Attorney. The application may be denied in whole, granted in whole or denied in part and granted in part. Where the documentation submitted by the applicant is adequate to confirm a determination that rights exist under Chapter 245, then the regulations in place at the time such rights vested shall be applied in the further review and processing of permits for the project as applicable to the portion of the application that was granted.
7. The City Manager shall provide his or her decision on the application within 45 days of the date of the receipt of a complete application.
8. The applicant may appeal a final determination by the City Manager under this Section to the City Council within 10 calendar days of the date of the City Manager's decision on the application.

9. The City may enter into a consent agreement with the applicant that is intended to resolve a good-faith dispute concerning Chapter 245 development rights and applicable regulations in order to avoid the cost and uncertainty of litigation to both parties.

Article 12, Nonconformities

DIVISION 12.1 GENERAL PROVISIONS

Section 12.1.1 Purpose

- A. **Purpose.** The purpose of Article 12, *Nonconformities*, is to ensure reasonable opportunity of use, maintenance, and improvement of legally created lots, structures or other improvements, parking and landscape areas, and uses that do not meet the current requirements of these regulations; to establish limitations on the continuation and expansion of nonconforming uses; and to encourage eventual replacement of nonconforming uses having potentially undesirable impacts on surrounding conforming uses.
- B. **Authority.** The provisions of this Article are written pursuant to Chapter 43, Municipal Annexation, Chapter 211, Municipal Zoning Authority, and Chapter 212, Municipal Regulation of Subdivisions and Property Development, of the Tex. Local Gov't Code, and are applicable to areas of the City limits and extraterritorial jurisdiction that do not conform to the provisions of these regulations.

Section 12.1.2 Establishment of Nonconforming Status

- A. **Determination of Status.** The Director shall determine the nonconforming status. The burden of demonstrating that any nonconformity is a legal nonconformity shall be borne by the owner or proponent of such nonconformity.
- B. **Legal Nonconformities.**
 - 1. *Legal Nonconformities.*
 - a. *Generally.* A structure, lot, site, or use which was legally established on the effective date of these regulations or any effective date of any amendment hereto, and has been in regular and continuous use, but which does not conform to the current requirements of these regulations, shall be granted legal nonconforming status, except as specifically exempted or prohibited by other sections of this Article.
 - b. *Governmental Action Serving a Public Purpose.* A lawful structure, lot, site, or use that is made noncompliant regarding any requirement of these regulations due to the acquisition of right-of-way by eminent domain, or purchase by a City, county, state, or federal agency shall be deemed legal nonconforming. Such exemption shall apply only to noncompliance that is a direct result of the acquisition of right-of-way. This does not apply to right-of-way dedication or other such public conveyance of land required by the City's subdivision process or through other such routine permits or development approval processes.
 - 2. *Continuance and Alteration.* A legal nonconforming structure, lot, site, or use may remain, continue, or be altered, subsequent to the effective date of these regulations and any amendments thereto, provided that such continuance or alteration is in accordance with the provisions of this Article and all other applicable codes and ordinances of the City.
 - 3. *Conflicts.* Where a structure, lot, site, or use is in compliance, legal nonconforming status does not preempt such structure, lot, site, sign, or use to maintain compliance with the provisions of these regulations. In the event of any conflict, the most restrictive regulations shall apply.

4. **Termination for Violation.** A legal nonconforming structure, lot, site, or use may have its legal nonconforming status and right to operate terminated by the City Council on recommendation of the Director if found to be in violation of any of the following provisions:
 - a. Constructing, maintaining, or operating a use conducted in or associated with a building or structure erected without a permit from the City;
 - b. Operating a use or occupying a building or structure without a valid Certificate of Occupancy from the City;
 - c. Operating a use in violation of a valid Certificate of Occupancy;
 - d. Subdividing a nonconforming lot without complying with these regulations;
 - e. Unlawful expansion of a nonconforming use, site, or structure; or
 - f. Any other violation of these regulations as determined by the Director.

- C. **Annexed Lands.** After annexation of an area, a person may continue to use the land in the newly annexed area in the same manner in which the land was used on the date annexation proceedings were instituted if the land use was legal at the time. This includes any beginning use of land in the newly annexed area in the manner that was planned for the land before the 90th day before the effective date of annexation if:
 1. One or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned use; and
 2. A completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted, as described in Section 43.002(a)(2), Continuation of Land Use, of the Tex. Local Gov't Code.

- D. **Unlawful Nonconformity.** Any structure, lot, site, or use that is in violation of the requirements of these regulations and was not legally established on the effective date of these regulations or was built, used, or operated in violation of any previous zoning or land development regulations, shall be considered illegal nonconforming. The owner and/or operator of an illegal nonconforming structure, lot, site, or use shall be subject to actions and penalties specified by these regulations and all other applicable City codes and ordinances and shall be required to correct the nonconforming situation to come into conformance with all applicable standards of these regulations and all other applicable City codes and ordinances.

Section 12.1.3 Exemptions

- A. **Prior Plans and Approvals in Progress.** Plans approved or submitted and determined to be complete prior to the effective date of these regulations are subject to the standards set out in Section 1.2.1, *Relationship to Existing Applications and Development*.
- B. **Prior Approval Granted.** Any structure, lot, site, or use that was granted approval through a Variance, Special Exception, or Administrative Exception shall conform to the terms and processes of their approval, even when in conflict with the provisions of this Article.

Section 12.1.4 Types of Nonconformities

- A. **Generally.** This Section establishes the types of nonconforming situations governed by these regulations.
- B. **Types of Nonconformities.** Set out in Table 12.1.4, *Types of Nonconformities*, are the types of nonconformities governed by these regulations and the cross-reference to the appropriate Division that contains the regulatory provisions.

Table 12.1.4 Types of Nonconformities	
Type	Division
Nonconforming use	12.2
Nonconforming building or structure	12.3
Nonconforming lot	12.4
Nonconforming site	12.5

Section 12.1.5 Abandonment of Nonconforming Situation

- A. **Generally.** Abandonment of a legal nonconforming situation shall result in the loss of the existing legal nonconforming status previously granted. All use of the premises shall cease and any future use of the premises may only occur as provided for in this Division.
- B. **Determination of Abandonment.** The Director shall make the determination of abandonment of a nonconforming situation based on the criteria established in Table 12.1.5, *Determination of Abandonment of Nonconforming Situation*, below.

Table 12.1.5 Determination of Abandonment of Nonconforming Situation	
Nonconforming Situation	Terms to Determine Abandonment ¹
Nonconforming use	The nonconforming use has not occupied the building or site for a period of 18 months.
Nonconforming building or structure	The building or structure has been vacant for a period of 18 months.
Nonconforming site	The site has been vacant for a period of 18 months.
Table Notes: ¹ For the purposes of determining abandonment, occurrence of one or more of the following shall be an indication of vacancy or lack of occupancy: <ol style="list-style-type: none"> a. The building, structure, activity or land has been unoccupied or out of use; b. One or more utility accounts have been discontinued; c. Utility meters are removed; d. A nonconforming structure has been removed from the premises; e. The occupant or owner/operator has allowed any taxes to not be paid thereon; f. The site or structure has not been maintained; g. The unit has not been made available for occupancy; h. The characteristic equipment and furnishings of a nonconforming use have been removed from the premises; or i. A nonconforming use has been replaced by a conforming use. 	

- C. **Time Period for Determining Abandonment of a Nonconforming Situation.**
1. *Exclusion for Government Action.* The time period for determining abandonment of a nonconforming situation shall exclude any period of discontinuance of use caused by government actions impeding access to the premises without any contributing cause by the owner/operator of the legal nonconforming use, site, building or structure.
 2. *Administrative Extension.* The Director may approve an extension of the time period for determining abandonment of a legal nonconforming use, site, building, or structure to a maximum of three years if the property has been consistently maintained and the owner of the land, building, or structure can prove to the satisfaction of the Director that they have been actively and continuously marketing the land, building, or structure for sale or lease or have otherwise engaged in activities that would affirmatively prove there was no intent to abandon.
 3. *Special Exception.* The City Council may approve a Special Exception allowing the extension of the time period for determining abandonment of a legally nonconforming use, site, building, or structure to a

maximum of four years provided that the property has been consistently maintained; the structure has not been altered to serve other uses; the structure has not housed other conforming or nonconforming uses; and the owner/operator can prove to the satisfaction of the City Council that they have been actively and continuously marketing the land, building, or structure for sale or lease to such a use.

- D. **Site Area Considered for Determining Abandonment.** All of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole for the purposes of determining abandonment of a nonconforming situation. A multi-tenant site, building or shopping center shall be considered occupied for the purposes of this Article, provided it remains at least 30 percent occupied. The failure to rent one space in a nonconforming building or on a nonconforming site shall not result in a loss of the right to rent space thereafter so long as the building or site as a whole is continuously maintained and at least 30 percent of the units remain rented.
- E. **Written Notification of Determination.** Upon request, the Director shall provide written notification of determination to the owner/operator in writing of the determination that the nonconforming building, structure, lot, site, or use has been abandoned, and state on what terms the determination has been made. An appeal of such determination can be considered by the City Council, pursuant to Division 11.8, *Appeals*.

Section 12.1.6 Termination of Legally Nonconforming Situation

- A. **Generally.** The right to operate or maintain a nonconforming situation may be terminated by the City Council in accordance with the provisions of this Article.
- B. **Appeal.** An appeal of the termination of nonconforming rights under this Article shall be made to a court of competent jurisdiction.

DIVISION 12.2 NONCONFORMING USES

Section 12.2.1 Nonconforming Uses, Generally

- A. **Generally.** A nonconforming use is a use that is not permitted within the zoning district of the subject property upon which the use is located. Those uses that do not meet the specific use restrictions of the zoning district or lack a required Conditional Use Permit or are operating outside the restrictions of an approved Conditional Use Permit are also considering nonconforming.
- B. **Legal Nonconformities.**
 - 1. Nonconforming uses that were lawfully located and in operation on the subject property on the effective date of these regulations and subsequent amendments thereto, shall be considered legally nonconforming uses.
 - 2. A use that legally received prior approval as a conditional use or restricted use under the previous regulations, but is not a permitted, conditional, or restricted use in the district in which it is located under these regulations is a legally nonconforming use and is subject to the provisions of this Article, in addition to any conditions of the approval of the Conditional Use Permit.
- C. **Abandonment.** In the event that a nonconforming use is determined to be abandoned pursuant to Section 12.1.5, *Abandonment of Nonconforming Situation*, the building, structure, or site which encompassed the nonconforming use shall thereafter only be occupied in accordance with the provisions of these regulations.

Section 12.2.2 Changes in Nonconforming Uses

A. **Generally.**

1. *Continuance.* A legally nonconforming use may continue with a change of ownership, provided that the use is replaced by the same specific use and does not expand or change its operation except to be more conforming.
2. *Increase to or Addition of Non-Conformities Prohibited.* In no event may a nonconforming use change to a use that is more nonconforming or its operation change in a manner that is more nonconforming than the original nonconforming situation.
3. *Approval of Less Nonconforming Uses.* The Director may approve the change of a legally nonconforming use to another nonconforming use, provided that the new nonconforming use is more conforming to the current regulations than the previous nonconforming use.

B. **Considerations for Determination.** When determining the function, intensity, and level of impact of the nonconforming use, the Director may consider hours of operation, number of employees, parking requirements, target consumer, traffic generation, deliveries, noise, lighting, compatibility to surrounding uses, and benefit to the surrounding area.

Section 12.2.3 Expansion of Nonconforming Uses

A. **Generally.** The City Council may approve a Special Exception for the expansion or enlargement of a legally nonconforming use, pursuant to Section 11.3.7, *Special Exception*, except as follows:

1. The Director may administratively approve the expansion or enlargement if it is determined that such expansion or enlargement of the use, accessory use, or site modification would make the use more conforming to these regulations (e.g., more compliant with regard to minimum parking requirements);
or
2. The expansion or enlargement is required by City ordinance or state or federal law.

B. **Considerations for Determination.** A legally nonconforming use shall be considered enlarged or expanded by one or more of the following:

1. Increase of square footage of the building or structure encompassing the nonconforming use;
2. Expanding the square footage occupied by a nonconforming use within an existing building or structure;
3. Occupying a greater portion of the tract on which the nonconforming use is located;
4. Construction of additional buildings or structures associated with the nonconforming use; or
5. Increasing the scope, volume, or intensity of the nonconforming use in a significant way.

C. **Creation of New Nonconformity Prohibited.** The expansion or enlargement of any legally nonconforming use shall not create any new nonconformity.

Section 12.2.4 Damage or Destruction of Buildings or Structures Containing Nonconforming Uses

A. **Generally.** Damage to or destruction of buildings and structures of nonconforming uses shall be governed as set out in this Section and other applicable sections of this Article.

B. **Natural or Accidental Causes.** If a building or structure that encompasses a legally nonconforming use is damaged or destroyed by natural or accidental causes, the use may be allowed to reconstruct and continue operation as set out in Table 12.2.4, *Determination of Reconstruction of Nonconforming Use Building and Structures*.

Table 12.2.4 Determination of Reconstruction of Nonconforming Use Buildings and Structures	
Extent of Damage or Destruction ¹	Determination of Reconstruction
Value of damage or destruction is less than 50 percent of the market value of the structure on the date of the damage.	The legally nonconforming use shall be allowed to continue and the structure may be rebuilt upon issuance of a Building Permit.
Value of damage or destruction is 50 percent or more of the market value of the structure on the date of the damage.	The right to continue to operate the legally nonconforming use on the property ceases to exist. The owner/operator of the use may apply for a Special Exception from the City Council to be allowed to reestablish the nonconforming use in the reconstructed building.
Table Notes: ¹ The market value shall be determined by the most recent Burnet Central Appraisal District valuation. The value of the damage or destruction shall be provided to the Director by an executive general insurance adjuster within a reasonable timeframe to determine the extent of the damage.	

1. *Timeframe for Reconstruction.* Permitting for any allowed reconstruction must commence within six months following the date of the damaging event, and reconstruction shall be completed and a Certificate of Occupancy shall be issued within 18 months of the damaging event. The Director may approve an extension of these timeframes for show of good cause, provided there is no adverse impact on the community.
2. *Nonconforming Buildings or Structures.* If the building or structure that was destroyed or damaged was a legally nonconforming building or structure, reconstruction of the building or structure shall comply with the regulations set out in Division 12.3, *Nonconforming Buildings or Structures*.

C. **Intentional Destruction.** A legally nonconforming use terminates when the structure that encompasses such use is destroyed by the intentional act of the owner/operator.

Section 12.2.5 Removing Legally Nonconforming Use Status

- A. **Generally.** The owner of a legally nonconforming use may remove the nonconforming use status through one of the processes listed below, as they may apply to the situation.
 1. Rezone to a district where the use would conform;
 2. Apply for a Conditional Use Permit which would remove the nonconforming status; or
 3. Comply with the use restrictions for the zoning district.
- B. **No Guaranteed Approval.** Compliance with Subsections 12.2.5.A.1 through 12.2.5.A.3, above, does not guarantee the approval of the application by the decision-making body.

DIVISION 12.3 NONCONFORMING BUILDINGS OR STRUCTURES

Section 12.3.1 Nonconforming Buildings or Structures, Generally

- A. **Generally.** A nonconforming building or structure is any building or structure that does not meet the requirements of these regulations, such as building placement, setback requirements, height limitations, material requirements or articulation, or does not meet any other local ordinances or technical manuals. Nonconforming buildings or structures that were lawfully constructed and existing on the effective date of these regulations or subsequent amendments thereto, shall be considered legally nonconforming buildings or structures.
- B. **Applicability.** For the purposes of this Section, the term building or structure applies to anything constructed or erected on the ground or which is attached to something located on the ground, except signs. This

includes, but is not limited to, buildings, telecommunications towers, utility improvements, and sheds and is applicable to all buildings or structures regardless of whether they are deemed principal or accessory.

- C. **Abandonment.** In the event that a nonconforming building or structure is determined to be abandoned pursuant to Section 12.1.5, *Abandonment of Nonconforming Situations*, the building, structure, or site which encompassed the building or structure shall thereafter only be occupied in accordance with the provisions of these regulations.

Section 12.3.2 Repair, Maintenance, and Reconstruction of Nonconforming Buildings or Structures

- A. **Generally.** A legally nonconforming building or structure shall be maintained in accordance with the codes in effect when the building or structure was constructed or as deemed necessary by the Building Official for the general safety and welfare of the occupant and the public. The repairs required by the Building Official shall not be construed as to allow an addition to, or expansion of, a nonconforming building or structure. Except as otherwise provided for in this Article, no repair or maintenance may result in the expansion of any existing nonconformity or the creation of any new nonconformity.
- B. **Unsafe Structures.** Nothing in this Article shall be construed to permit the continued use of a building or structure found to be in violation of building, basic life safety, or health codes of the City, or to prohibit the strengthening or repair of any part of any nonconforming building or structure declared unsafe by the Building Official.
 - 1. *Right of Continuance.* The right to continue any nonconformity shall be subject to all applicable housing, building, health, and other applicable life safety codes.
 - 2. *Public Health and Safety.* The Building Official may order an unsafe noncomplying building or structure to be restored to a safe condition. If the costs of such repairs exceed 50 percent of the value of the building or structure, the right to operate, occupy or maintain such building or structure may be terminated by action of the City Council and such building or structure shall be demolished. The value of the building or structure and the percent value lost due to any destruction shall be determined by an appraisal submitted to the Building Official.
- C. **Interior Alterations of a Nonconforming Building or Structure.** Interior remodeling of legally nonconforming buildings or structures is permitted and will not result in loss of legal nonconforming status regardless of the cost or extent of the interior remodel, as long as no exterior remodeling is involved. If exterior alteration in conjunction with interior remodeling is involved, loss of legal nonconforming status will be determined pursuant to the provisions set forth in this Article related to such alteration.

Section 12.3.3 Damage or Destruction of a Nonconforming Building or Structure

- A. **Generally.** The reconstruction of a damaged or destroyed nonconforming building or structure may be permitted in accordance with the provisions of this Section.
- B. **Natural or Accident Causes.** A legal nonconforming building or structure that is damaged or destroyed by natural or accidental causes may only be reconstructed in accordance with Table 12.3.3, *Determination of Reconstruction of Nonconforming Buildings or Structures*.

Table 12.3.3 Determination of Reconstruction of Nonconforming Buildings or Structures	
Extent of Damage or Destruction ¹	Determination of Reconstruction
Value of damage or destruction is less than fifty (50) percent of the market value of the structure on the date of the damage.	The legally nonconforming structure may be rebuilt upon issuance of a Building Permit.
Value of damage or destruction is fifty (50) percent or more of the market value of the structure on the date of the damage.	The right to operate, occupy or maintain the legally nonconforming structure ceases to exist. Owner of the building or structure may apply for a Special Exception from the City Council to be allowed to reconstruct the building in the configuration it existed in prior to the damage or destruction.
Table Notes: ¹ The market value shall be determined by the most recent Burnet Central Appraisal District valuation. The value of the damage or destruction shall be provided to the Director by an executive general insurance adjuster within a reasonable timeframe to determine the extent of the damage.	

1. *Timeframe for Reconstruction.* Permitting for any allowed reconstruction must commence within six months following the date of the damaging event, and reconstruction shall be completed and a Certificate of Occupancy shall be issued within 18 months of the damaging event. The Director may approve an extension of these timeframes for show of good cause, provided there is no adverse impact on the community.
 2. *Increase in Nonconformity Prohibited.* A structure restored under this subsection shall not have increased gross floor area, building footprint, or height as compared to the damaged or destroyed structure.
- C. **Historic Structures.** A nonconforming building or structure designated as a state or national historic building or structure shall be allowed to be restored in the same location, design, and configuration immediately preceding any damage or destruction from natural or accidental causes. Permitting for such reconstruction must commence within 18 months of the damaging event and be completed, as determined by issuance of a Certificate of Occupancy, within three years of the event.
1. *Timeframe for Reconstruction.* The timeframes herein may be extended for good cause as proven to the Director, provided there is no adverse effect on the community.
 2. *Burden of Proof.* The property owner has the burden of proof to establish the details of the building or structure immediately prior to the damage or destruction.
- D. **Intentional Causes.** A legally nonconforming building or structure that is damaged or destroyed by the intentional act of the owner/operator shall not be restored or reconstructed as it was before such act.

Section 12.3.4 Moving a Nonconforming Building or Structure

- A. **Generally.** The movement of a nonconforming building or structure may be permitted in accordance with the provisions of this Section.
- B. **Compliance Required.** A nonconforming building or structure shall not be moved to another location on the same lot or any other lot unless the entire building or structure is thereafter made to conform to all requirements of these regulations applicable to the property to which the building or structure will be moved.
- C. **Site Clearance and Clean-up.** Within 30 days of the re-location of the nonconforming building or structure, the site of its former location shall be cleared of any remaining above-ground building components including any structural elements, foundation, utility pipes, etc. unless such components will be reused for another structure that is subject to a submitted Building Permit.

- D. **Exceptions.** Historic buildings or structures shall not be required to conform to building material and design requirements. Compliance with site, lot, and use requirements shall be required.

Section 12.3.5 Expansion or Enlargement of a Nonconforming Building or Structure

- A. **Generally.** The expansion or enlargement of a nonconforming building or structure may be permitted in accordance with the provisions of this Section.
1. *Degree of Expansion or Enlargement.* If such expansion or enlargement is in excess of 100 percent of the size of the existing building or structure, all provisions of these regulations shall be applicable to the existing building(s) or structure(s) as well as any new construction on the lot or parcel. For the existing building or structure, where it is determined that all provisions of these regulations cannot be reasonably met or conformance with all requirements of these regulations will cause the expansion or creation of another nonconformity, the applicant may request approval of a Special Exception by the City Council, pursuant to Section 11.3.7, *Special Exception*.
 2. *Considerations for Determination.* For purposes of determining the expansion or enlargement of a legally nonconforming building or structure, the square footage of all previous expansions under this subsection shall be cumulative and the square footage of the original building or structure shall be the initial size for purposes of the calculation.
 3. *Compliance Required.* All expansion or enlargement of buildings or structures under this subsection shall be in compliance with all applicable regulations of the zoning district in which such building or structure is located.
 4. *Creation of New Nonconformity Prohibited.* In no event may the expansion or enlargement result in the increase of any existing nonconformity or the creation of any new nonconformity.

Section 12.3.6 Removing Legally Nonconforming Building or Structure Status

- A. **Generally.** The owner of a legally nonconforming building or structure may remove the nonconforming use status through one of the processes listed below.
1. Modify the building or structure to conform to the current standards;
 2. Apply for a Zoning Variance to allow the building or structure as built, pursuant to Section 11.3.6, *Zoning Variances*; or
 3. Rezone to a district where the building or structure would conform.
- B. **No Guaranteed Approval.** Compliance with Subsections 12.3.6.A.1 through 12.3.6.A.3, above, does not guarantee the approval of the application by the decision-making body.

DIVISION 12.4 NONCONFORMING LOTS

Section 12.4.1 Nonconforming Lots, Generally

- A. **Generally.** A nonconforming lot is a lot of record that does not meet the minimum area or dimensional requirements of the zoning district in which the lot is located. Nonconforming lots that lawfully existed on the effective date of these regulations or subsequent amendments thereto shall be considered legal nonconforming lots.
- B. **Use of a Legally Nonconforming Lot.** A legal nonconforming lot may continue to exist indefinitely and may be developed and used as if it were a conforming lot, provided the proposed use is permitted and all development standards of the applicable zoning district of these regulations are met.

- C. **Creation of New Nonconformity Prohibited.** No new division of a legally nonconforming lot shall be made which increases the existing level of nonconformity, leaves any lot, parcel, or remnant width or area below the requirements stated in these regulations, or creates any new nonconforming situation.

Section 12.4.2 Removing Legally Nonconforming Lot Status

- A. **Generally.** The owner of a legally nonconforming lot may remove the nonconforming status through one of the processes listed below. This list does not guarantee the approval of the application or the decision of the deciding body.
1. Combine the lot with an adjacent property to conform to current standards through a subdivision process, as set out in Division 11.4, *Subdivision Permits and Approvals*; or
 2. Apply for a Zoning Variance, pursuant to Section 11.3.6, *Zoning Variances*; or
 3. Rezone to a district where the lot standards would conform.
- B. **No Guaranteed Approval.** Compliance with Subsections 12.4.2.A.1 through 12.4.2.A.3, above, does not guarantee the approval of the application by the decision-making body.

DIVISION 12.5 NONCONFORMING SITES

Section 12.5.1 Nonconforming Sites, Generally

- A. **Generally.** A nonconforming site is one where one or more existing site improvements, including but not limited to parking, storm drainage facilities, sidewalks, fencing, and landscaping, do not conform to one or more of the requirements of these regulations applicable to the property. Nonconforming sites that lawfully existed on the effective date or applicability of these regulations or any amendment thereto shall be considered legal nonconforming sites.
- B. **Use of a Legally Nonconforming Site.** A legal nonconforming site may continue to exist indefinitely provided that proposed improvements comply with all development standards of the applicable zoning district of these regulations are met, or as otherwise set out in this Article. A change in the owner/operator of a legally nonconforming site does not change the legal nonconforming status of the site, provided that the site is of the same use as the previous use.
- C. **Abandonment.** In the event that a nonconforming site is determined to be abandoned pursuant to Section 12.1.5, Abandonment of Nonconforming Situations, the site shall be modified to conform to all applicable requirements of these regulations, as provided in Section 12.5.5, *Required Site Improvement Compliance*, prior to re-occupancy.

Section 12.5.2 Repair and Maintenance of Legally Nonconforming Sites

- A. **Generally.** A legally nonconforming site shall be maintained in accordance with the regulations in effect when the site was constructed or as deemed necessary by the Director for the general safety and welfare of the occupant and the public.
- B. **Repairs and Maintenance.** Any repairs or maintenance required by the Director shall not be construed as to allow an addition to or expansion of a nonconforming site. Except as otherwise provided for in this Division, no repair or maintenance may result in the expansion of any existing nonconformity or the creation of any new nonconformity. Maintenance of a site may include, but is not limited to, maintenance of landscaping, pavement, lighting, or detention ponds.

Section 12.5.3 Change in Use of a Legally Nonconforming Site

- A. **Generally.** A change in the use of a legally nonconforming site shall not cause the site to lose its legal nonconforming status. Nonconforming uses are subject to the provisions of Division 12.2, *Nonconforming Uses*.
- B. **Similar or Less Intense Use.** A new use of a legally nonconforming site that is a similar function and intensity or one that is less intense than the previous use, as determined by the Director, may be allowed without any required changes to the legally nonconforming site, provided that the following criteria are met:
1. *Parking.* The new use shall have a parking requirement that is equal to or less than the parking requirement of the previous use.
 2. *Outdoor Storage or Activities.* The new use shall not increase the amount of outdoor storage or outdoor activities than the previous use.
 3. *Trip Generation.* The average daily vehicle trips generated by the new use shall be equal to or less than the previous use.
 4. *Nuisance.* The new use shall not produce more noise, vibration, dust, odor, fumes, glare, or smoke than the previous use.
 5. *Maintenance of Site.* The site shall be maintained and in conformance with any site plan or regulations in effect when the site was established or last improved. This includes, but is not limited to, the replacement of any dead plants or trees, the re-stripping of parking spaces, and the repaving of deteriorated pavement.
 6. *Compliance with Regulations.* The new use shall meet all limitations or requirements of these regulations for such use without alteration to the site.
- C. **Different Use.** Any change in use of a legally nonconforming site to a use that is not considered a similar use or less intense use as identified above, shall be considered a change to a different use. A change in use of a legally nonconforming site to a different use shall require the following alterations to a nonconforming site:
1. *Parking.* Additional parking spaces will be required based on the parking regulations for the new use, pursuant to Division 8.2, *Off-Street Parking*. If the previous use was deficient in required parking spaces, the new use may carry over the deficiency. If the additional parking spaces cannot be met on site, the applicant may request the requirement be met off-site or through alternatives to required parking pursuant to Section 8.2.3, *Alternative Parking Arrangements*.
 2. *Driveways.* Driveways shall be brought into compliance as set out in Section 12.5.5, *Required Site Improvement Compliance*.
 3. *Maintenance of Site.* The site shall be maintained and in conformance with any site plan or regulations in effect when the site was established or last improved. This includes, but is not limited to, the replacement of any dead plants or trees, the re-stripping of parking spaces, and the repaving of deteriorated pavement.
 4. *Compliance with Regulations.* The new use shall meet all specific use restrictions and district requirements of these regulations including, but not limited to, setback requirements, buffer and screening.

Section 12.5.4 Expansion of Nonconforming Sites

- A. **Generally.** A legally nonconforming site or a use, building or structure on a legally nonconforming site may be expanded or enlarged pursuant to the provisions of this Section.

B. Considerations for Determination.

1. The following shall be considered an expansion or enlargement of a legally nonconforming site:
 - a. Occupying a greater portion of the tract;
 - b. Construction of additional buildings; or
 - c. Construction of any additional improvements on a portion of the tract that was not previously developed.
2. For the purposes of identifying the expansion or enlargement of a nonconforming site, the square footage of all previous expansions under this subsection shall be cumulative and the square footage of the original site shall be the initial size for purposes of the calculation.

C. Standards of Expansion of Nonconforming Sites. Table 12.5.4, *Standards of Expansion of Nonconforming Sites*, establishes the standards and conditions for expansions or enlargements of nonconforming sites.

Table 12.5.4 Standards of Expansion of Nonconforming Sites		
Extent of Expansion or Enlargement	City Council Approval Required	Exceptions and Conditions of Approval
Up to 25 percent of the initial size	None	All areas of expansion or enlargement shall be in compliance with all applicable provisions of these regulations. Modification to existing nonconforming site elements that are incidental in the expansion or enlargement shall conform to the current site development standards.
In excess of 25 percent of the initial size, but not more than 50 percent of the initial size	Special Exception	<ol style="list-style-type: none"> 1. All areas of expansion or enlargement shall be in compliance with all applicable provisions of these regulations. Modification to existing nonconforming site elements that are incidental in the expansion or enlargement shall conform to the current site development standards. 2. The City Council may condition the approval of a Special Exception for expansion or enlargement on bringing existing legally nonconforming site elements under conformance with existing regulations.
In excess of 50 percent of the initial size	Special Exception	The expanded or enlarged site area as well as the existing nonconforming site area shall be brought into compliance with all provisions of these regulations. Where it is determined that all provisions of these regulations cannot be reasonably met, or conformance with all requirements of these regulations will cause the expansion or creation of another nonconformity, the applicant may request approval of a Special Exception by the City Council.

D. Creation of New Nonconformity Prohibited. All expansion or enlargement of sites shall be in compliance with all applicable provisions of these regulations. In no event may the expansion or enlargement result in the increase of any existing nonconformity or the creation of any new nonconformity.

Section 12.5.5 Required Site Improvement Compliance

- A. **Generally.** Site improvements required by the events identified in this Section shall comply with all applicable provisions of these regulations and as provided in this Section.
- B. **Review of Required Improvements.** Site improvements that are required to meet the provisions of this Division shall be reviewed pursuant to the standard processes and procedures.
- C. **Timing of Required Improvements.** Required site improvements shall be made as part of the event that triggers the improvements. An applicant may phase the construction of the required site improvements, at the approval of the Director. Any required parking that is triggered, however, shall be constructed as part of the first phase.
- D. **Site Improvement Compliance Requirements.** Table 12.5.5, *Site Improvement Compliance Requirements*, establishes the requirements for site improvements based on the event triggering such improvements.

**Table 12.5.5
Site Improvement Compliance Requirements**

SITE IMPROVEMENTS	CROSS-REFERENCE	TRIGGER EVENT			NOTES
		Change in Use to More Intense Use	Expansion or Enlargement	Re-occupancy of Abandoned Site	
Parking Requirements and Parking Lot Design	Division 8.2, <i>Off-Street Parking</i>	X	X ¹	X	1. If the additional parking spaces cannot be met on site, the applicant may request the requirement be met through an alternative means pursuant to Section 8.2.3, <i>Alternative Parking Arrangements</i> . 2. All deteriorated pavement, as determined by the City Engineer, shall be repaved in accordance with these regulations or the TCSS of the City.
Driveways	Division 7.1, <i>Access</i>	X	X ¹	X	All driveways accessing the site shall conform to the requirements of these regulations. Any driveways not conforming to the number, spacing, or width of these regulations shall be altered in a manner that is conforming. Nothing herein shall be construed to require the removal of all driveway access to the property.
Landscaping	Division 9.2, <i>Landscaping</i>		X ¹	X	1. The City may consider usage of areas within the public right-of-way to satisfy landscaping requirements. 2. Where landscaping in accordance with the landscaping provisions of these regulations cannot be reasonably met, the applicant may propose an alternative plan for consideration of the Director that meets the intent of the requirements.
Buffers	Division 9.3, <i>Buffering</i>	X	X ¹	X	Where bufferyards in accordance with the provisions of these regulations cannot be reasonably met, the applicant may propose an alternative plan for consideration of the Director that meets the intent of the requirements.
Setback of Site Improvements	Article 4, <i>General Development Regulations</i>		X ¹	X	A Special Exception may be granted by the City Council, pursuant to Section 11.3.7, <i>Special Exception</i> , if it is determined that conformance with all setback requirements will cause the expansion or creation of a nonconformity or where it is determined that all provisions of these regulations cannot be reasonably met.
Lot Coverage	Article 4, <i>General Development Regulations</i>		X ¹	X	Lot coverage that exceeds the allowance for the zoning district and lot size is not required to be removed in order to meet the lot coverage requirements of these regulations. However, the lot coverage of the tract shall not be increased except as provided by these regulations.
Incidental Site Features		X	X ¹	X	All incidental site features including, but not limited to, fences, dumpsters, lighting and mechanical equipment shall be altered to conform to the provisions of these regulations.

Table Notes:

¹ Expansions in excess of 25 percent of the initial size shall require the approval of the City Council, which may identify which standards of the regulations the existing development shall comply with. Expansions in excess of 50 percent shall require the approval of the City Council and all site improvements on the existing site and expanded area shall comply with the provisions of these regulations. See Section 12.5.4, *Expansion of Nonconforming Sites*.

Section 12.5.6 Removing Legally Nonconforming Site Status

A. **Generally.** The owner of a legally nonconforming site may remove the nonconforming use status through one of the processes listed below. This list does not guarantee the approval of the application or the decision of the deciding body.

1. Modify the site to conform to the current regulations;
2. Apply for a Zoning Variance, pursuant to Section 11.3.6, *Zoning Variances*; or
3. Rezone to a district where the site would conform to the standards.

B. **No Guaranteed Approval.** Compliance with Subsections 12.5.6.A.1 through 12.5.6.A.3 does not guarantee the approval of the application by the decision-making body.

Article 13, Enforcement

DIVISION 13.1 GENERAL PROVISIONS AND PROCEDURES

Section 13.1.1 Purpose and Applicability

- A. **Generally.** This Article sets out the powers, remedies, and procedures of the City to enforce the provisions of these regulations prior to and in a court of competent jurisdiction. This Article shall not limit the powers of the City to pursue multiple or alternative actions, remedies, and penalties allowed herein or by law.
- B. **Applicability.** Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of these regulations shall be found to be in violation of City ordinance and shall be subject to the fines and penalties as established in Section 1-9 of this Code of Ordinances.

Section 13.1.2 Enforcement Procedures

- A. **Generally.** This Section establishes the authorities of the City and procedures to monitor, investigate, and enforce the provisions of these regulations.
- B. **Administration.** The provisions of this Article shall be administered and enforced by the City Manager or their designee, in consultation with the City Attorney as may be necessary, or other officials in the exercise of this duty.
- C. **Filing a Complaint.** Any person may allege a violation of these regulations by written and signed complaint that is filed with the City. Such complaint shall state the factual basis for the alleged violation along with the complainant's contact information.
- D. **Right to Enter.** The designated City official shall have the right to enter upon any premises at any reasonable time for the purposes of making periodic inspection of a building's exterior and/or premises or investigating alleged violations as are necessary to enforce these regulations.
- E. **Compliance Information Required.** Whenever the designated City official, on the basis of a sworn complaint from any person or on the basis of other information available to the official, has reason to believe that a violation of these regulations exists, they may require an owner/operator to provide information as may be necessary to determine the existence or extent of any violation.
- F. **Notice of Violation.** Upon determining a violation, the City shall issue a written notice of violation to the owner/operator of property upon which a violation of these regulations exists. Such notice shall set out the grounds upon which the notice is based, including the specific code section or sections at issue. Notices shall conform to the requirements of Section 54.005, Notices to Certain Property Owners, of the Tex. Local Gov't Code.
- G. **Correction of Violation.** Upon notification of a violation, the person responsible for the violation shall correct the violation immediately.

DIVISION 13.2 ADMINISTRATIVE ENFORCEMENT POWERS AND REMEDIES

Section 13.2.1 Administrative Enforcement

- A. **Generally.** The City may use one or a combination of administrative enforcement efforts prior to and without judicial process to enforce these regulations.

- B. **Withholding or Denying Permits and Approvals.** The City may withhold, revoke, or deny all permits, approvals, or other authorizations on any land, building, or structure for which there is an uncorrected violation.
- C. **Suspension of Permits.** The City may suspend permits, including Conditional Use Permits, for a period of up to sixty (60) days to allow for the correction of the violation or the judgement of a court of competent jurisdiction.
- D. **Stopping Work.** The City may stop work on any site, building, or structure on such property where an uncorrected violation exists. The City Manager or designee shall order the work stopped by notice in writing (referred to as a "stop-work order") served on any persons engaged in the doing or causing such work to be done. The stop-work order shall be posted on the property adjacent to the activity in question, and any such person shall stop work accordingly until authorized by the City to proceed with the work. The City may revoke permits as part of its effort to stop work pursuant to Subsection 13.2.1.E, *Revocation of Permits and Approvals*, below.
- E. **Revocation of Permits and Approvals.**
 - 1. *Revocation.* Any permit, Certificate of Occupancy, or other permit or approval required under these regulations shall be revoked when it is determined that:
 - a. There is a departure from the approved plans, specifications, limitations, or conditions as required under the permit or approval;
 - b. The permit or approval was procured by false representation;
 - c. The permit or approval was issued in error; or
 - d. There is a violation of any provision of these regulations.
 - 2. *Written Notice.* When revoking a permit, the City shall provide written notice of such revocation to the permit holder, stating that the subject violation shall be corrected in no less than ten (10) days.
 - 3. *Effect of Notice.* No work or construction may proceed after service of the revocation notice unless such work is to correct a violation.

Article 14, Definitions and Interpretations

DIVISION 14.1 MEASUREMENTS AND CALCULATIONS

Section 14.1.1 Density

- A. **Generally.** Density may be measured as gross density or net density, as specified in these regulations.
- B. **Gross Density.** Gross density is calculated by dividing the number of proposed dwelling units by the total area of the parcel proposed for development.
- C. **Net Density.** Net density is calculated by dividing the number of proposed dwelling units by the buildable area of the parcel proposed for development.

Section 14.1.2 Gross Floor Area

- A. **Generally.** Gross floor area (GFA) is a measurement of the horizontal floor area of a building or structure and is calculated based on the following criteria.
 - 1. Horizontal square footage is measured from the outside face of all exterior walls.
 - 2. The gross floor area includes the square footage of each floor level of a building.
 - 3. Gross floor area does not include areas not habitable or used as dwelling space. This may include, but is not limited to, cellars, basements, attics, covered or uncovered porches, terraces, breezeways, balconies, decks, patios, enclosed storage or mechanical areas, mezzanines, and similar structures.
 - 4. Protected upper floors of open atriums and foyers shall not be included.

Section 14.1.3 Height

- A. **Buildings.** Building height is calculated by measuring the vertical distance from "grade" to the highest point of the coping of a flat roof or the deck line of a mansard roof or to the average height of the highest gable on a pitched or hipped roof, or to the highest point of a structure. The "grade" used to determine building height is the highest pre-development ground surface elevation within the building's footprint. For subdivisions of five acres or more, the finished ground surface elevation resulting from any site development grading shall be used as "grade" for the building height determination. Each building will have an individual grade separate from that of another building.
- B. **Other Structures.** Structure height is calculated by measuring the vertical distance from the average finished grade around the base of the structure to the highest point on the structure. This measurement applies to:
 - 1. Structures without roofs (e.g., fences); and
 - 2. Amateur radio antennae, whether mounted on a roof, the ground, or another structure.
- C. **Specialized Building Appurtenances.** Specialized building appurtenances are not counted in the calculation of building height provided that:
 - 1. They project not more than:
 - a. Fifteen (15) feet above the highest point on the building for buildings that are two or more stories in height; or
 - b. Seven feet above the highest point on the building for buildings that are less than two stories in height.
 - 2. They occupy not more than 10 percent of the total roof area of the building; and
 - 3. They are not used for human habitation, nonresidential, or industrial purposes, except as incidental to the operation of the building.

- D. **Smokestacks.** Smokestacks shall be permitted to a height of ninety (90) feet in the General Industrial (IN) District. In other districts, they are subject to Subsection 14.1.3.C, above.

Section 14.1.4 Lot Dimensions

- A. **Lot Area.** Lot area is calculated as the total area within the property lines.
- B. **Lot Coverage.** Lot coverage is the total horizontal area measurement of all buildings, structures, and improvements.
1. *Buildings and Structures.* Measurements for buildings and structures are taken at the main grade level of the principal building or structure and all accessory buildings or structures. All dimensions are measured from the outside face of all exterior walls.
 2. *Other Improvements.* Other improvements such as driveways, sidewalks, parking lots, pools, and other non-elevated surfaces are taken using the area delineated by the improved hard surface.
- C. **Lot Coverage Ratio.** Lot coverage ratio is calculated by dividing the lot coverage by the lot area to yield the percentage of the total lot that is covered by some building, structure, or improvement.
- D. **Lot Width.**
1. *Generally.* Lot width is measured from one side lot line to the opposite side lot line at the front setback line. Distance is measured along a horizontal plane and does not follow the topography.
 2. *Irregular Lots.* Lot width of an irregular lot is measured from one side lot line to the opposite side lot line along the tangent of the curve representing the front building line. The front building line is established by the front setback line or subdivision plat (when the front building line is set back further than the front setback line).

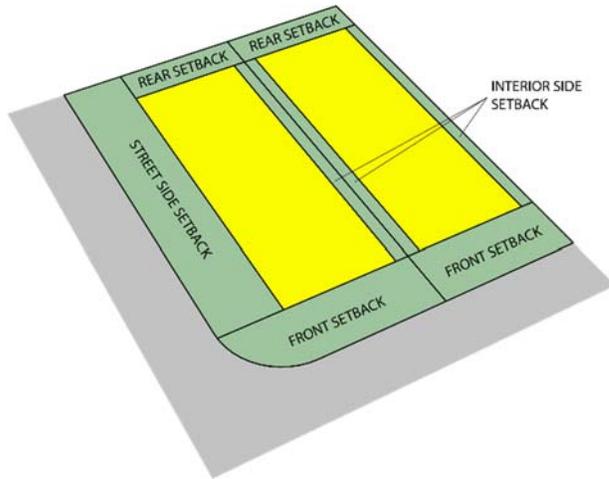
Section 14.1.5 Open Space Area and Ratio

- A. **Generally.** Open space area refers to commonly-owned open space (i.e., not located on private lot), and open space ratio refers to the percentage of the total area of the parcel proposed for development that is dedicated toward open space area. The following delineations further define what can or cannot be counted as open space area:
1. *Allowable Open Space Areas.* Natural resource protection areas, stormwater management systems, passive recreation areas, bufferyard requirements, required landscape areas, and areas that shall remain undeveloped shall count as open space area.
 2. *Prohibited Areas.* Areas on private, buildable lots and any commonly-owned open space that is less than 320 contiguous square feet (including landscape areas) shall not count as open space area.
- B. **Open Space Ratio Calculation.** Open space ratio is calculated by dividing the total amount of commonly-owned open space area on the parcel proposed by development by the total area of the entire parcel proposed for development.

Section 14.1.6 Setbacks

- A. **Generally.** Setbacks are measured from the lot line towards the center of the lot as provided in this Section. Distance is measured along a horizontal plane and does not follow the topography.
- B. **Standard Lots.**
1. *Front Setbacks.* Front setbacks are measured from the front lot line, which is the lot line that abuts the right-of-way.
 2. *Street Side Setbacks.* Street side setbacks are measured from the street side lot line, except on corner lots where the front setback extends to the side street and supersedes the street side setback.

3. *Rear Setbacks.* Rear setbacks are measured from the rear lot line, except on corner lots, where the street side setback supersedes.
4. *Side Setbacks.* Side setbacks are measured from the side lot line.



C. **Odd-Shaped Lots.**

1. *Curvilinear Lot Lines.* Where lot lines are curvilinear, setbacks shall be measured as offsets from the curvilinear lot line.
2. *Multiple Rear Lot Lines.* Where there are multiple rear lot lines, the rear setback is measured as offsets from the multiple rear lot lines.
3. *No Rear Lot Line.* Where there is no rear lot line, the rear setback shall be measured as a radial distance from the intersection of side lot lines at the rear of the lot.
4. *Front Lot Line along Arc.* Where the front lot line is an arc, the street side setback area is defined as the area behind the front of the building line along the arc of the street.

DIVISION 14.2 INTERPRETATION OF PROVISIONS AND WORDS

Section 14.2.1 Document Usage

- A. **Generally.** For purposes of interpretation of these regulations, the following rules apply regarding usage of this document.
- B. **Titles.** Titles of the Articles, Divisions, Sections, and Subsections are intended to facilitate navigation of these regulations. Where there is a conflict between the title of an Article, Division, Section, or Subsection and the regulatory provisions, the regulatory provision shall control.
- C. **Internal Cross-References.** If a cross-reference is set out within these regulations, the cross-reference shall refer to another part of these regulations unless a separate document is specifically identified in the cross-reference.
- D. **Illustrations.** The illustrations provided in these regulations are intended to provide a visual example regarding how particular standards are to be applied and are not intended to be a standard in their own right.
 1. *Conflicts.* Where there is a conflict between the illustration and the text of the regulatory provision, the text of the regulatory provision shall control.

2. *Authorization to Create, Delete, and Modify Illustrations.* The Director is authorized to create, delete, and modify illustrations herein, and create, delete, or modify related code references, without an official amendment to these regulatory provisions.

E. External Cross-References.

1. *Generally.* References to external documents and materials are intended to provide for the convenience of the user and facilitate navigation of these regulations. External documents referenced by these regulations exist in their own right and are not part of these regulations unless specifically incorporated by reference or by application.
2. *Reference to State and Federal Statutes.*
 - a. References to the Texas Local Government Code and the United States Code shall be interpreted to mean the most current version of the referenced section at the time the reference is applied.
 - b. If a referenced statute of the Texas Local Government Code or United States Code is repealed and replaced by another statute with comparable subject matter, the replacement statute shall control.
 - c. If a referenced statute of the Texas Local Government Code or United States Code is repealed and not replaced by another statute, the repealed statute shall control if it is within the statutory authority of the City to effectuate such results, or the application shall be held (and not considered officially filed) for up to 12 weeks for the City to revise these regulations to resolve the reference and establish an appropriate rule or policy.
 - d. References to the Texas Local Government Code and the United States Code as the source of authority of administrative rules, such references shall be interpreted to include the rules and statutes provided thereunder.

Section 14.2.2 Interpretation of Words

- A. Generally.** For the purposes of these regulations, the words and terms used herein shall be interpreted as follows:
1. Words used in the present tense include the future tense;
 2. Words used in the singular include the plural and the plural includes the singular, unless the context clearly indicates the contrary;
 3. The term “shall” is always mandatory;
 4. The term “may” is discretionary;
 5. The term “City” shall refer to the City of Marble Falls, “county” shall refer to Burnet County or Blanco County (whichever county the property resides within), “state” shall refer to the State of Texas, and “federal” shall refer to the United States of America, unless otherwise indicated; and
 6. All public officials, bodies, and agencies reference those of the City of Marble Falls, unless otherwise indicated.
- B. Terms and Words Not Expressly Defined.** The words, terms, and phrases that are defined in Division 14.3, *Definitions*, are those having a meaning unique to the purposes of these regulations. All words, terms, and phrases not expressly defined in Division 14.3, *Definitions*, or otherwise within these regulations, are to be construed in accordance to adopted ordinances, codes, or standards of the City, or according to the customary meaning and usage of such word, term, or phrase.

DIVISION 14.3 DEFINITIONS

A

Abandonment means to discontinue a use or activity, excluding temporary or short-term interruptions such as seasonal closures, or due to remodeling, maintenance, or otherwise improving a facility.

Abutting, when referring to lots, parcels or property, is next to and having some portion of a boundary that is coterminous with the parcel proposed for development. Lots or parcels that are separated only by an alley are abutting if their property lines would be shared if they extended to the centerline of the alley.

Access Point means a point of vehicular entry to or exist from a property or lot. See also “Cross Access”.

Accessory Building or Structure means a building or structure that is subordinate to the principal building which serves a purpose that is customarily associated with the principal use. Examples of accessory buildings and structures include pergolas, gazebos, storage sheds, and detached residential garages. The phrase “accessory building or structure” does not include a parking structure.

Accessory Dwelling Unit means a separate dwelling unit located in a detached accessory building or as an attached independent unit to the principal dwelling unit. An accessory dwelling unit includes independent living quarters with cooking facilities, sanitation, and sleeping spaces and is limited in size by the standards of these regulations. An accessory dwelling unit may be commonly referred to as “guest home,” “granny flat,” “garage apartment,” mother-in-law suite,” etc.

Attached ADU means a unit that is created within or attached to a principal building such that it appears to be an integrated part of it.

One-Story Detached ADU means a detached accessory building that contains an accessory dwelling unit. It may or may not also include a garage or storage area.

Second-Story Detached ADU means an accessory dwelling unit which is located on the second floor of an accessory building. A typical example is a dwelling unit located above a detached garage.

Accessory Use means a use incidental to and customarily associated with a specific principal use located on the same lot or parcel.

Adjacent means “next to” or “closest to” but shall not necessarily mean “touching”.

Administrative Approval means an application process for permit or approval whereby the decision is made by an administrative representative of the City, pursuant to Division 11.5, *Administrative Permits and Approvals*.

Administrative Exception means an allowed variation from the Land Use Regulations but is differentiated from a Zoning Variance as used in these regulations in that, (1) it does not require a finding of an undue hardship, and (2) the approval of an Administrative Exception is specifically provided for and defined by these regulations. Administrative Exceptions are approved administratively, pursuant to Section 11.5.4, *Administrative Exception*.

Administrative Officers means any officer of the City referred to in these regulations by title, including but not limited to the City Manager, Assistant City Manager, City Secretary, Fire Chief, Police Chief, City Engineer, Director, Director of Public Works, Floodplain Administrator, and Chief Building Official shall be the person so retained in that position by the City, or his or her duly authorized representative. This definition shall also include civil engineering, planning, legal, and financial, traffic engineering and other consultants retained by the City to supplement or support existing City staff, as deemed appropriate by the City.

Agricultural and Ranch Uses means a category of uses that create and preserve areas intended primarily for the raising of animals and crops, and the secondary industries associated with agricultural production and ranching.

Alley means a minor public right-of-way not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties that derive primary access from a street. The length of an alley segment is to be measured from the right-of-way lines of the streets from which the alley is provided access, or from the center point of an intersection with another alley which connects to a street. An alley is not the same as a street for purposes of the setback or design requirements of these regulations.

Alluvial Fan Flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Alteration means any construction or physical change in the internal arrangement of rooms or the supporting members of a building or structure or change in relative position of buildings or structures on a site, or substantial change in appearance of any building or structure.

Amateur Radio Antennas means an antenna for the private use and enjoyment of an individual holding a valid amateur radio (HAM) license issued by the Federal Communications Communication and not used for any commercial or industrial use.

Amending Plat. See “Plat, Amending Plat”.

Amenity means an improvement to be dedicated to the public or to the common ownership of the lot owners of the subdivision that provides an aesthetic, recreational or other benefit, other than those prescribed by these regulations.

Animal Clinic or Services means indoor and outdoor facilities providing temporary medical care and/or overnight housing for the boarding, training, and breeding of domesticated animals. The phrase “animal clinic or services” includes commonly used terms such as kennels and veterinary services.

Animal Raising or Production means the on-site raising and breeding of animals for the purpose of food or the production of food. The phrase “animal raising or production” includes commonly used terms such as:

1. *Ranching*, an establishment devoted primarily to the raising, breeding, and managing livestock such as horses, cattle, and sheep, under range conditions.
2. *Poultry Farm*, an establishment devoted primarily to the raising of birds such as chickens, ducks, turkeys and other birds for the purpose and harvesting and processing of meat or eggs for food.
3. *Fish Farm*, an establishment where fish are artificially bred or cultivated for commercial purposes, such as food or to supply aquariums, or to restock lakes for angling.
4. *Beekeeping*, the practice of raising, breeding, or managing bee colonies in order to collect their honey and other products of bee hives, to provide pollination services for local food crops, or to raise bee livestock for other beekeepers.
5. *Dairy Farm*, an establishment devoted chiefly to the production of milk or milk products such as butter and cheese.

Annexation means the process by which a City, by ordinance, annexes land into the City limits pursuant to the various processes of Chapter 43, Municipal Annexations, of the Tex. Local Gov’t Code and the Home Rule Charter.

Annexation, Voluntary means an annexation initiated by an annexation petition application by the property owner(s) or their authorized representatives. See Section 11.3.1, *Annexation (Voluntary)*.

Antenna means a device used to collect or transmit radio waves, microwaves, or electromagnetic waves.

Apartment means a multifamily building type that is comprised of five or more dwelling units. Apartments may be leased, rented, or owned in a condominium style of ownership.

Apartment, Loft means multifamily residential dwelling units which are housed on the second floor and above of a building where the first floor contains a nonresidential use.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appeal means the process of reviewing a decision of an application that may be requested by a person aggrieved by such decision.

Appeal of Administrative Decision means an appeal by any person, department, board, or bureau of the City affected by a decision of an administrative official acting in the enforcement of these regulations. Appeals of Administrative Decisions are appealed to City Council. See Section 11.6.1, *Appeals of Administrative Decisions*.

Applicant means a person or entity who submits an application for an approval required by these regulations. An applicant shall be the owner of the property or space for which an application is submitted or shall be an authorized agent or representative of the property owner. May also be referred to as "developer", "subdivider", "owner's agent" or other similar term.

Application means a written request and submission of materials for an approval as required by these regulations.

Application Forms means a collection of forms and checklists created, updated, and managed by the Director.

Approval means the final action granting an application given by the appropriate administrative or governing body specified in Article 11, *Administration*, as having final approval authority.

Appurtenant Structure means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure. This will be included in the Flood Protection Plan currently in progress as part of the Texas Water Development Board's Flood Protection Planning Grant.

Arborist refers to a person trained in and practicing the cultivation, management, and care for trees, shrubs, and other perennial woody plants.

Area of Future Conditions Flood Hazard means the land area that would be inundated by the one (1) percent annual chance (100-year) flood based on future conditions hydrology.

Area of Shallow Flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map (FIRM) with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard is the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. The area may be designated as Zone A on the flood hazard boundary map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

As-Built Plans means plans and specifications prepared and certified by a registered land surveyor, licensed landscape architect, or licensed engineer, as appropriate to the type of plans, that clearly depict the completed improvements as they were constructed or installed on a lot. Also known as record drawing.

Assistant City Manager means a representative of the City staff appointed by the City Manager, who serves as the assistant to the City Manager and to perform such duties as assigned by the City Manager.

Authorized Representative means any person showing written verification that he or she is acting for and with the knowledge and consent of a property owner.

Average Daily Trips (ADT) means the average number of vehicles or pedestrians passing a specific point in a 24-hour period, normally measured through a year. ADT is the standard measurement for vehicle traffic load on a section of road and is the basis for most decisions regarding transportation planning.

Aviation Facilities, Fixed Wing means facilities designed for the operation of fixed-wing aircraft such as airplanes which use wings to generate lift. The phrase “aviation facilities, fixed wing” includes the necessary landing, parking, servicing, maintenance, fueling and repair of such aircraft.

Aviation Facilities, Rotary Wing means facilities designed for the operation of rotary wing aircraft such as helicopters which use rotor blades that revolve around a mast. The phrase “aviation facility, rotary wing” includes heliports and helistops and includes the necessary landing, parking, servicing, maintenance, fueling and repair of such aircraft.

Awning means an architectural projection, which provides weather protection, identity or decoration, and is wholly supported by the building to which it is attached. It is composed of a lightweight rigid or retractable skeleton structure over which a covering of fabric or other materials is attached.

B

Bar or Nightclub means a commercial establishment where the primary purpose is to sell alcoholic beverages for on premise consumption where more than 75 percent of the sales proceeds is for the sale of alcohol beverages and may include dancing and/or musical entertainment. The term “bar or nightclub” may also be called a cocktail lounge, tavern, saloon, cantina, etc. The term “bar or nightclub” is not synonymous with the term “restaurant or food and drink establishment,” as the sale of food is a common accessory use to the primary use, as described above.

Base Flood means a flood having a one (1) percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) means the elevation shown on the flood insurance rate map (FIRM) and found in the accompanying flood insurance study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a one (1) percent chance of equaling or exceeding that level in any given year (also called the base flood).

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Bed and Breakfast Lodging means a residential structure providing overnight accommodations to guests.

Bioretention Cell means a low impact development facility that collects and temporarily stores or conveys stormwater runoff and manages it through vertical filtration methods such as infiltration, evaporation, and transpiration.

Bioswale is a vegetated shallow channel that temporarily stores and sometimes stormwater. It is similar to a rain garden, except its design is vertical. Bioswales can be used to convey stormwater, but the primary objective is infiltration and enhancing water quality.

Block means a tract or parcel of land bounded on all sides by streets or other transportation rights-of-way, or by physical boundaries such as waterbodies, water courses, open spaces etc., or any or by a combination thereof. Blocks are typically divided into lots.

Block Length, for a residential subdivision, means the distance measured along the centerline of the street from the intersection centerpoint of one (1) through street to the intersecting centerpoint of another through street. The through street referred to above shall not be a cul-de-sac, an alley, a dead-end street, or a looped street, but shall be a street which clearly has two (2) points of ingress from two (2) different directions. Also known as “street length”.

Boat Dock means a fixed or floating structure for docking and storage of boats on the water and affixed to the abutting shoreline and are typically perpendicular to the shoreline.

Boat Dock, Commercial means a dock or boat slips operated as an accessory use to the principal commercial usage of the property to which the commercial boat dock is attached.

Boat Dock, Residential means a noncommercial dock utilized for personal recreation purposes by the owner or occupant of the single-family residence of the property to which the commercial boat dock is attached.

Bond means any form of a surety bond in an amount and form satisfactory to the City.

Breakaway Wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Brewery/Distillery/Winery means an establishment where beer, liquor, or wine is produced on the premises and may include in-house consumption and sale. Food sales or a restaurant may also be included, as well as associated retail sales.

Broadcast Systems refers to systems that transmit communication data over airwaves for public reception by anyone with a receiver tuned to the right signal channel.

Buffer means physical spaces or improvements that physically and visually separate one use or property from an abutting property in order to mitigate the impacts of noise, light, or other nuisance as required by these regulations. Buffers may include but are not limited to open spaces, landscaped areas, fences, walls, berms, or any combination thereof.

Bufferyard means a designated area of land upon which a buffer is installed as required by these regulations.

Build-to Line means the line located a distance from a right-of-way that a portion of a building must be built to.

Buildable Area, also known as “building envelope,” means the area of a lot or parcel that is buildable, as determined by setback requirements.

Building means a structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals, real property, and business activity.

Building Articulation means a variation or change in the plane of a building wall.

Horizontal Articulation means a variation in the height of a wall surface of a building or structure.

Vertical Articulation means a variation in the depth of a wall surface.

Building Height means the vertical distance measured from "grade" to the highest point of the coping of a flat roof or the deck line of a mansard roof or to the average height of the highest gable on a pitched or hipped roof, or to the highest point of a structure.

Building Official means a representative of the City staff appointed by the City Manager to be the administrator of these regulations as established by Section 11.1.11, *Building Official*.

Building Setback Line means the line within a property defining the minimum horizontal distance between a building or other structure and the adjacent street right-of-way line, property line, a creek, or some other specific feature. See "Setback".

Business or Trade School means a facility or campus of facilities that provide educational training in business, commerce, language, or other similar activity or occupational pursuit. The term does not include educational activities associated with home enterprises, college/university, or education uses.

Business/Industrial Park District means a non-residential zoning district intended to support various employment opportunities predominantly related to light manufacturing, light industry, or warehousing. See Section 2.1.1, *Zoning Districts Established*.

C

Caliper means the diameter of a tree measured 12 inches above the ground when planted.

Campground means any property which provides space for transient occupancy and is used, or intended to be used, for the parking or placing of one or more tents, camping trailers, or similar recreational vehicles for a period of 15 days or less.

Canopy means a roof-like structure, often attached to and supported by a building, that provides architectural detail or weather protection over a door, entrance, window, fuel pumps, or outdoor area.

Capital Improvements Program (CIP) means the official proposed schedule, if any, of all future public projects listed together with cost estimates and the anticipated means of financing each project, as adopted by City Council.

Cellular System means a communication network of several areas (cells) equipped with cellular base stations that receive and transmit data that are interconnected through a central exchange.

Cemetery means a place used for the burial or entombment of the dead, whether intended for a human or animal resting place. The term "cemetery" includes the customary associated uses such as mausoleum and columbarium.

Certificate of Occupancy means a process and permit required prior to the occupancy of a building. Certificates of Occupancy are approved administratively pursuant to Section 11.5.6, *Certificate of Occupancy*.

Child-care Facility, commonly referred to as "day care," means a facility licensed, certified, or registered by the state to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour

day, whether or not the facility is operated for profit or charges for the services it offers. See Texas Human Resources Code, Chapter 42.

Child-care Facility, Day-Care Center means a child-care facility that provides care at a location other than the residence of the director, owner, or operator of the child-care facility for seven or more children under 14 years of age for less than 24 hours a day, but at least two hours a day, three or more days a week, which could include the following:

1. *Before or After-School Programs*, establishment providing care before or after, or before and after, the customary school day and during school holidays, for at least two hours a day, three days a week, to children who attend pre-kindergarten through grade six.
2. *School-Age Programs*, establishment providing supervision, along with recreation or skills instruction or training, and may provide transportation, before or after the customary school day, for at least two hours a day, three days a week, to children attending pre-kindergarten through grade six. A school-age program may also operate during school holidays, the summer period, or any other time when school is not in session.

See Texas Human Resources Code, Chapter 42.

Child-care Facility, Family Home means a home that provides regular care in the caretaker's own residence for not more than six children under 14 years of age, excluding children who are related to the caretaker, and that provides care after school hours for not more than six additional elementary school children, but the total number of children, including children who are related to the caretaker, does not exceed 12 at any given time. The term does not include a home that provides care exclusively for any number of children who are related to the caretaker. See Texas Human Resources Code, Chapter 42.

Child-care Facility, Residential means a facility licensed or certified by the state that operates for all of the 24-hour day. The term includes general residential operations, foster group homes, foster homes, agency foster group homes, and agency foster homes, which are further defined as follows:

1. *General Residential Operation*, a child-care facility that provides care for more than 12 children for 24 hours a day, including facilities known as children's homes, halfway houses, residential treatment centers, emergency shelters, and therapeutic camps.
2. *Foster Group Home*, a child-care facility that provides care for 7 to 12 children for 24 hours a day.
3. *Foster Home* is a child-care facility that provides care for not more than six children for 24 hours a day.
4. *Agency Foster Group Home*, a facility that provides care for seven to 12 children for 24 hours a day, is used only by a licensed child-placing agency and meets department standards.
5. *Agency Foster Home*, a facility that provides care for not more than six children for 24 hours a day, is used only by a licensed child-placing agency and meets department standards.

See Chapter 42, of the Tex. Human Resources Code.

City Attorney shall apply only to such attorney, or firm of attorney, that has been specifically employed by the City to assist in legal matters. This term shall also apply if the City retains a person to perform the functions of City Attorney as an official City employee.

City Council means the duly elected governing body of the City of Marble Falls, Texas.

City Engineer shall apply only to such licensed professional engineer, or firm of licensed professional consulting engineers, that has been specifically employed by the City to assist in engineering-related matters. This term shall also apply if the City retains a person to perform the functions of City Engineer as an official City employee.

City Limits means the corporate boundary limits of the City of Marble Falls, Texas.

City Manager means the person holding the position of the City's chief executive officer (e.g., City Manager), as appointed by the City Council, as the term is applicable to the City's form of management (per the City Charter).

City Secretary means the person holding the position to provide clerical and official services for the City Council.

Civic Uses means a category of uses that provides community services to or for the general public.

Cluster Development means a type of development where the residential dwelling units are “clustered” on a portion of the parcel proposed for development in order to allow the remaining portion of the parcel to be used for recreation, open space, or the preservation of natural or sensitive land area.

Co-location, with regards to wireless transmission facilities, refers to the act of sharing a wireless transmission facility with two or more service providers. See Section 4.6.6, *Wireless Transmission Facilities / Cell Towers*.

College / University means an educational institution of higher learning that offers courses of general or specialized study leading to a degree. Typically includes a campus of facilities that may include student housing, offices, athletic facilities, food services, laboratories and other associated facilities that support such a campus.

Columbarium means a structure or building substantially exposed above ground intended to be used for the internment of the cremated remains of a deceased person.

Commercial is a term that describes activities that are non-residential in nature and generally involve the exchange of goods or services.

Commercial Message means any sign wording, logo, or other similar representation that directly calls attention to a business, product, service, or other commercial activity by expression of a commercial message.

Commercial Mobile Radio Services means a classification of mobile service that is provide for profit, an interconnected service, and available to the public, or the functional equivalent to such mobile service.

Commercial Recreation / Entertainment means a privately established and operated facility that provides indoor or outdoor entertainment, amusement, or recreation for a fee. The phrase “commercial recreation / entertainment” includes, but is not limited to, commonly used terms such as:

1. *Bowling alley*, an establishment providing facilities for the sport of bowling.
2. *Movie theater*, an indoor facility that provides fixed seating for customers to view motion pictures.
3. *Performance venue*, an indoor or outdoor facility that provides fixed seating for customers to view dramatic, comedic, musical, lectures or others live performances including concert halls and amphitheatres.
4. *Dance hall*, an establishment offering to the general public facilities for dancing.
5. *Billiards or Pool hall*, an establishment providing facilities for playing billiards or cue sports.
6. *Gaming center*, an establishment offering facilities for amusement game devices, such as video arcades, pinball machines, LAN gaming centers, laser tag, and similar mechanical and electronic amusement devices.
7. *Skating rink or skate park*, an establishment providing facilities for ice skating, roller skating or skate boarding.
8. *Amusement park*, an establishment providing various entertainment activities including, but not limited to, miniature golf, go kart tracks, ferris wheels, roller coasters, and/or rock climbing walls.
9. *Golf driving range*, an establishment equipped with distance markers, clubs, balls, and tees for practicing long distance golf drives.
10. *Shooting range (indoor only)*, an establishment that operates an indoor area for the discharge or other use of firearms for recreational shooting.

11. *Garden plot rentals*, an establishment providing indoor or outdoor plots for a fee to individuals wanting to plant gardens.

Commercial Stables means a leasing facility intended for the sheltering and care of domestic animals such as horses or mules.

Commercial Uses means a category of uses that include businesses that facilitate the buying and selling of manufactured goods or provide consumer and professional sales and services.

Common Area Amenity means an area held, designed and designated principally for the common use of the owners or occupants of a multifamily, mobile home park, tiny house development, or RV park.

Common Carrier means a company providing mobile or wireless service to the general public.

Communication Facility mean a facility supporting antennas that sends or receives wireless frequency signals, including those mounted on towers, accessory buildings, and ground base equipment.

Communication Service means an establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as major utility facilities. Examples include television, film, or sound recording studios, telecommunication service centers, and telegraph service offices.

Community Assembly / Amenity means an indoor and/or outdoor facility, typically public or non-profit, that provides educational, recreational, social, and/or cultural activities, spaces, or services which are open to the public. The phrase “community assembly / amenity” includes, but is not limited to, commonly used terms such as:

1. *Active outdoor recreation*, a publicly owned and operated facility that provides opportunities for active outdoor recreation including, but not limited to, sport fields, tennis courts, swimming pools, skate parks, and similar recreation facilities.
2. *Community center*, a publicly owned and operated building or complex typically consisting of one or more meeting or multi-purpose rooms generally open to the public and designed to accommodate and serve significant segments of the community.
3. *Recreation center*, a publicly owned and operated building or complex providing recreational facilities such as basketball courts, racquetball courts, game rooms, and general activity rooms. Ongoing child daycare or day nursery is included only as an accessory use to serve the adults while attending the activities offered.
4. *Cultural service*, a library, museum, art gallery, or similar non-profit use affording display, preservation and exhibition of objects of permanent interest in one (1) or more of the arts and sciences.
5. *Club or lodge*, a use providing meeting, recreational, or social facilities for a nonprofit association, primarily for use by members and guests.
6. *Public assembly*, a publicly owned or operated facility with the primary purpose of providing indoor and/or outdoor areas such as amphitheaters, auditoriums, stadiums, concert halls, sporting or rodeo arenas, exhibition halls, convention facilities, and fairgrounds for performances, exhibitions, sporting events, or similar attractions. Does not include facilities where the public assembly is not the primary use such as a school site containing an auditorium or sports stadium or a hotel with an event room.
7. *Community garden*, a site available to the general public to grow plants, fruit, vegetables, fiber, herbs, and/or flowers for recreational purposes.
8. *Public golf course*, a publicly owned and operated facility that provides improved land area for conducting a game of golf and may include a clubhouse, shower / changing facility, driving range, equipment sales, golf cart storage, and similar accessory uses.

Comprehensive Plan shall mean the Comprehensive Plan of the City and adjoining areas as adopted by the City Council, including all its revisions and plan elements (including, but not limited to, the Future Land Use Plan, Thoroughfare Plan, Parks and Open Space Plan, etc.). This plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, water and wastewater facilities, and other public and private developments and improvements.

Concept Plan means a general plan for the development of property which demonstrates the nature of the parcel proposed for development to evaluate the impacts of the development on abutting uses and compliance with the City's long-range plans. See Section 11.3.5, *Concept Plan*.

Conditional Use means a use that may be allowed in a specific zoning district subject to:

1. Standards for the permitted uses;
2. Use-specific requirements;
3. Procedural requirements to obtain a Conditional Use Permit; and
4. Approval of a Conditional Use Permit by the City Council following a public hearing.

See Section 3.1.1.C.4; Section 3.2.1; Section 11.3.4

Conditional Use Permit means a permit required to operate a conditional use, pursuant to conditions identified in Section 3.2.1, *Restricted and Conditional Uses*. A Conditional Use Permit is granted by City Council pursuant to the procedural requirements established in Section 11.3.4, *Conditional Use Permit*.

Condominium means a form of real property ownership that combines separate ownership of individual dwelling units within common ownership of other elements such as land or accessory buildings.

Conservation Development means a development where new structures are clustered onto a portion of the development parcel, so that the remainder can be preserved as open space.

Constructed Stormwater Wetland means a manmade, shallow-water ecosystem designed to treat stormwater runoff. They provide flood control benefits by storing water, during which it is treated by vegetation and pollutants settle out, and then slowly releasing it over the next few days.

Construction Plans means the maps or drawings accompanying a plat and showing the specific location and design of public improvements to be installed in the subdivision in accordance with the requirements of the City as a condition of approval of the Preliminary Plat. May also be referred to as "engineering plans".

Contiguous refers to two lots where at least one boundary line or point of one (1) lot touches a boundary line, or lines, or point of another lot.

Continuance means a request to delay or "table" a decision on a completed application.

Cottage means a small single-family detached dwelling unit which is intended for small lots in specified zoning districts.

Covenants, Conditions, and Restrictions means a restriction on the use or development of land, which requires affirmative actions to be performed, that is set forth in a recorded agreement, and that runs with the land.

Critical Feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Critical Root Zone (CRZ) means the circular region measured outward from the trunk that corresponds to the drip line of the tree. The Critical Root Zone represents the essential area of roots that must be maintained or protected for the tree's survival.

Crop Production and Sales means the cultivation, harvesting, production, and sales of produce such as vegetables, fruits, trees, and grain or similar crops and the cultivation of plants and trees for commercial distribution. May include on-site farm stands as an accessory use. The phrase “crop production and sales” includes commonly used terms such as:

1. *Crop production*, the raising and harvesting of tree crops, row crops or field crops on an agricultural or commercial basis, including incidental packing and processing.
2. *Farming*, the growing and commercial use of the usual farm products, vegetables, fruits, trees, and grain and for the raising there of the usual farm animals such as horses, cattle, goats, and sheep.
3. *Greenhouse*, green nursery and general gardening, the growing and commercial use of the usual vegetables, fruits, trees and grain.
4. *Horticulture*, the growing of horticultural and floricultural specialties, such as flowers, shrubs or trees intended for ornamental or landscaping purposes.

Cross Access means an access point between abutting lots. Also known as inter-parcel cross access.

Crosswalk Way means a public right-of-way between property lines, which provides pedestrian circulation.

Cul-de-sac means a street having only one (1) outlet to another street and terminated on the opposite end by a vehicular turnaround or "bulb". The length of a cul-de-sac is to be measured from the intersection center point of the adjoining through street to the midpoint of the cul-de-sac bulb.

D

Day Dock means a boat dock situated parallel to the shoreline and not extending into the waterway to facilitate boat docking parallel to the shoreline.

Dead-End Street means a street, other than a cul-de-sac, with only one (1) outlet.

Deciduous Plat Species / Variety means a plant which defoliates completely in the fall/winter and develops new foliage in the spring.

Decision-Making Body or Authority means the entity that is authorized to finally approve or deny an application for permit or approval required under these regulations.

Dedication means the commitment of property interest from a private entity to a public entity for a public purpose.

Developed Area means the portion of a lot or parcel upon which a building, structure, pavement, or other improvements have been placed.

Developer means a person seeking to construct buildings or structures, or otherwise improve a parcel proposed for development as defined in these regulations.

Development means any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures (including, but not limited to, parking, fencing, pools, and signs), land disturbing activity (including mining, dredging, filling, grading, paving, excavation or drilling operations), or storage of equipment or materials.

Development Approval means any written authorization from a governmental entity that authorizes the commencement of development.

Development Plat. See “Plat, Development Plat”.

Diameter Breast Height (DBH) means the diameter of a tree’s trunk measured at a height of four and one-half feet above natural grade.

Director means a representative of the City staff appointed by the City Manager, whose duties include the administration and enforcement of these regulations as established in Section 11.1.9, *Director*.

Director of Public Works means a representative of the City staff appointed by the City Manager, to oversee the Public Works Department, the responsibilities of which include the road system, sewer utility, stormwater system, water utility, and brush pick up.

Downtown District means a primarily non-residential zoning district intended to serve the general area identified as Downtown on the Future Land Use Plan of the City’s Comprehensive Plan. It is envisioned that this area will be developed with a higher intensity urban character. See Section 2.1.1, *Zoning Districts Established*.

Downtown Residential District means a residential zoning district in Old Town Marble Falls intended to promote infill development and redevelopment of residential uses surrounding the more commercial center identified as Downtown while also preserving the older, and sometimes historic, pattern and character of Old Town Marble Falls. See Section 2.1.1, *Zoning Districts Established*.

Downtown Transition District means a primarily non-residential zoning district intended to serve the area surrounding the Downtown District and within the outer edges of the general area identified as Downtown on the Future Land Use Plan of the City’s Comprehensive Plan. It is envisioned that this area will be developed with a higher intensity urban character, but not as intense as the Downtown District. See Section 2.1.1, *Zoning Districts Established*.

Drive Through means a commercial facility where transactions of services, goods, food, or beverages are conducted from a vehicle either parked or in a drive-through lane. May also be referred to as “drive-in” or “drive-up”.

Driveway means a surfaced area providing vehicular access from a public street and within a property.

Duplex means a parcel developed with two dwelling units in a single structure. Duplexes are designed exclusively for the use and occupancy of two families living independently of each other.

Dwelling Unit means a residential unit providing complete, independent living facilities for one family, including permanent sleeping, eating, cooking, and sanitation facilities. Also known as “dwelling”.

E

Easement means an area for restricted use on private property upon which the City or a public utility shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs and other improvements or growths which in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems within said easements. The City and public utilities shall, at all times, have the right of ingress and egress to and from and upon easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of their respective systems without the necessity at any time of procuring the permission of anyone.

Education Facilities means primary and secondary schools focused on full-time educational instruction for students from pre-kindergarten through 12th grade, including:

1. *Primary Education*, a pre-kindergarten, kindergarten, or elementary school.
2. *Secondary Education*, a middle school, junior high, or high school.

The phrase “education facilities” typically includes a campus of facilities that may include offices, athletic facilities, food services, laboratories, and other associated facilities that support such a campus. It also includes public, private, and charter schools, as classified by the State of Texas. It does not include or equate to a child-care facility.

Effective Date means the date that these regulations became effective and when individual Articles, Division, or Sections were amended.

Elevated Building means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment means:

1. Generally, building or structure or portion thereof that crosses a lot line, building line, or setback line into a setback area, right-of-way, abutting property under separate ownership, or any other area which does not allow for the building or structure.
2. With regards to floodplain management, encroachment means an addition to or change to the physical condition of a specified type of flood hazard area that results in the blockage, diversion, or displacement of floodwaters.

Engineer means a person duly authorized and licensed under the provisions of the Texas Engineering Practice Act to practice the profession of engineering.

Enhanced Specialized Mobile Radio means a wireless communication system in which numerous mobile or portable transceivers are linked in a network of repeaters.

Escrow means a deposit of cash with the City in accordance with these regulations.

Evergreen Plant Species / Variety means a plant which maintains live foliage year-round and defoliates only once new foliage has formed.

Existing Construction means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing Neighborhood Zone means a zoning district, divided into 5 sub-district, intended to protect the established development pattern and character of existing neighborhoods (such as density, lot dimensions, and street pattern) while also providing opportunities for infill development and improvements to existing homes. See Section 2.1.1, *Zoning Districts Established*.

Extension means a request to extend an application for permit or approval that is subject to expire.

Extraterritorial Jurisdiction (ETJ) means the area of land adjacent to the City Limits which through the authorities provided by state law allows the City to extend some regulatory provisions into the unincorporated area as a means to protect the general health, safety, and welfare of persons residing in and adjacent to the City, and to provide the City with some control over its growth area.

F

Façade mean any face of a building, including front, side, or rear faces.

Façade, Front means the face of a building that is considered the principal entrance to the building.

Fall Zone means the area around a wireless transmission facility or communication facility that has the potential for being damaged in the event that such facility should fall or collapse, including the scattering of equipment debris. See Subsection 4.6.6.F.3.

Family means an individual living alone, or two (2) or more persons related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit.

Farm and Ranch District means a primarily agricultural zoning district intended to protect the urban fringe from incompatible development and unplanned development by allowing the continuation of farming and ranching activities and remaining rural in character through a large minimum lot size and rural roadway cross-section. See Section 2.1.1, *Zoning Districts Established*.

Feeder or Feeder/Lateral Line means high voltage supply electric lines carrying more than sixty-nine thousand (69,000) volts that emanate from substations used to distribute power through an area to an unspecified number of customers.

FEMA means the Federal Emergency Management Agency of the U.S. government.

Final Plat. See “Plat, Final Plat”.

Fire Chief means the commanding officer of the Marble Falls Fire Rescue.

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Elevation Study (also “Flood Insurance Study”) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study (FIS). See “Flood Elevation Study”.

Floodplain or Flood-Prone Area means any land area susceptible to being inundated by water from any source (see “Flood”).

Floodplain Administrator means a representative of the City staff appointed by the City Manager to administer and implement all floodplain management provisions of these regulations and other appropriate sections of 44 CFR (Emergency Management and Assistance—National Flood Insurance Program Regulations) pertaining to floodplain management. See also Section 11.1.12, *Floodplain Administrator*, Section 11.3.8, *Floodplain Development Variance*, and Section 11.5.2, *Floodplain Development Permit*.

Floodplain Development Permit means an administrative process and permit required for development that encroaches in the floodplain.

Floodplain Development Variance means an appeals process and grant of relief, granted by City Council, from the requirements of Division 5.2, *Flood Damage Prevention*. See Section 11.3.8, *Floodplain Development Variance*.

Floodplain Management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain Management Regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood Protection System means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. Specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. See "Regulatory Floodway".

Floor to Area Ratio (FAR) mean the ratio of total building floor area to the area of the lot on which it is located. When the allowed FAR is multiplied by the lot area it results in the maximum amount of floor area allowable in a building on that lot.

Food and Drink Establishment (general) means a place where food and beverages are prepared and served to patrons for consumption on-site or off-site and may include live indoor or outdoor entertainment subject to the development standards set out in these regulations. Typical uses include restaurants, both full service and fast food, coffee shops, dinner houses and similar establishments.

Food and Drink Establishment (neighborhood) means a place where food and beverages are prepared and served to patrons for consumption on-site or off-site but does not include outdoor entertainment and does not include drive-through, drive-in or drive-up services. Typical uses include restaurants, both full service and fast food, coffee shops, dinner houses, and similar establishments.

Frontage means the portion of a lot, parcel, or tract that abuts a street right-of-way.

G

Game Ranch means a property leased for the commercial recreational purpose of hunting game and animal harvesting.

Garage means the building or structure or part thereof designed, used, or intended for the parking and storage of automobiles.

General Commercial District means a nonresidential zoning district primarily intended for nonresidential development along the City's major thoroughfares in accordance with the vision set out in the Future Land Use Plan of the City's Comprehensive Plan. See Section 2.1.1, *Zoning Districts Established*.

General Industrial District means a nonresidential zoning district intended for areas of greater intensity than the Business/Industrial Park District. These areas are to provide a range of development opportunities including such uses as manufacturing, fabrication, and/or warehousing.

Governing Body means the City Council of the City of Marble Falls.

Government means federal, state, county or City governing entities. The term “government” could mean an individual entity or a grouping of entities.

Grade means the highest pre-development elevation of the surface of the ground within each proposed or existing building footprint on a lot. Each building shall have separate and individual grade applicable to each building. If permitted site development grading is (was) done in conjunction with subdivision of five acres or more, then the resulting finished ground surface shall be allotted as the surface of the ground for grade determination.

Green Roof means a vegetative layer grown on a rooftop that captures stormwater and reduces runoff.

Gross Floor Area means the total habitable area of every floor of every building or structure on a lot.

Ground Cover means living plant materials that are designed to grow low to the ground, generally maintained at less than two (2) feet in height.

Group Home means a facility or home licensed in by the State of Texas to provide shared residential living arrangements for the 24-hour protective care of the mentally or physically impaired, developmentally disabled, or victims of abuse or neglect. The term includes foster homes, congregate living facilities for persons 62 years and older, and maternity homes. This term does not include post-incarceration facilities or facilities for those who are a danger to themselves or others. 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.

Guyed Wire Tower means any tower that requires the support of guyed wires anchored into the ground or other surface for support.

H

Halfway House means, pursuant to Texas Human Resources Code Section 42.002, a licensed home for inmates on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently. Such placement is pursuant to the authority of the State Department of Corrections.

Hazardous Waste Management Facilities means a facility that receives hazardous waste for treatment, storage, or disposal.

Heritage Tree means, for the purposes of these regulations, a Live Oak, Post Oak, Shumard Oak, Bur Oak, Chinquapin Oak, Monterey Oak, Bald Cypress, American Elm, Cedar Elm, Pecan, Walnut, Texas Ash, or Southern Magnolia tree with a diameter breast height (DBH) of 24 inches or greater.

Highest Adjacent Grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Home Enterprise means an accessory occupation or business activity for financial gain conducted in whole or part in the principal dwelling unit or accessory building and is clearly incidental and subordinate to the residential use of the property. The phrase “home enterprise” may also be referred to as home based business or home occupation, but does not include “bed and breakfast lodging”, short term rentals, or common work-from-home activities such as telecommuting or a personal home office.

Hospital means an institution providing primary health services and medical or surgical care, primarily on an in-patient basis, to persons suffering from illness, disease, injury, and/or other abnormal physical conditions. Services may include out-patient and emergency treatment, diagnostic services, laboratories, rehabilitation services, training or teaching facilities, medical offices, hospital administration, meeting areas, maintenance facilities, staff dormitories, and supportive services for patients, employees, and visitors such as cafeterias and ancillary retail sales. The term “hospital” also includes "general hospital" or a "special hospital," as defined in Texas Health and Safety Code §241.003, and includes all sub-classifications thereof, as defined in Texas Health and Safety Code §254.001.

Hotel / Lodging, Full Service means a building(s) providing transient overnight lodging including four or more guest rooms to the general public for an established rate or fee. Full Service hotels provide internal access to guest rooms, furnish customary hotel services (e.g., linen, maid service, telephone, and the use and upkeep of furniture) and may also provide additional services (e.g., restaurants, meeting rooms, entertainment, personal services, and recreational facilities).

Hotel / Lodging, Limited Service means a building(s) providing transient overnight lodging including four or more guest rooms to the general public for an established rate or fee. Limited Service hotels may provide external access to guest rooms, allowing access directly from the parking areas to each room. A pool, continental or hot bar breakfast eating space and preparation space, fitness room, and limited meeting space may be provided, but use of the facilities shall be limited to registered guests of the facility only. Typical uses include express hotels, extended stay hotels, motels, inns, or hostels.

Hotel / Lodging, Resort means a building(s) providing transient overnight lodging including four or more guest rooms to the general public for an established rate or fee designed as a resort or leisure facility. Due to the scope of the facility, ingress and egress to rooms shall not be restricted to lobby access only, as is required with the full-service hotel. Access by daytime guests is encouraged in addition to lodging guests, who will have access to a variety of amenities within the acreage of the resort. Typical accessory uses may include a spa, conference center, retail facilities, amusement facilities, and indoor and outdoor sports and recreation facilities.

Housing & Services for the Aging means a building or group of buildings providing general living and health care services for the aging. The phrase “housing & services for the aging” includes commonly used terms such as:

1. *Retirement homes*, generally refers to residential facility that provides a range of services, amenities, or care for the aging.

2. *Independent living*, a residential facility for elderly and aging individuals who can live independently but that can provide assistance to a limited number of services and daily activities as required.
3. *Assisted living*, a residential facility that provides assistance for basic activities and necessities, such as nursing care, housekeeping, and prepared meals while emphasizing residents' independence.
4. *Nursing home*, a residential facility that provide assistance for basic activities and necessities. Healthcare is emphasized over independent living, and nursing homes are typically staffed with certified healthcare professionals to provide skilled nursing care for residents.
5. *Skilled nursing facility*, a residential facility that provides assistance for basic activities and necessities, much like a nursing home, but often provides a broader range of healthcare services and medical options, such as emergency care, rehabilitation services.
6. *Continuum care*, a residential facility that provide housing and services at all levels of care, from independent living to assisted living to long- or short-term skilled nursing care, at one location to meet need requirements as they change.
7. *Short-term rehabilitation*, a residential facility that provides amenities and services that assist in the recovery from health issues. Length of stay is determined by the health issue and requirements for recovery.

I

Impervious Cover means any structure or surfacing that might disallow penetration of water in the ground.

Improvement means any constructed physical feature which is not a natural feature such as but not limited to, a structure, building, fence, gate, landscaping, tree, wall, parking area, etc.

Improvement Agreement means a contract entered into by the applicant and the City, by which the applicant promises to complete the required public improvements within the subdivision or addition within a specified time period following Final Plat approval.

Industrial Services, Heavy means any use that is classified as a "high hazard" occupancy by the City or other governmental entity. The phrase "industrial sales and services, heavy" includes, but is not limited to, such uses as:

1. *Heavy manufacturing*, the manufacturing or other industrial processing of products primarily from extracted/raw materials or the bulk storage and handling of such products and materials. Differs from light manufacturing due to the potential impacts on surrounding properties.
2. *Refinery*, a processing plant that uses mechanical and chemical means to purify and refine a raw substance to convert it to a more useful product, such as coal, cement, fuel, sugar, petrochemicals, or metals.
3. *Freight management*, the management of mobility and access of truck, rail, or air cargo freight.
4. Any use which will involve a material risk of environmental contamination, explosion, or fire; perceptible ground vibration; excessive noise; emission of objectionable odors; or requires access by rail or more than 10 vehicle trips per day by semi-trailer trucks or similar sized vehicles; or
5. Primary processing, manufacturing, or repair not otherwise defined in these regulations

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:

1. *Light manufacturing*, the manufacture of predominantly previously prepared materials or finished products, including processing, fabrication, assembly, treatment, and packaging of such products, and storage, sales, and distribution of such products.

2. *Building maintenance services*, the provision of maintenance and custodial services to firms rather than individuals. Typical uses include janitorial, landscape maintenance or window cleaning services.
3. *Custom manufacturing*, the on-site, indoor production and storage of goods by hand manufacturing which involves only the use of hand tools or mechanical equipment not exceeding two (2) horsepower or a single kiln not exceeding eight (8) kilowatts. The direct sale to consumers of those goods produced on-site is prohibited.
4. *Manufacturing and assembling of electronic components, precision instruments and devices*, the manufacturing of electronic components into finished products, including fabrication, assembly, treatment, and packaging of such products.
5. *Office warehouse*, office space associated with warehousing of goods and materials associated with a service industry, but not involving manufacturing or production.
6. *Printing, lithography, publishing or similar establishments*, an establishment in which the principal business consists of duplicating and printing services using photocopy, blueprint, or offset printing equipment, including publishing, binding, and engraving.
7. *Pharmaceutical manufacturing*, the processing or compounding of drugs and other medical and pharmaceutical products.
8. *Communication facilities*, establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as major utility facilities. Typical uses include television studios, telecommunication service centers or telegraph service offices.
9. *Data centers*, a facility that provides processing, storage, networking, management and the distribution of data within an enterprise.

Industrial Uses means a category of uses that range from light manufacturing and assembly, equipment servicing, storage/freight management to waste related services.

Industrialized Housing or modular housing is a residential building that:

1. Includes the structure's plumbing, heating, air conditioning, and electrical systems and is:
 - a. Designed for the occupancy of one or more families;
 - b. Constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site; and
 - c. Designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system.
2. Industrial housing does not include:
 - a. A residential structure that exceeds three stories or 49 feet in height;
 - b. Housing constructed of a sectional or panelized system that does not use a modular component; or
 - c. A ready-built home constructed in a manner in which the entire living area is contained in a single unit or section at a temporary location for the purpose of selling and moving the home to another location.

See Tex. Occ. Code §1202, Industrialized Housing and Buildings.

Infrastructure means any street, alley, roadway, sidewalks, storm drainage, water and wastewater facilities, utilities, lighting transportation, or any other facility or portion thereof as required by the City.

Irrigation Plan means a plan that graphically depicts a proposed mechanical water system that illustrates the method and means of conveying appropriate water levels to the selected landscape plantings.

J

K

Kennel means a commercial establishment that is engaged in the temporary boarding and care services for dogs, cats and similar small domesticated animals (pets). Typical uses include boarding kennels, pet motels, or dog training centers.

L

Lake Marble Falls means the water body located on the Colorado River in Burnet County, spanning downstream of Lake LBJ and Wirtz Dam and upstream of Max Starke Dam and Lake Travis.

Land Disturbance means a process and permit required prior to removing any vegetative cover, excavating, filling, or generally disturbing the land.

Land Disturbance Permit means an administrative permit required for parcels proposed for development in the City limits and extraterritorial jurisdiction pursuant to Section 11.5.1, *Land Disturbance Permit*. The permit is intended to control erosion and sedimentation runoff and protect the natural topography and vegetation of land.

Land Planner means persons, including surveyors or engineers, who possess and can demonstrate a valid proficiency in the planning of residential, nonresidential and other related developments, such proficiency often having been acquired by education in the field of landscape architecture or other specialized planning curriculum, or by actual experience and practice in the field of land planning, and who may be certified as a member of the American Institute of Certified Planners (AICP).

Landscape Architect. See “Registered Landscape Architect”.

Landscape Plan means a graphic and written representation of criteria, specifications, and detailed plans to arrange and modify the effects of natural features such as plantings (existing and new), ground and water forms, circulation, walks, irrigation, landscape lighting, erosion control, on-site drainage, and other features.

Landscaped means an area devoted to or developed predominately with plant material or natural landscape features, including lawn, ground cover, gardens, trees, shrubs and other plant materials; and also including accessory decorative outdoor landscape elements such as pools, fountains, water features, paved or decorated surfaces or rock, stone, brick, block, or similar material (excluding driveways, parking, loading, or storage areas), and sculptural elements, provided that the use of brick, stone, aggregate, or other inorganic materials shall not predominate over the use of plant material.

Landscaped Area means any area of ground that can support vegetative groundcover and other landscaping plant materials that has been set aside for the preservation or installation and maintenance of plant materials. Sidewalks and other impervious surfaces are not considered landscaped areas. For the purposes of these regulations, the landscaped edge and landscaped areas within parking lots are contained within this definition.

Landscaping means the improvement of a section of ground by contouring the land and planting live shrubs, trees, groundcover, and/or flowers.

Lateral Lines means those electric or telephone lines used to distribute services from a feeder line to a single subdivision. These electric lines are normally connected to a feeder line through a sectionalizing device such as a fuse.

Legal Nonconformity means any structure, lot, site, sign, or use that does not meet the requirements of the current regulations or amendment hereto but was legally established on the effective date of these regulations or any effective date of any amendment hereto and has been in regular and continuous use. See also “Nonconformity” and Article 12, *Nonconformities*.

Landscape Design Professional means an individual currently certified by the Texas Nursery & Landscape Association to practice landscape design.

Large Shrub means a shrub that is intended to provide screening. Large shrubs typically grow to a height of five (5) to six (6) feet high.

LCRA means the Lower Colorado River Authority.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee System means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Licensed Surveyor means a professional land surveyor registered with and licensed in the State of Texas by the Texas Board of Professional Land Surveying.

Light Industrial Services. See “Industrial Services, Light”.

Limits of Construction means the boundary of the area within which all construction activity will occur, as delineated on a Site Development Plan, Site Plan, or Construction Plans.

Live-Work Unit means a structure that provides residential living space and commercial or office use space to be utilized by the resident of the premises.

Loading Space means an area used for loading or unloading of goods from a vehicle in connection with the use of the site on which such space is located. Not to include public streets and rights of ways. Also known as loading zone or loading area.

Local Utility Service means services which are necessary to support principal development and involve only minor structures such as lines and poles which are necessary to support principal development.

Lot means a divided or undivided tract or parcel of land having frontage on a public street, and which is, or which may in the future be, offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract; and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record at the county. Also known as parcel, tract, or plot.

Lot Area means the area of a lot contained within its boundaries, exclusive of any portion within a public or private street or street right-of-way.

Lot Balancing means a design technique that provides predictable variation in the design of lots which allows a developer greater flexibility in offering multiple house plan options without decreasing overall gross density.

Lot, Corner means a lot located at the junction of two or more streets.

Lot Coverage means the ratio of gross floor area of all buildings, structures, and all areas associated with driveways and parking lots on a lot, to the total lot area, expressed as a percentage.

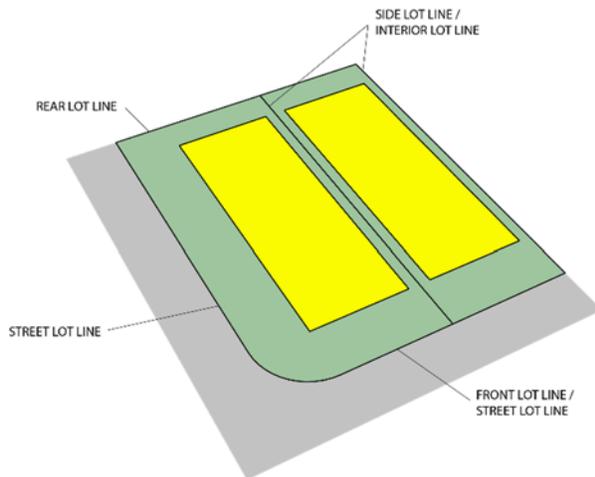
Lot Depth means the distance between the front lot line and rear lot line, measured at the mid-points of the front and rear lines.

Lot, Flag means a lot located behind another lot connected to the street by an area narrower than the full lot width. Also known as a panhandle lot.

Lot Frontage means the distance between the side lot lines, measured at the point where the side lot lines intersect the street right-of-way. All sides of a lot that abuts a street shall be considered frontage.

Lot, Interior means a lot other than a corner lot.

Lot Line means a line or series of lines bounding a lot as defined herein.



Lot Line, Front means a lot line abutting a public or private street, or access easement. On a corner lot, the shorter lot line abutting public or private street or access easement shall be considered the front lot line. On a through lot, the lot line abutting the public or private street providing the primary access to the lot shall be considered the front lot line. On a flag lot, subdivision plat or parcel map shall designate an interior lot line as a front lot line, or it shall be determined by the Building Official.

Lot Line, Rear means a lot line defined as other than a front or side lot line. In the case of an irregularly shaped lot or a lot bounded by only three (3) lot lines, a line within the lot having a length of ten (10) feet, parallel to and most distant from the front lot line shall be interpreted as the rear lot line for the purpose of determining required yards, setbacks and other provisions of these regulations.

Lot Line, Side means any lot line that is not a front lot line or a rear lot line.

Lot Line, Street means any lot line abutting an existing or dedicated street right-of-way.

Lot of Record means a lot that is part of a subdivision, the plat of which has been recorded in the office of the Burnet County Clerk, or a parcel of land the deed (including metes and bounds description) for which was recorded in the office of either the Burnet County Clerk or the Blanco County Clerk on or before June 27, 2005.

Lot, Through means any lot that is not a corner lot with frontage on two streets which are parallel to each other or within 45 degrees of being parallel to each other.

Lot Width means the distance between the side lot lines, measured at the front setback line.

Low Impact Development (LID) means systems and practices that use or mimic natural processes that result in the infiltration, evapotranspiration or use of stormwater in order to protect water quality and associated aquatic habitat.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

M

Manufactured Home, also known as a "HUD-code manufactured home" means:

1. A structure that is:
 - a. Constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development;
 - b. Built on a permanent chassis;
 - c. Designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities;
 - d. Transportable in one or more sections; and
 - e. In the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet;
2. Includes the plumbing, heating, air conditioning, and electrical systems of the home; and
3. Does not include a recreational vehicle as defined by Chapter 24 of the Code of Federal Regulations, Section 3282.8(g).

See Tex. Occ. Code §1201, Manufactured Housing.

Manufactured Home Lot or Space means a part of a parcel of land located within a manufactured home park or subdivision designed to meet the minimum provisions set out in these regulations for the placement of a single manufactured home. The two can be distinguished as follows:

Manufactured Home Lot means a part of the parcel within a manufactured home subdivision which is owned in fee simple by the owner of the property.

Manufactured Home Space means an undivided space within a manufactured home park which is established for identification purposes, used to calculate the minimum requirements as set out in these regulations, and is under common ownership.

Manufactured Home Park or Subdivision means a parcel of land providing for the placement of two or more manufactured home lots or spaces, either for rent ("manufactured home park") or for sale ("manufactured home subdivision"). Where established as a single-ownership undivided parcel, manufactured home spaces are used to calculate minimum size requirements pertaining to each home within the park.

Manufactured Home Park or Subdivision, Existing means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Manufactured Home Park or Subdivision, Expansion of Existing means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Manufactured Home Park or Subdivision, New means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Master Planned Community means a land development process permitted by these regulations which promotes the mixture of multiple housing types with neighborhood oriented nonresidential uses. See Section 4.4.2, *Master Planned Communities*.

Mechanical Equipment means all equipment or devices installed for a primary or accessory use or structure, including, but not limited to, heating and air conditioning equipment, antennas, utility huts, power generating devices, condensers, air ducts, meters, etc., that are located on the site or attached to the exterior (walls or roof) of the building.

Mean Sea Level means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

Medical Clinic, also referred to as "outpatient clinic", means a facility providing for the examination, diagnosis, consultation, and/or treatment of patients on an outpatient basis, whether by appointment or walk-in basis, with no overnight stay allowed. The term "medical clinic" includes, but is not limited to, urgent care and other specialized forms of medicine not meeting the definition of "Hospital".

Minor Plat. See "Plat, Minor Plat".

Mitigation Replacement Ratio means the calculation of the amount of required tree or monetary compensation for removal of protected or heritage trees.

Mixed Use means the horizontal or vertical mix of residential and nonresidential uses or a mix of nonresidential uses located on the same property.

Mobile Home means a pre-fabricated housing unit built prior to July 15, 1976 that is primarily constructed at an assembly facility and transported to its location for permanent installation. The housing code enacted by the Department of Housing and Urban Development in 1976, renamed mobile homes to manufactured homes. See also "Manufactured Home".

Mobile Service means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves.

Model Homes / Model Apartments and Sales means permanent structures built initially for the intent to showcase exterior and interior features of new homes or apartment structures for sale or lease. Models are designed and built for the eventual conversion to a residential dwelling unit and are located within the subdivision or construction area of the products for sale or lease.

Modular Home. See "Industrialized Housing".

Monopole shall mean a freestanding pole that requires no additional structural support from guyed wires or other appurtenance that may exist between the ground surface and the pole for structural support.

Multifamily means a building(s) that contains three or more dwelling units that are accessed by from interior hallways or from individual exterior entrances (e.g., an apartment complex), including apartments, triplexes, and fourplexes intended for rental, lease or condominium ownership. The term multifamily does not include bed and breakfast lodging, manufactured housing, single-family detached or attached residential uses, or hotels/lodging.

Multifamily Residential District means a primarily residential zoning district intended to provide areas of even higher density than in the Transitional Residential District. It is tied to an overall development density and is intended to provide an area of transition between the lower density Transitional Residential District and non-residential districts. See Section 2.1.1, *Zoning Districts Established*.

Multi-Lot Unified Development means a development that is designed and approved as a cohesive, planned project located on multiple abutting properties established under a single development application such as a Site Development Plan or subdivision plat.

Multi-Use Path, including “Shared-Use Path” or “Side Path”, means a path in the public right-of-way that is for the shared use of bicyclists and pedestrians for transportation and recreational purposes.

N

Native or Native Plant means any plant species that is indigenous to Central Texas.

Natural Area means an area of naturally grown landscape that is left primarily undisturbed, except for the removal of poison ivy, invasive species, diseased or dead trees, and similar vegetation, and allowing for maintenance of the trees to encourage vigorous growth.

Neighborhood Amenity means a privately established indoor and/or outdoor facility that provides recreational, social, or other types of common spaces, amenities, activities, or services intended specifically for the residents of a particular residential development. The phrase “neighborhood amenity” includes, but is not limited to, commonly used terms such as:

1. *Neighborhood park*, an area providing open space for the enjoyment of the residents that may include playgrounds, picnic areas, pavilions, benches, walking trails, and restrooms.
2. *Amenity center*, a facility providing gathering or recreational space for the residents that may include a clubhouse, swimming pool, and sport courts (basketball/tennis/volleyball).
3. *Neighborhood garden*, a site used for growing plants for food, fiber, herbs, and/or flowers, which is shared and maintained by the residents of the neighborhood.
4. *Residential convenience service*, a use or activity conducted as an accessory use to multiple family residential or mobile home park residential use and intended solely for the convenience of residents thereof.
5. *Private golf course*, a facility provided for the benefit of the residents of the community but may be open to external memberships, that provides improved land area for conducting a game of golf and may include a clubhouse, shower / changing facility, driving range, equipment sales, golf cart storage, and similar accessory uses.

Neighborhood Commercial District means a non-residential zoning district intended for nonresidential development that is of an appropriate use, scale, and design that is compatible with abutting or nearby residential development. See Section 2.1.1, *Zoning Districts Established*.

Neighborhood Residential District means a residential zoning district intended to be the default single-family detached district and suburban in character, with flexible lot size configurations tied to an overall development density. See Section 2.1.1, *Zoning Districts Established*.

New Construction means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Nonconformity means any structure, lot, site, sign, or use that does not meet the requirements of these regulations or other local, state, or federal ordinances or technical manuals. In order to be considered a legally nonconforming status, the nonconforming structure, lot, site, sign, or use must have been legally established on the effective date of these regulations or any effective date of any amendment hereto and has been in regular and continuous use. See also "Legal Nonconformity".

Nonconforming Use means a use that is not permitted within the zoning district of the subject property upon which the use is located, including those uses that contain restrictions or require a Conditional Use Permit but lacks such permit or are operating outside the restrictions of such use.

Nonconforming Structure means any structure that does not meet the requirements of these regulations, such as building placement, setback requirements, height limitations, material requirements or articulation, or does not meet any other local ordinances or technical manuals. In Article 12, *Nonconformities*, the term structure applies to anything constructed or erected on the ground or which is attached to something located on the ground, except signs. This includes, but is not limited to, buildings, telecommunications towers, utility improvements and sheds, and is applicable to all structures regardless of whether they are deemed principal or accessory.

Nonconforming Lot means a lot of record that does not meet the minimum area or dimensional requirements of the zoning district in which the lot is located.

Nonconforming Site means a property with existing site improvements that do not conform to one or more of the regulations of these regulations applicable to the property. Site improvements may include, but not limited to, parking areas, storm drainage facilities, sidewalks, landscaping, screening, and buffers.

Nonresidential means any use, building or structure (or portion of a building or structure) occupied or intended to be occupied, in whole or in part, for a use other than a residential dwelling unit.

O

Off-Site Facilities or Improvements means those facilities or improvements that are required to serve a site but that are not located within the boundaries of a plat and are not required to be constructed or improved immediately adjacent to the property to serve the development. These include oversizing for streets, sewer lines, water lines and storm drainage facilities, as well as the excess capacity of facilities such as water storage tanks and wastewater treatment plants available for new development.

Off-Street Parking means an area reserved exclusively for the parking of motor vehicles that is located outside of the public right-of-way.

Office means uses where administrative, business, or professional services are provided. The term “office” includes, but is not limited to, such uses as:

1. *Administrative and business offices*, offices of private firms or organizations which are primarily associated with the provision of executive, management or administrative services. Typical uses include administrative offices, and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, photocopy and reproduction, and business offices or public utilities, organizations and associations, or other use classifications when the service rendered is that customarily associated with administrative office services.
2. *Drafting services or quick reproduction services*, establishments primarily engaged in such services as surveying, mapping, aerial photography, LiDAR management, hydrographic surveying, and other drafting and reproduction services.
3. *Engineering, architectural and design services*, establishment primarily engaged in providing consulting, design, and drafting services for construction projects.
4. *Professional offices*, a use providing professional office space for services in the fields of law, architecture, design, engineering, accounting and similar professions.
5. *Real estate offices and sales*, a use providing professional office space for services primarily engaged in the sale or lease of real property.

The term “office” does not include the term “Office, Medical” or “Office, Showroom” or “Office, Warehouse” and excludes sale or storage of merchandise on the premises.

Office, Medical means office space used for the examination, diagnosis, consultation, and/or treatment of patients on an outpatient basis, generally by appointment, with no overnight stay allowed. The term “medical office” includes, but is not limited to, health care offices and laboratories supporting the work of physicians, pediatricians, obstetricians, dentists, optometrists, physical therapists, chiropractors, nutritionists, psychiatrists, and other similar health related care and excludes outpatient clinics (e.g., urgent care and other specialized forms of medicine not meeting the definition of “Hospital”).

Office, Showroom means office space with both a business office and associated showroom for display of sample goods or services to be delivered or performed off-premises.

Office, Warehouse means office space with both a business office and associated warehouse for storage of materials associated with a service industry, but not involving manufacturing or production.

Official Zoning Map means the map showing the location and boundaries of the zoning districts established by these regulations. The map is entitled "Official Zoning Map of Marble Falls, Texas" and is kept on record with the City.

On-site Facilities or Improvements means the existing or proposed facilities or improvements constructed within the property boundaries of a plat, and the existing or proposed facilities required to be constructed or improved immediately adjacent to the property that are needed to serve a development. Facilities and improvements include, but are not limited to, streets, alleys, water lines, sewer lines, storm drainage facilities, sidewalks, screening devices, and curbs and gutters.

Open Space means the areas of a lot or parcel proposed for development that are set aside to be used for the common use or enjoyment of the residents, patrons, or users of the development.

Ornamental Tree means a tree smaller than a shade tree that is intended to provide screening and aesthetic benefit rather than significant shade.

Outdoor Display means the display of merchandise, goods, or materials that are actively for sale.

Outdoor Storage means the storage of merchandise, goods, or materials that are not actively for sale.

Overlength Street or Alley means a street segment, or a cul-de-sac or alley segment, which exceeds the maximum length allowed by these regulations, as measured along the centerline of the street from the intersection centerpoint of one through street, which shall not be a cul-de-sac or dead-end or looped street, to the intersecting centerpoint of another through street or, in the case of a cul-de-sac, to the midpoint of the cul-de-sac. For an alley segment, the measurement shall be to the right-of-way lines of the streets from which the alley is provided access, including any alley turnouts, or from the centerpoint of an intersection with another alley which connects to a street.

P

Parcel means a legally described area of land.

Parcel Proposed for Development means any legally described parcel of land which is designated by the owner/operator or developer as land to be used or developed as a single unit, or which has been developed as a unit as determined by the Director. Parcels proposed for development oftentimes go through the subdivision process to create individual lots.

Parking, Commercial means an off-street facility for the parking of vehicles on a temporary basis that may be operated as a business enterprise by charging the public a fee and is not reserved or required to accommodate occupants, clients, customers, or employees of a particular establishment or premises.

Passive Outdoor Recreation means open space areas or parks with limited manipulation of the natural landscape that provide opportunities for passive enjoyment of the natural environment which may include walking/jogging trails, picnic areas, benches, playgrounds, and similar features generating limited traffic demand and lighting.

Pavement Width means the portion of a street that is available for vehicular traffic. Where curbs are used, it is the portion from the back of one curb to the back of the opposite curb.

Pawn Shop means an establishment that is engaged in the business of:

1. Lending money on the security of pledged goods; or
2. Purchasing goods on the condition that they may be repurchased by the seller at a fixed price within a fixed period of time.

See Texas Finance Code § 371.003.

Perimeter Street means any existing or planned street which abuts the subdivision or addition to be platted.

Permeable Pavement is a low impact development practice that allows water to drain through it. It is an alternative to traditional impervious pavements used for sidewalks, parking areas, roads, or other impervious ground covers. Must be approved for use by the City Engineer. May also be referred to as pervious cover or surface.

Permit means a license, certificate, approval, registration, consent, permit, contract, or other agreement for construction related to, or provision of, service from a water or wastewater utility owned, operated, or controlled by a regulatory agency, or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain to perform an action or initiate, continue, or complete a project for which the permit is sought.

Personal Communication Services or Networks means digital wireless telephone technology such as portable phones, pagers, faxes, and computers.

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:

1. *Branch banking and check cashing*, a financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities, excluding non-depository financial institution or payday lending establishments.
2. *Computer programming and other software services*, an establishment providing computer-related services, including sales and repair.
3. *Consumer and small appliance repair services*, an establishment providing repair services for small consumer appliances.
4. *Copy centers*, parcel service drop-off locations, and mailbox services.
5. *Hair and nail salons*, a retail use which provides grooming or cosmetic services to the individual.
6. *Health spas and physical fitness centers*, facilities that provide amenities for health and fitness activities, such as fitness gym, gymnasium, indoor sports such as tennis, racquetball, bocce ball, soccer, swimming, or other sports activities.
7. *Laundromat*, retail dry cleaning, tailoring, shoe repair, and clothes restoration, establishments primarily engaged in the provision of laundering, dry cleaning or dyeing services other than those classified as clothing restoration.
8. *Music, dance, martial arts, yoga, and other similar instruction*, an establishment providing group instruction.
9. *Pet services (not including animal clinics or services)*, retail sales and grooming of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, dog bathing and clipping salons or pet grooming shops.
10. *Tattoo parlors*, establishments that engage in the business of tattooing and/or branding human beings.

Personal Wireless Services means wireless communications technology that provides users with the ability to communicate using portable devices not physically interconnected by equipment such as wire or cable.

Permitted Use is a use that is allowed in a specific zoning district.

Person means any individual, association, firm, corporation, governmental agency, political subdivision, or legal entity of any kind.

Planning and Zoning Commission means the Planning and Zoning Commission of the City of Marble Falls, Texas. May be referred to as “P&Z” or “Commission”.

Planned Development District means a customizable zoning district, represented through an adopted development plan, per these regulations, which may provide for one or more main uses or structures on a single parcel or contiguous parcels of land, and which permits flexibility related to land uses, dimensional requirements, landscaping, design, and other similar regulations in return for assurances of a comprehensive plan for overall innovation and/or quality of development.

Planter box means an enclosed bioretention system that collects and filters stormwater runoff through vegetation and soil media. Because the system is enclosed, filtered runoff is directed into an underdrain.

Plat means a document, prepared by a registered land surveyor or professional engineer, that depicts the subdivision of land into lots and blocks (and sometimes the combination of land) for the purpose of identifying property. For the purposes of these regulations, the following definitions are included:

Amending Plat means a subdivision plat which includes a plat revision to correct errors or make minor changes to a recorded plat. See Section 11.4.7, *Amending Plat*.

Development Plat means a plat that is required prior to development of property that meets the requirements of Section 11.4.5, *Development Plat*.

Final Plat means the official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a surveyor or engineer, with the subdivision location referenced to a survey corner, and with all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references. The Final Plat of any lot, tract or parcel of land shall be recorded in the land records of Burnet County, Texas. See Section 11.4.3, *Final Plat*.

Minor Plat means a subdivision resulting in four or fewer lots, provided that the plat does not require the creation of new streets or the extension of any municipal facilities to serve any lot within the subdivision. Any property to be subdivided using a Minor Plat shall already be served or be able to be served by all required City utilities and services, and all lots will have access from a public street that has already been improved to City standards. Also known as Minor Subdivision. See Section 11.4.4, *Minor Plat*.

Major Plat means all plats not classified as Minor Plats, including, but not limited to, subdivisions of more than four lots, or any plat that requires the construction of a new street (or portion thereof) or the extension of a municipal facility as required by these regulations or any other City ordinance. Major plat approval shall be in accordance with Section 11.4.2, *Preliminary Plat*, and Section 11.4.3, *Final Plat*. Also known as Major Subdivision.

Preliminary Plat means a subdivision plat which is the graphic expression of the proposed overall plan for subdividing, improving and developing a parcel proposed for development, showing the proposed street and lot layout, easements, dedications and other pertinent features, with such notations as are sufficient to substantially identify the general scope and detail of the parcel proposed for development. See Section 11.4.2, *Preliminary Plat*.

Replat means a subdivision plat which involves the re-subdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot or tract. See Section 11.4.6, *Replat*.

Plat Vacation means an instrument declaring that a plat and its dedication be vacated or cancelled and that the land be converted to acreage. An applicant of a Plat Vacation may remove, in whole or partially, subdivisions, dedicated easements, notes, covenants, or restrictions from a plat. See Section 11.4.9, *Plat Vacation*.

Police Chief means the commanding officer of the Marble Falls Police Department.

Preliminary Plat. See "Plat, Preliminary Plat".

Primary means the basic, fundamental, or most important use, activity, or development of a building or site. For the purposes of these regulations, "primary" is equal to, identical to, and often used interchangeably with "principal".

Primary Architectural Façade means the façade of a building facing a public right-of-way, or the façade that serves as the front façade which has received more elaborate or special architectural treatment.

Principal Building means a building in which a principal use of the parcel or property is conducted.

Principal Structure means a structure in which a principal use of the parcel or property can be associated.

Principal Use means the use which is conducted as the primary activity on the parcel of property.

Private Street means a private vehicular access way, including an alley, that is shared by and that serves two (2) or more lots, which is not dedicated to the public, and which is not publicly maintained.

Prohibited Use means a use that is not allowed in the specified zoning district and in some cases the entire City.

Project means an endeavor over which a regulatory agency exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor.

Projected Side Yard Line means a projection of the side lot line of a waterfront lot/property into the abutting body of water where a boat dock would be located. Utilized to achieve a minimum separation of docks from one another.

Property Line. See “Lot Line”.

Property Owner means any person or firm, association, syndicate, general or limited partnership, corporation, trust or other legal entity, or any agent thereof, that has sufficient proprietary interest in the land subject to these regulations. In any event, the term “property owner” shall be restricted to include only the owner(s) or authorized agent(s) of such owner(s), such as a developer. Can also be known as “Applicant” or “Subdivider” or “Developer”.

Protected Tree means, for the purposes of these regulations, a Live Oak, Post Oak, Shumard Oak, Bur Oak, Chinquapin Oak, Monterey Oak, Bald Cypress, American Elm, Cedar Elm, Pecan, Walnut, Texas Ash, or Southern Magnolia tree with a diameter breast height (DBH) of 12 inches or greater.

Provisional Housing means a facility providing housing and/or overnight accommodations for groups of people whom will stay for a temporary, intermittent, or transitional period of time. This term includes facilities such as post incarceration facilities, halfway houses, and homeless shelters.

Public Improvement means any improvement, facility, or service together with its associated public site, right-of-way, or easement necessary to provide transportation, drainage, public or private utilities, parks, energy, or similar essential public services and facilities, for which a governmental entity may ultimately assume ownership and the responsibility for operation and maintenance.

Public Service and Emergency Systems means communication systems that are legally required by any governmental agency having jurisdiction.

Q

Quadplex means a parcel developed with four dwelling units in a single structure. Quadplexes are designed exclusively for the use and occupancy of four families living independently of each other.

Rain Garden is a vegetated depression that temporarily stores stormwater runoff. Water is then filtered through the soil media, removing pollutants as it is released. Evaporation and transpiration also occurs with stored water.

Rainwater Harvesting means the practice of capturing and storing stormwater runoff to be used for irrigation and other non-potable uses. Rainwater harvesting systems can range in size and selection of the appropriate system will depend on the development type and goals.

Rain Barrel means a small, above ground storage system that typically holds 100 gallons or less. They are most appropriate for residential developments such as single-family homes or similar buildings.

Cistern means above ground storage systems that have a larger capacity than a rain barrel. They can collect water from larger buildings, such as commercial buildings or a multifamily building.

Underground Storage System means a rainwater harvesting system that collects and stores water in chambers constructed below grade. They can collect from buildings as well as paved areas.

Recreational Vehicle (RV) means a vehicle which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily for use as temporary living quarters for recreational, camping, travel, or seasonal use.

Recreational Vehicle Park (RV Park) means a property or parcel of land developed for the use of short- or long-term occupancy of two or more recreational vehicles in designated spaces.

Registered Landscape Architect (RLA) means an individual currently registered with and licensed by the State of Texas to practice landscape architecture.

Regulatory Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Rendering Plant means plant that converts packing house waste, kitchen grease, and livestock carcasses into industrial fats and oils (as tallow for soap) and various other products (as fertilizer).

Replat. See "Plat, Replat".

Research & Development means a structure or group of structures used primarily for applied and developmental research, where product testing is an integral part of the operation and goods or products may be manufactured as necessary for testing, evaluation, and test marketing.

Residential means any use, building or structure (or portion of a building or structure) that contain habitable rooms for non-transient occupancy. Residential uses are typically contained within single-family detached, single-family attached, duplex, and multifamily dwelling units. The term "residential" is separate and distinct from "hotel / lodging" and other overnight accommodations.

Residential and Neighborhood Uses means a category of uses that are intended for residential dwellings and related accessory uses.

Restricted Use means a use that is allowed in a specific zoning district subject to standards for the permitted uses and use specific requirements.

Resource Extraction means the extraction of surface or 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 extractive 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 flotation; and other preparation customarily done at the extraction site or as part of the extractive activity.

Restrictions/Deed Restrictions means easements, servitudes, covenants, conditions, and/or restrictions on property which are set out in a recorded agreement or a plat note that binds subsequent owners and may include restrictions on use or development of land and require payment of dues and other affirmative actions to be performed. Restrictions may be either private agreements between private parties or public restrictions enforceable by the City or other public entities.

Retail Sales, General means the sale of goods directly to a consumer, typically in small quantities and not for wholesale. Accessory uses may include drive-in or drive-through facilities, which may be further limited in certain zoning districts. The phrase “retail sales” includes, but is not limited to, such uses as:

1. *Agricultural sales and services*, establishments or places of business engaged in sale (from the premises) of feed, grain, fertilizers, pesticides and similar goods or in the provision of agricultural related services with incidental storage on lots other than where the service is rendered.
2. *Alcohol sales*, the retail sale of beer, wine, and/or other alcoholic beverages for off-premises consumption.
3. *Artisan sales*, the manufacture and retail sale of hand-crafted wares such as pottery, jewelry, art, and similar products of craftsmanship.
4. *Clothing, clothing accessory, and jewelry stores*, the retail sales of clothing, clothing accessories, or jewelry merchandise.
5. *Convenience store (without vehicle gas or fueling station)*, a retail establishment that sells consumable and non-consumable convenience products for off-premise use or consumption.
6. *Electronics and appliance stores*, the retail sales of appliance and other consumer electronics.
7. *Florist, card, and gift shops*, the retail sale of gift-related merchandise.
8. *Food sales*, establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.
9. *Furniture and home furnishings stores*, retail sales of furniture or home furnishings.
10. *General merchandise stores*, retail sale of multiple lines of merchandise.
11. *Hardware stores, plumbing supplies, electrical supplies, lighting stores*, retail sales of household goods or services.
12. *Sporting goods, hobby, book, and music stores*, retail sales of personal recreational goods, such as books, sporting goods, hobby and crafts, instruments, and similar merchandise.

Retail Sales and Service, Heavy Equipment means

1. *Construction sales and services*, businesses primarily engaged in construction activities and/or the retail or wholesale sale of materials used in the construction of buildings and other structures and excluding those uses classified as vehicle sales, rental, or services. May include incidental storage. Typical uses included building materials stores, tool and equipment rental or sales.
2. *Equipment sales*, an establishment primarily engaged in the sale or rental of trucks, tractors, construction equipment, agricultural implements, similar heavy equipment, including incidental storage, maintenance and servicing. Typical uses include truck dealerships, construction equipment dealerships sales establishments.

3. *Equipment repair services*, an establishment primarily engaged in the repair of trucks, tractors, construction equipment, agricultural implements and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services and machine shops, but exclude dismantling or salvage.

Retail Sales and Services, Large Scale means retail sales and service activities which may include exceptionally large floor areas, heavier traffic demand and circulation, partially enclosed structures (e.g., outdoor merchandise). The phrase “retail sales and services, large scale” includes, but is not limited to, such uses as:

1. Home retail centers, warehouse clubs, and other big box stores; and
2. Lawn and garden retail centers (not including crop production and sales).

Review means “to read, analyze, assess and, as appropriate, act upon” a development application.

Review Body or Authority means the entity that is authorized to either recommend approval or denial or be the decision-making authority of an application for permit or approval required by these regulations.

Rezoning. See “Zoning Map Amendment”.

Right-of-Way means a parcel of land occupied, or intended to be occupied, by a street or alley. Where appropriate, “right-of-way” may include other facilities and utilities such as sidewalks; railroad crossings; electrical, communication, oil and gas facilities, water and sanitary and storm sewer facilities; and any other special use. The use of right-of-way shall also include parkways and medians outside of the paved portion of the street. The usage of the term “right-of-way” for land platting purposes shall mean that every right-of-way hereafter established and shown on a Final Plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and shall not be included within the dimensions or areas of such lots or parcels.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Rural Estate District means a residential zoning district intended to provide the opportunity to develop a large lot subdivision that is rural in character. See Section 2.1.1, *Zoning Districts Established*.

S

Sand Filter means a flow-through treatment system designed to remove particulates and solids from runoff by slowly filtering stormwater through sedimentation and filtration chambers to improve water quality.

Satellite Antenna means an antenna that specifically sends and transmits data within a satellite communications system.

Scrap and Salvage Yard means an establishment where junk, waste, discarded, or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including 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.

Secondary is, for the purposes of these regulations, equal to, identical to, and often used interchangeably with “accessory”.

Service Lines means those lines used to connect between the utility's system or lateral lines and the end user's meter box.

Setback means the distance between a lot line and a building line.

Setback Area means the open area between building setback lines and lot lines.

Setback, Front means a yard that extends across the full width of the lot between the front lot line and the required front setback line.

Setback, Interior Side means a yard between the principal building and the side line of the lot, extending from the front yard to the rear yard.

Setback, Rear means a yard extending the full width of the lot between the rear lot line and the rear setback line. For a corner lot, the rear yard does not extend beyond the street side setback line.

Setback, Street Side means a yard extending from the front setback line to the rear lot line, located between the side street lot line and the street side setback line.

Setback Line means a line within a lot parallel to and measured from a corresponding lot line, forming the boundary of a required yard and governing the placement of structures and uses on the lot. Also known as “Building Setback Line”.

Shade Tree means the largest plants in the landscape which provide overhead structure needed for shading and under which other plants live and grow.

Shopping Center means a group of retail sales and personal services and other similar commercial uses typically grouped and managed as a unit, including food and drink establishments. Shopping centers include an off-street parking lot that collectively serves all of the uses. The phrase “shopping center” does not include out-parcels which may be separated (by lot lines or easements) from the main shopping center.

Shoreline means the line at which the water surface of Lake Marble Falls and the navigable waterways intersect the land at any given time.

Shrub means a self-supporting woody perennial evergreen or deciduous species, characterized by multiple stems and branches contiguous from the base. See also “Large Shrub” and “Small Shrub”.

Sight Triangle means the triangular area formed by an invisible diagonal line at the corner of either two intersecting street right-of-way lines, the edge of street lines, the edge of a driveway or combination of two thereof. The sight triangle exists to prevent sight obstruction for motor vehicles, pedestrians, etc. May also be referred to as “street visibility triangle” or “sight distance triangle”.

Single-Family Attached means a dwelling unit that is joined to another dwelling unit at one side by a party wall or abutting separate wall and each unit is situated entirely on its own lot.

Single-Family Detached means a dwelling unit located on an individual lot or tract. Single-family detached buildings are separated from other principal dwelling units and are separate and distinct from single-family attached, duplexes or townhouses.

Single-Family Zero Lot Line means a single-family detached dwelling unit, located on an individual lot, that is set on or relatively close to one interior side lot line to create additional side yard area on the opposite side of the unit.

Site Development Plan means a detailed, scaled plan, or set of plans, showing accurately and with complete dimensioning, all of the buildings, structures and uses, and the principal site development features including parking, access, and landscaping and screening, proposed for a specific parcel of land. The Site Development Plan is the basis for site development and is intended to demonstrate compliance with the development standards and other requirements, as applicable, of these regulations. See Section 11.5.3, *Site Development Plan*.

Small Shrub means a shrub intended as a planting base to provide aesthetic benefit. Small shrubs typically grow to a height of 2 to 4 feet.

Social Service Institution means a multi-functional facility that provides assistance, advocacy, case management, guidance, counseling, or similar services on a daytime care basis to persons requiring rehabilitation assistance or those with limited ability for self-care, but for whom medical care is not a major element. The phrase includes a facility that provides assistance concerning psychological problems, employment, learning, or physical disabilities, and child support issues, but does not include a rescue mission, homeless shelter, or child-care facility.

Special Event Venue means an indoor and/or outdoor facility or site consisting of multi-purpose rooms, outdoor courtyards, or recreational facilities available for rental by the public for the primary intended purpose of hosting social gatherings such as parties, weddings, banquets, corporate meetings or similar group events. Special Event Venue does not include an event room available for rental in a structure housing another primary use where the event room rental is an accessory use to the primary use such as a restaurant or community center.

Special Exception means an exception to certain provisions of these regulations, granted by the City Council, for specifically defined situations and standards, pursuant to Section 11.3.7, *Special Exception*. Such exception does not constitute a Variance or Waiver, as those terms are defined in these regulations.

Special Flood Hazard Area. See “Area of Special Flood Hazard”.

Specialized Building Appurtenances means an accessory or other structure associated with a building and attached to such building. Specialized structures and building appurtenances shall refer to:

1. Roof structures for the housing of elevators, stairways, tanks, or similar equipment required to operate and maintain a building;
2. Architectural towers, steeples, flagpoles, ventilating fans, or chimneys;
3. Smokestacks located in any district other than the General Industrial (IN) District;
4. Skylights, solar panels, and solar water heaters; and
5. Satellite dishes and antennae.

Specialized Mobile Radio means a two-way radio system in which two or more mobile/portable wireless transceivers are linked by a single repeater.

Standard Street means a street or road that meets or exceeds the minimum specifications in the City's standard street specifications, and which is constructed to the ultimate configuration for the type of roadway it is designated for on the City's Thoroughfare Plan.

Start of Construction, for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), means substantial improvement and means the date the Building Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of

construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Storage, Self means a controlled-access building or group of buildings housing individual storage spaces that are used to house personal property or records. There is no conduct of sales, business or any other activity allowed within the individual storage units. Does not include storage of any hazardous materials. The phrase may also be referred to as convenience storage, mini-storage, or mini-warehouse.

Storage Yard means a facility used almost exclusively for outdoor storage of only operable equipment and construction materials temporarily stored for eventual off-site use. A storage yard is not limited by the outdoor storage limitations of these regulations. The phrase "storage yard" does not include outdoor storage areas that are associated with an on-site industrial use.

Stormwater Management means the mitigation of the hydrologic impacts of lost natural runoff storage by the use of conventional stormwater conveyance systems or Low Impact Development.

Stormwater Runoff means surplus surface water generated by rainfall that does not seep into the earth but flows into storm drains or overland to flowing or stagnant bodies of water.

Street means a right-of-way, whether public or private and however designated, which provides vehicular access to adjacent land. Streets may be of the following categories:

Arterial Street, also known as major thoroughfare or primary thoroughfare, which provides vehicular movement from one neighborhood to another or to distant points within the City, and including freeways or highways leading to other communities.

Collector Streets, also known as feeder streets or secondary thoroughfares, which provide vehicular circulation within neighborhoods, and from local streets to major thoroughfares.

Local Streets, also known as neighborhood streets, which primarily provide direct vehicular access to abutting residential property.

Private Streets are streets which are owned and maintained privately by an individual, homeowners' association, or property owners' association, and which are not dedicated to the public.

Street Classification means the designation of street function established by the Marble Falls Comprehensive Plan.

Street Improvements mean any street or thoroughfare, together with all appurtenances required by City regulations to be provided with such street or thoroughfare, and including but not limited to curbs and gutters, walkways (sidewalks), drainage facilities to be situated in the right-of-way for such street or thoroughfare, traffic control devices, street lights and street signs, for which facilities the City will ultimately assume the responsibility for maintenance and operation.

Street Length. See "Block Length".

Street Right-of-Way means the shortest perpendicular distance of a roadway between the lines which delineate the rights-of-way of the street.

Street Yard means that area between the building façade and any lot line along a public street.

Structure means anything constructed or erected which requires a permanent location on, above, or below the ground; or attached to something that has a permanent location on, above, or below the ground (e.g., fences,

waste enclosures, signs, kiosks, etc.). A “structure” may sometimes also be a building. For floodplain management purposes, a structure may also include a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Subdivider means any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner of land sought to be subdivided.

Subdivision means a division or re-division of any tract of land situated within the City's corporate limits or its extraterritorial jurisdiction into two (2) or more parts, lots or sites, for the purpose, whether immediate or future, of sale, division of ownership, or building development. "Subdivision" includes re-subdivisions of land or lots which are part of a previously recorded subdivision.

Subdivision Plat. A general term that shares the meaning of “plat.”

Subdivision Sales Office means temporary buildings created for the short-term intention of being used as a sales office for and located within a particular subdivision.

Subdivision Waiver means a grant of relief from the terms of the subdivision regulations, as specified in Section 11.4.8, *Subdivision Waiver and Suspension*.

Submission Date refers to the date when all necessary forms, fees, plans, information and copies have been submitted to the City.

Substandard Street means an existing street or road that does not meet the minimum specifications in the City's standard street specifications, and which is not constructed to the ultimate configuration for the type of roadway it is designated for on the City's Thoroughfare Plan.

Substantial Improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

Succulent Plant means a type of plant that stores water in its leaves and stems and has minimal watering or irrigation requirements. Succulent plants include cacti.

Supermajority means a vote of three-fourths (¾) of the full City Council.

Surveyor means a licensed land surveyor or a registered public land surveyor, as authorized by state statutes to practice the profession of surveying.

Swale Block means installed build ups at intervals along a vegetated swale to allow stormwater to build up in a series of pools, slowing water flow and providing opportunities for vegetated filtration and infiltration.

SWPPP means a Storm Water Pollution Prevention Plan.

T

TCEQ means The Texas Commission on Environmental Quality.

TCSS means the City of Marble Falls Technical Construction Standards and Specifications for the construction of subdivision improvements, a copy of which is maintained and available for inspection at City Hall, and which is incorporated herein by reference. The TCSS shall be comprised of the provisions for trenching and backfilling, concrete, water system, sewer system, streets, sidewalks, and driveways, storm drainage, trench safety and the standard details (and as hereby amended) that are in effect at the time of submission of the plat application. The TCSS shall also include any additional provisions or policies the City of Marble Falls implements that pertain to the construction of site improvements such as street, parking lot, driveway and sidewalk paving, storm drainage structures, utility lines and facilities, screening walls/fences, retaining walls, landscaping and irrigation improvements, street lighting or signage, restricted access (gated) entrances to any type of development, and other similar improvements. The City Engineer and the City's Director of Public Works shall have the authority to determine whether or not the engineering plans for any type of site improvement are in conformance with the City's TCSS.

Telecommunications means the transmission, between or among points as specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Telecommunications Tower means any structure designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term shall include, but will not be limited to, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and alternative tower structures.

Television and AM / FM Radio Broadcast Towers mean towers used by television broadcasters to provide over the air signal as mandated by the FCC to television broadcasters to provide free service to those with in-home antennas.

Temporary Improvements mean improvements built and maintained by the property owner that are needed to remedy a circumstance that is temporary in nature, such as a temporary drainage easement or erosion control device, that will be removed upon completion of the subdivision or shortly thereafter.

Text Amendment means a change of the text of these regulations and does not include change or modification to the boundaries of any zoning district. Text amendments are granted by City Council pursuant to the procedural requirements established in Section 11.3.9, *Text Amendment*.

Tiny House means a detached dwelling unit which contains all of the minimum standards for fitness for human habitation and is between 140 square feet and 599 square feet in size. Tiny houses include a permanent foundation. See Section 4.2.4, *Tiny House Development*.

Townhouse means an attached building which contains three to six dwelling units arranged in a linear form that are separated by common walls extending from foundation to roof with exposed front and rear walls. Townhouses may be situated on individual lots, a single lot under one ownership, or a single lot through condominium ownership.

Townhouse, Front-Loaded Single-Entry means a townhouse where the garage or required parking space is located on the front or side of the dwelling unit and is accessed from the front or side by a street.

Townhouse, Rear-Loaded means a townhouse where the garage is located in the back of the dwelling unit and is accessed from the rear by an alley, or from a side-street for corner units.

Traffic Impact Analysis (TIA) means an analysis of the effect of traffic generated by a development on the capacity, operations, and safety of the public street and highway system.

Transitional Residential District means a residential zoning district intended to serve as an area of transition between the lower density Neighborhood Residential District and higher density districts. This district is intended to provide an area of higher density and different housing types than in the Neighborhood Residential District, tied to an overall development density. See Section 2.1.1, *Zoning Districts Established*.

Transportation Facilities means facilities intended for the loading, unloading, and/or interchange of passengers, baggage and incidental freight or package express between modes of transportation, including bus terminals, rail or freight loading and/or unloading areas, and other public forms of transportation.

Tree Mitigation means the process to address the removal of a protected or heritage tree through either the planting of new replacement trees based on a Mitigation Replacement Ratio or paying fees-in-lieu.

Tree Preservation Plan means a plan that graphically depicts the existing trees on a property, denotes their status, and indicates those being preserved and those being proposed for removal.

Tree Survey means a plan that graphically identifies the location, size, and species of all existing protected and heritage trees on a parcel proposed for development.

Triplex means a parcel developed with three dwelling units in a single structure. Triplexes are designed exclusively for the use and occupancy of three families living independently of each other.

Turfgrass means a type of ground cover that consists typically of long narrow leaves on jointed stems. Turfgrass is typically maintained at a low uniform height. Also known as “lawn”.

U

U.S. Army Corps of Engineers means the civil engineering branch of the U.S. government.

Unlicensed Wireless Services means wireless service utilizing unlicensed frequencies.

Use means the purpose or activity for which land or any structure thereon is designed, arranged, or intended, or for which it is occupied or maintained.

Utilities, Local / Neighborhood are publicly-owned facilities or systems that are necessary to support principal development. Minor utilities include pressure mains and transmission lines (underground or overhead) including electrical, cable, natural gas, stormwater, water and wastewater; lift and pump stations; cable television and telephone transmission lines; or similar utility lines; pumping stations; lift stations; and telephone switching facilities (up to 100 square feet gross floor area).

Utilities, Major are publicly- or privately-owned facilities or systems including generation, production, or treatment facilities such as power plants, water treatment plants, wastewater treatment plants (including package treatment plants), or similar utilities; radio and television transmission towers; elevated storage tanks; transmission towers; electric substations; and uses of a similar intensity and public impact.

Utility Easement means an interest in land granted to the City to the public generally and/or to a private utility corporation for installing or maintaining utilities across, over or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.

Utility Services means facilities of any person, firm or corporation providing electric, natural gas, telephone, cable television, or any other such item or service for public use approved but not provided by the City of Marble Falls.

V

Variance. See “Zoning Variance”.

Vegetated Filter Strip means a band of vegetation surrounding a waterway that acts as a buffer between the body of water and impervious surface. Vegetated filter strips provide stormwater management and quality benefits through reducing velocity of runoff, promoting infiltration, and removing pollutants by sedimentation and horizontal filtration through vegetation.

Vegetated Swale means a shallow, open grass channels designed to convey runoff while reducing velocity of runoff, promoting infiltration, and removing pollutants by sedimentation and horizontal filtration through vegetation.

Vehicle Gas or Fueling Station means a service station providing on-site retail sales of vehicle fuel (e.g., gasoline, hydrogen, liquefied petroleum gas, compressed natural gas, electric charging station, or similar personal vehicle fuel). The phrase “vehicle gas and fueling station” typically includes convenience stores and accessory uses such as vehicle washing stations and ice dispensers.

Vehicle Sales and Rentals means a place that sells or leases new and used automobiles, trucks, boats, construction equipment, all-terrain vehicles, 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 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.

Vested Rights Petition means a request for relief from the standards or requirements of the current land development regulations based on the premise that the applicant has acquired a vested right under previous regulations. See Division 11.7, *Vested Rights*.

Vine means a plant whose stem requires support and which climbs by tendrils or twining.

Voluntary Annexation. See “Annexation, Voluntary”.

W

Warehouse 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 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 moving and storage firms and now retail mail order distribution centers.

Waste Related Services means a use involving the collection, transportation, recycling, or disposal of waste, either on-site or at a transfer station.

Water Surface Elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Wireless means a method of transmitting and receiving data without direct connection through wires and cables.

Wireless Cable Systems means a method of cable television distribution using wireless technology.

Wireless Service Provider means a company, corporation, alliance, individual, or other legal entity that provides a wireless communication service directly to the public for a fee, or to such classes of users as to be effectively available directly to the public regardless of the facilities used.

Wireless Transmission Facilities means an unstaffed facility for the transmission and reception of radio, microwave, or electromagnetic signals used for commercial communication by a wireless communication service provider. Wireless Transmission Facilities are composed of one or more of the following components: antenna, equipment enclosure, security barrier, and/or communication tower. See Section 4.6.6, *Wireless Transmission Facilities*.

X

Y

Z

Zoning means a police power measure enacted by a municipality, including the City, in which the community is divided into zoning districts which establishes permitted and special uses and regulations governing lot size, building bulk, placement, and other development standards.

Zoning Board of Adjustments means the board established by the City Council to hear and determine Zoning Variances, and any other powers granted thereto by the State, City Charter, or these regulations. May be referred to as “ZBA”.

Zoning District means an area of the City identified with an abbreviated symbol and delineated on the official zoning map. These districts establish the permitted uses and development standards in these defined areas of the City. Zoning districts are established in the following ways:

Base Zoning District is the series of general zoning districts that apply across the whole incorporated City.

Overlay District is a defined set of regulations established for specific areas of the City that are applied in addition to the base zoning district standards.

Special District is a district that establishes separate use and development standards that are established on a case-by-case basis in order to establish a unique development type or address unique characteristics of the property that are otherwise not generally applicable across the City.

Zoning Map. See “Official Zoning Map”.

Zoning Map Amendment means a change or modification of the boundaries of any zoning district within the City’s Zoning Map. Annexations require a public hearing, notification, and approval by City Council. Also known as a rezoning. See Section 11.3.2, *Zoning Map Amendment (Rezoning)*.

Zoning Variance means a request for relief from the terms of the zoning requirements of these regulations due to a special circumstance applicable to the property, granted by the Zoning Board of Adjustment. Such procedures are in accordance with Chapter 211, Municipal Zoning, and Chapter 213, Municipal Comprehensive Plans, of the Tex. Local Gov’t Code. See Section 11.3.6, *Zoning Variance*.