

NO. 960402

**AN ORDINANCE ADOPTING A REORGANIZED LAND
DEVELOPMENT CODE AND PROVIDING AN EFFECTIVE
DATE.**

WHEREAS, the City Council of Sunset Valley finds that a reorganization of the Land Development Code will render the document more convenient for the citizens of Sunset Valley and the general public;

WHEREAS, the City Council of Sunset Valley finds that it is necessary to update references in the Code to State statutes that have been codified since the initial adoption of the Land Development Code;

WHEREAS, the City Council of Sunset Valley finds that it is necessary to correct certain typographical errors that were inadvertently incorporated into the Land Development Code when the ordinances were codified;

WHEREAS, the City Council of Sunset Valley finds that the changes reflected in new version of the Land Development Code, attached to this Ordinance as Exhibit "A", constitute non-substantive changes that do not modify any rights, duties, standards, or procedures established in the prior version of the Code or any ordinances adopted by the City of Sunset Valley;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUNSET VALLEY, TEXAS:

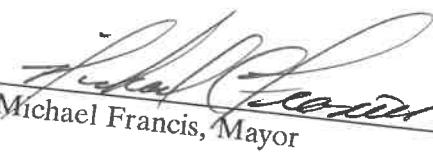
SECTION 1. LAND DEVELOPMENT CODE ADOPTED

The document attached hereto as Exhibit "A" is hereby adopted as the Land Development Code of the City of Sunset Valley, Texas.

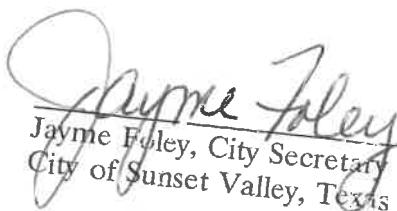
SECTION 2. EFFECTIVE DATE

The provisions of this Ordinance shall be effective from the date of its adoption.

PASSED AND APPROVED this 2ND day of April, 1996.

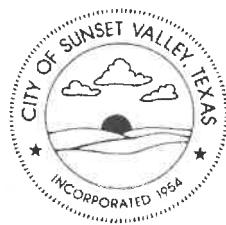

Michael Francis, Mayor

ATTEST:



Jayme Foley, City Secretary
City of Sunset Valley, Texas

960402



Land Development Code

City of Sunset Valley, Texas

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CHAPTER 1: GENERAL PROVISIONS; DEFINITIONS; INTERPRETATION

Division 1.1: General Provisions

Sec. 1.100 Short Title

Title 1 and its respective Chapters shall collectively be known and may be cited as the Land Development Code of the City of Sunset Valley, or simply as the Land Development Code. The Land Development Code codifies all ordinances regulating the development and use of real property subject to the planning jurisdiction of the City of Sunset Valley.

Sec. 1.101 Purposes

The Land Development Code is adopted for the following reasons:

- (a) to protect and promote the health, safety, morals and general welfare of the community of the City of Sunset Valley;
- (b) to ensure the safe, orderly, and healthful development and expansion of the City of Sunset Valley, in accordance with and pursuant to the Comprehensive Plan of the City of Sunset Valley;
- (c) to maintain the environmental balance of the area;
- (d) to conserve, develop, protect, and utilize natural resources, as appropriate and consistent with the public welfare and interest;
- (e) to prevent the overcrowding of land and avoid undue concentration of population;
- (f) to lessen congestion in the streets and provide convenient, safe, and efficient circulation of vehicular and pedestrian traffic and enable emergency vehicles to safely and speedily reach their destinations;
- (g) to facilitate the adequate provisions of transportation, water, wastewater, schools, parks, and other public requirements;
- (h) to secure safety from fire, flooding, panic, and other dangers;
- (i) to provide adequate light and clean air;
- (j) to promote tranquility and the preservation of the rustic character of the flora and fauna within the City's jurisdiction.
- (k) to promote economic development through an efficient and practical means by which development can proceed in compliance with the provisions of the Land Development Code and other applicable laws;
- (l) to protect the Edwards Aquifer and the City's drinking water supply and prevent excessive pollutant loadings in creeks.

Sec. 1.102 Authority

The Land Development Code is adopted pursuant to the powers granted to the City and subject to any limitations imposed by the Constitution and laws of the State of Texas. No provision of this Land Development Code shall be construed as relieving any party from any other provision of state or federal law or from any provision, ordinance, rule, or regulation of the City requiring a license, franchise, or permit to accomplish, engage in, carry on, or maintain a particular business, enterprise, occupation, transaction or use.

Sec. 1.103 Jurisdiction

The provisions of this Land Development Code apply to all property located within the incorporated city limits of the City of Sunset Valley as such limits may increase or decrease from time to time through annexation or deannexation.

Sec. 1.104 Relationship to Comprehensive Plan

It is the intention of the City Council of the City of Sunset Valley in adopting this Land Development Code, and any amendments thereto, that the Land Development Code implements the duly adopted planning policies of the Comprehensive Plan. The City Council hereby expresses its intent that this Land Development Code, and any amendments thereto, shall be construed in a manner to give effect to its purpose and to the adopted Comprehensive Plan. It is further the Council's intent that no provision of this Land Development Code shall be declared void by any court except when the provision irreconcilably conflicts with the adopted Comprehensive Plan. Any person who alleges the existence of an irreconcilable conflict between the adopted Comprehensive Plan and a provision of this Land Development Code shall first provide the City Council a reasonable opportunity to act to resolve the alleged conflict.

Division 1.2: Definitions

Sec. 1.200 General Provisions

- (a) Words used in this Code and not defined herein shall have the meaning established by Texas statutory or case law or, if not defined in Texas law, their ordinarily accepted meaning.
- (b) Any office referred to in this Land Development Code by title means the person employed or appointed by the City in that position, or his duly authorized representative.
- (c) Definitions not expressly prescribed herein are to be construed in accordance with customary usage in municipal planning and engineering practices.

Sec. 1.201 Terms Defined

The following terms, phrases, words, and their derivations shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning or where an alternative definition is provided:

- (1) "Abandoned": Out of service and not safeguarded in compliance with this Land Development Code; provided, however, that an underground storage tank shall not be deemed abandoned if it has been

closed in accordance with this Code or with any other applicable State, Federal or local law or regulation.

- (2) **"Administrator"**: means the official appointed by the City Council to carry out the duties and responsibilities, contained in the flood loss control provisions of this Code.
- (3) **"Adult Entertainment Activity"**: Any commercial activity, including live performances, whether conducted intermittently or full time, which primarily involves the sale, display, exhibition, or viewing of books, magazines, films, photographs or other materials, distinguished or characterized by an emphasis on matter depicting, describing, or relating to sex acts, or by an emphasis on male or female genitals, buttocks, or female breasts.
- (4) **"Alcoholic Beverage"**: An alcoholic beverage as defined in the Alcoholic Beverage Code of the State of Texas.
- (5) **"Alley"**: Any 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 otherwise abutting on a street.
- (6) **"Amusement, Commercial Open Air"**: Any amusement enterprise offering entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open, including but not limited to, a golf driving range, archery range, miniature golf course, and race track.
- (7) **"Amusement Center or Parlor"**: Any establishment containing one or more pool or billiard tables, pinball and electronic games offered for hire to the public as primary purpose.
- (8) **"Anti-transpirant"**: A protective coating generally applied to plant material prior to or immediately after transplanting, that reduces water loss through the leaf surface.
- (9) **"Appeal"**: When used in the flood loss control sections of this Code, "appeal" means a request for a review of the Administrator's interpretation of any provision of the flood control sections or a request for a variance.
- (10) **"Approval"**: Approval means written approval from the City of Sunset Valley pursuant to a duly executed application for approval made on a form promulgated by the City.
- (11) **"Aquifer-related Watershed"**: All land area in a watershed that is within the Edwards Aquifer Recharge Zone or that naturally drains to, or is otherwise located upstream from, the recharge zone.
- (12) **"Area of Shallow Flooding"**: means a designed AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent change or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- (13) **"Area of Special Flood Hazard"**: is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in

preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A99, VO, V, VE, X or D.

- (14) **"Atmospheric Pollution"**: The discharging from stacks, open storage, chimneys, exhausts, vents, ducts, openings or open fires of such air contaminants as visible emissions, sulfur dioxide, particulate matter, hydrocarbons, fumes or similar material or gases. Compliance shall conform to the procedures prescribed by the Texas Natural Resource Conservation Commission for the control of air pollution.
- (15) **"Automobile Service Station"**: An establishment selling fuel for motor vehicles or performing any repair or maintenance services on motor vehicles.
- (16) **"Automobile Wash Service (Commercial)"**: A building, or portion thereof, containing facilities for washing automobiles.
- (17) **"Average grade"** means the grade of the finished ground level at the midpoint of each exterior surface of a sign, or a structure, in the event that the sign is attached to the structure.
- (18) **"Base Flood"**: means the flood having a one percent chance of being equalled or exceeded in any given year.
- (19) **"Bay"**: A parking facility unit, usually including one or two rows of parking spaces and a central aisle.
- (20) **"Berm"**: An earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise, but shall not be considered fill as per definition in the watershed provisions of this Code.
- (21) **"Billboard"** means any sign that is freestanding or attached to or part of a building and is an off-premise sign.
- (22) **"Board Of Adjustment"**: Also may be referred to as the Board. The function is to hear applications for variances. The Board consists of citizens appointed to it by the City Council for a period of time.
- (23) **"Buffer, Architectural"**: A visual screen constructed of wood, masonry, or other material used in such a manner that adjacent property will be screened from the use contemplated so noise, solid waste, or other objectionable influences will be avoided. Such buffer shall be one hundred (100) percent opaque and adequate in height to accomplish the desired end.
- (24) **"Buffer, Landscape"**: A visual screen using landscaping (other than mere grass on flat terrain), or the use of landscaping along with berms, walls or decorative fences to partially and periodically obstruct the view from the street, and/or adjacent structures or lots in a continuous manner, of vehicular use areas, parking lots and their parked cars, detention ponds, service areas, sedimentation ponds, filtration or utility appurtenances, and other areas that may need such buffering.
- (25) **"Buffer, perimeter landscape"**: A continuous area of land which is required to be set aside along the perimeter of a lot in which landscaping is used to provide a transition between lots and to reduce the environmental, aesthetic, and other impacts of one type of land use upon another.
- (26) **"Building"**: Any structure, either temporary or permanent having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal or property of any kind, including

tents, awnings or vehicles situated on private property and used for purposes of a building. The word "building" includes the word "structure."

- (27) **"Building/Accessory Use"**: A subordinate building or use, the use of which is clearly incidental to and customarily found in connection with the main building or principal use of the land.
- (28) **"Building/Main or Principal Use"**: A building in which is conducted the principal use of the lot on which it is situated.
- (29) **"Building Official"**: The Mayor of the City of Sunset Valley or the duly authorized designate of said Mayor.
- (30) **"Building Setback Line"**: The line within a property defining the minimum horizontal distance between a building and/or property boundary line and the adjacent street line or property boundary line.
- (31) **"Building Standards Commission"**: The Zoning Commission of the City of Sunset Valley. In this regard the zoning commission shall act as the building standards commission.
- (32) **"Cafe"**: A **"Restaurant"**.
- (33) **"Caliper"**: For installed trees under four inches (4") the trunk is measured six inches (6") above the ground. Multi-trunked trees are measured as follows: Diameter of largest trunk plus half the diameter(s) of each of the other trunks measured six inches (6") above the ground for trees under four inches (4") in diameter. Installed trees four inches (4") and over are measured twelve inches (12") above the ground.
- (34) **"Center line of waterway"**: The center line of the waterway refers to existing topographically defined channels. If not readily discernible, the center line shall be determined by (first) the low flow line, or (second) the center line of the two-year flood plain.
- (35) **"Certificate of Occupancy and Compliance"**: An official certificate issued by the City through the enforcing official which indicates conformance with or approved conditional waiver from the zoning regulations and authorizes legal use of the premises for which it is issued.
- (36) **"Child Day Care Facility"**: Any facility that provides care, training, education, custody, treatment, or supervision for six or more children who are 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.
- (37) **"City"**: The City of Sunset Valley, Texas, and includes an official, agent, or employee of the City acting on behalf of the City.
- (38) **"City Council"**: See **"Council"**.
- (39) **"City Inspector"** means a person or persons designated by the City Council to perform inspections within the corporate limits of the City of Sunset Valley.
- (40) **"City of Austin Environmental Criteria Manual, as amended"**: A reference manual to be used by any person developing a tract of land within the City Limits or Extraterritorial Jurisdiction of Sunset

Valley. Requirements found within this or other city ordinances override any inconsistencies that may occur within this manual and city ordinances.

- (41) **"Clinic"**: A group of offices for one or more physicians, surgeons, or dentists to treat sick or injured out-patients who do not remain overnight.
- (42) **"Commercial Lot"**: Any lot not to be used as single family residential, recreational or open space.
- (43) **"Commercial sign"** means a sign other than a real estate "for sale or for lease" sign, political sign, residential nameplate sign, public information sign, traffic control sign or exempted sign which directs the attention of the general public to a business, product, service, or other commercial or business activity.
- (44) **"Commercial Use"**: Commercial use types include the sale, rental, servicing, and distribution of goods and the provision of services other than those normally classified as industrial or civic uses.
- (45) **"Common Area"**: An area held, designed and designated principally for the common use of the occupants of a subdivision or development.
- (46) **"Comprehensive Plan"**: The plan required by The Texas Local Government Code Annotated, Section 211.004. The comprehensive plan is an independent, long-range plan for use and development of land within the City and in the City's extraterritorial jurisdiction.
- (47) **"Conditional Use"**: A use that may be allowed if it meets certain specified requirements or conditions and meets the approval of the local governing body.
- (48) **"Conservation Area or Conservation Easement"**: A reserved area over, on, across or through a property that shall be exclusively managed and maintained as a habitat to conserve and protect the native flora and fauna, and thus protect, promote, improve and benefit the general welfare of the present and future citizens of the City of Sunset Valley, Texas.
- (49) **"Containment System"**: Tanks, walls and impermeable excavation liners, such as reinforced concrete vaults, reinforced and unreinforced flexible membrane liners and rigid fiberglass reinforced plastic liners, installed for the purpose of detecting releases, leakage or spills of hazardous materials from underground storage tanks or systems and preventing said releases, leakage or spills from entering the environment.
- (50) **"Convenience Store"**: Establishment primarily engaged in the retail sale of food, beer and wine in unopened containers, or household products for home consumption, in a convenient and limited nature.
- (51) **"Council"**: The City Council of Sunset Valley, Texas.
- (52) **"Coverage"**: The percentage of a lot or tract covered by the roof or first floor of a building, or impervious cover.
- (53) **"Critical Environmental Features (CEF's)"**: Features which have been determined to be of critical importance to the protection of one or more environmental resources. CEFs typically include such features as springs and seeps, bluffs, rimrocks, caves and sinkholes.

- (54) **"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.
- (55) **"Critical Water Quality Zone"**: Lands and waters as defined in Chapter 4, Division 4.2, Section 4.200 of this Code.
- (56) **"Crosswalk Way"**: A public right-of-way, four feet or more in width between property lines, which provides pedestrian circulation.
- (57) **"Cul-de-sac"**: A street having but one outlet to another street, and terminated on the opposite end by a vehicular turn around.
- (58) **"Days"**: Working days unless defined as calendar days.
- (59) **"DBH (Diameter Breast Height)"**: For the purpose of this Code, the diameter of existing trees, which is measured four (4) feet above the ground, except that for purposes of the landscape regulations chapter of this Code, the DBH is measured 4.5 feet above the ground.
- (60) **"Dead-end Street"**: A street, other than a cul-de-sac, with only one outlet.
- (61) **"Density"**: The relationship of a structure(s) to the area of the lot or tract upon which the structure(s) is/are located or erected.
- (62) **"Detention Pond"**: A structure designed to reduce the rate of runoff for a short period in order to reduce peak flows by controlling the discharge through an outlet structure thereby extending the runoff period.
- (63) **"Developer"**: A person who improves land, primarily through the construction of buildings, roads, or other structures; excavation, dredging, grading, filling, clearing, or removing vegetation.
- (64) **"Development"**: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and clearing or removing vegetation. For purposes of the Landscaping Regulations in this Code, "development" means any proposed material change in the use or character of the land, including, but not limited to, land clearing or the placement of any structure or site improvements to the land.
- (65) **"Development Free Zone"**: Area of land which falls within the Critical Water Quality Zone and the Critical Water Transition Zone as defined in Chapter 4, Division 4.2, Section 4.201 of this Code.
- (66) **"District"**: A section of the City of Sunset Valley for which the regulations governing the uses of and development standards for building or lots are uniform.
- (67) **"Double-walled"**: Constructed with more than one containment layer, with space between the layers sufficient to allow monitoring of any leakage into or from the enclosed space; laminated coated or clad materials shall not be considered double-walled.
- (68) **"Dripline"**: The dripline is the periphery of the area underneath a tree which would be encompassed by perpendicular lines dropped from the farthest edges of the crown of the tree.

(69) **"Drive-in Restaurant"**: An establishment serving food and non alcoholic beverages to customers in their cars, or through drive-up windows.

(70) **"Driveway"**: An entrance roadway from a street to a parking facility.

(71) **"Dwelling"**: A dwelling is a building or portion thereof, but not a travel trailer or recreational vehicle, designed and used exclusively for single-family residential occupancy.

(72) **"Easement"**: A reserved area over, on, across or through a property for water, wastewater, gas, other utility lines, access, development-free areas, etc.

(73) **"Edwards Aquifer"**: The water-bearing substrata also known as the Edwards and Associated Limestones Aquifer. It includes the following geographic formations: Comanche Peak, Edwards, Kiamichi and Georgetown.

(74) **"Edwards Aquifer Recharge Zone"**: The interim boundaries of the recharge zones shall encompass all land over the Edwards Aquifer recharging the same, as determined by the outcrop of the geologic units comprising the Edwards Aquifer, including such areas overlain with quaternary terrace deposits. Most of the corporate limits of Sunset Valley and its extraterritorial jurisdiction are contained within the Edwards Aquifer recharge zone.

(75) **"Electrical wires"**: lines or wires with a capacity equal to or less than 12,500 volts.

(76) **"Elevated Building"**: means a nonbasement building (i) built, in the case of a building in Zones AE, A, A99, AO, AH, X, and D, to have the top of the elevated floor, or in the case of a building in Zones VE or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones AE, A, A99, AO, AH, X, D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones VE or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of Section 60.3 (e)(5) of the National Flood Insurance Program regulations.

(77) **"Engineer"**: A person duly authorized and registered under the provisions of the Texas Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of engineering.

(78) **"Enhanced pavement"**: Decorative pavement material intended for pedestrian or vehicular use, e.g., brick or masonry pavers, stone, exposed aggregate, stamped or stained concrete.

(79) **"Erect"**: to build, construct, alter, reconstruct, pour, lay, move upon, attach, hang, place, suspend or affix, and also includes the painting of wall signs, murals or supergraphics, or any physical operation on the premises which are required for the construction of a sign including excavation, site clearance, landfill, and the like.

(80) **"Evapotranspiration System"**: A subsurface sewage disposal system connected to an authorized septic tank that relies upon soil capillarity and plant uptake to dispose of treated effluent through surface evaporation and plant transpiration.

(81) **"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."

(82) **"Extraterritorial Jurisdiction"**: The extraterritorial jurisdiction of the City of Sunset Valley, Texas is that land not within the corporate limits of the City of Sunset Valley, Texas, but land over which the City has jurisdiction by virtue of the provisions of the Texas Local Government Code.

(83) **"Family"**: An individual or two or more persons related by blood, marriage, or adoption living together and occupying a single housekeeping unit with single kitchen facilities; or a group of not more than six (6) persons living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities on a non-profit cost-sharing basis.

(84) **"Fill"**: Any deposit or stockpiling of earthen materials in their natural state.

(85) **"Final Plat"**: A plat prepared according to the provisions of this Code and containing all of the engineering and legal data, dedications, and certificates necessary to the recording of same in the maps and plats records of the county.

(86) **"Fine art"** means sculpture, fountains or similar objects.

(87) **"Fire Lane"**: A lane with a minimum width of twenty-four (24) feet along the curb of a parking facility or off-loading roadway on private property nearest the building or structure served by such parking facility or off-loading roadway. Such lane shall be adequately accessible from the nearest public street for firefighting vehicles and other emergency vehicles to enter and exit efficiently while responding to an emergency.

(88) **"FIRM"**: See "Flood Insurance Rate Map."

(89) **"Flat Roof"**: Any pitch no less than a three (3) unit rise and a twelve (12) unit run, provided, however, in order to accommodate mechanical equipment located upon the roof, an amount not to exceed 5% of the total square footage of the floor area may be left flat.

(90) **"Flood"**: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- the overflow of inland or tidal waters.
- the unusual and rapid accumulation or runoff of surface waters from any source.

(91) **"Flood Insurance Rate Map (FIRM)"**: means an official map of the City, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

(92) **"Flood Insurance Study"**: is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

(93) **"Floodplain or Flood-Prone Area"**: means any land area susceptible to being inundated by water from any source (see definition of "Flood").

(94) **"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 areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(95) **"Floodway (Regulatory Floodway)"**: The channel of a river or other water course 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.

(96) **"Floor Area"**: The sum of the horizontal areas of each story of the building measured from the exterior faces of the exterior structural walls for the purpose of computing the minimum allowable floor area in a residential or commercial building unit. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, and breezeways, provided such areas are not heated or air conditioned.

(97) **"Freestanding sign"** means any sign which is not attached to or on the walls, face, or exterior of a building.

(98) **"Front"**: The property line fronting the street from one (1) street frontage except if there is more, the property line fronting the street which serves as the primary entrance and identity for the lot.

(99) **"Fuel Delivery System"**: Product or delivery piping and delivery system associated with an underground storage tank system.

(100) **"Functionally Dependent Use"**: means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(101) **"Garage, Attached"**: A garage which has one or more walls common with the principal building on a lot; or which is attached to the principal building by an enclosed porch, loggia or passageway, the roof of which is a part or extension of the roof of the principal building; and for the purpose of the height and area regulations of this Code such a garage is to be considered a part of the principal building.

(102) **"Garage, Detached"**: A garage wholly separated and independent of the principal building on a lot; or connected to the principal building by an unenclosed or latticed passageway, pergola, arbor or covered walk.

(103) **"Garage Sales"**: Occasional sales (garage sales and yard sales only) at retail, not to exceed two (2) in number on the same premises in any one calendar year, by a person who does not hold himself out as engaging in, or does not habitually engage in, the business of selling such property at retail; provided that 1) the sales shall be confined to the garage and/or yard of the premises; 2) no additional merchandise acquired solely for the purpose of resale on the premises shall be sold at such

occasional sale; 3) the duration of each such sale shall not exceed two (2) consecutive calendar days; 4) only one sign shall be permitted upon the premises and when the sale is taking place.

- (104) **"Greenbelt"**: A continuous linear open space area often, but not necessarily, in public ownership or in public easements for public outdoor recreation.
- (105) **"Grocery Store"**: A retail establishment selling meats, fruit, vegetables, bakery products, dairy products or similar items for human consumption primarily for off-premise consumption.
- (106) **"Hazardous Materials"**: Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.
- (107) **"Highest Adjacent Grade"**: means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (108) **"Hobby"**: An accessory use carried on by the occupant of the premises in a shop, studio or other workroom, purely for personal enjoyment, amusement or recreation; provided that the articles produced or constructed in said shop, studio, or workroom are not sold either on or off the premises, and provided such use will not be obnoxious or offensive by reason of vibration, noise, odor, dust, smoke, fumes, electrical interference or hazards.
- (109) **"Holding Tank System"**: A system that consists of a watertight container or containers used to receive and store sewage in an anaerobic environment pending its delivery to, and treatment at, an approved treatment facility.
- (110) **"Home Occupation"**: Any occupation or activity which is clearly incidental and secondary to the use of the premises for dwelling purposes and which is carried on within the dwelling or within one accessory building and which must comply with provisions of this Code.
- (111) **"Home Office"**: The portion of a residential dwelling devoted to the business of a home occupation.
- (112) **"Horse Stables, Private"**: Any premises on which one or more horses are kept for the sole use, and enjoyment of the owner or lessee of the premises and not for any commercial purpose and are maintained in conformity and compliance with all Federal, state and local health and other city regulations.
- (113) **"Hotel"**: See "Motel".
- (114) **"Impervious Cover"**: Roads, parking areas, buildings and other impermeable construction covering the natural land surface; this shall include, but not be limited to, all streets and pavement within a subdivision.
- (115) **"Incidental Use"**: A secondary or minor use associated with a primary use.
- (116) **"Incompatibility of land uses"**: Contradictory, incongruous, or discordant land uses or activities, including the impacts of noise, vibration, smoke, odors, toxic matter, radiation, and similar environmental conditions.

(117) **"Indirect lighting"** means a light source separated from the surface and illuminating the sign surface by means of spot lights or similar fixtures.

(118) **"Indoor Family Recreation Center"**: A family entertainment facility where admission is charged and which caters to children from toddler to 12 years of age accompanied and supervised by a parent(s) or adult(s) at all times; provided that any food service does not include the serving of alcoholic beverages and only token operated, motor skill-type games not listed under the definition of amusement center are utilized with such use being subordinate in nature to the primary purpose of the operation of the establishment.

(119) **"Inspector"**: A person(s) designated by the City Council to enforce provisions of the Land Development Code, City ordinances and regulations.

(120) **"Institution"**: A building occupied by a non-profit corporation or non-profit establishment for public use.

(121) **"Intermediate Waterway"**: Any natural channel for surface water drainage that drains an area greater than three hundred twenty (320) acres but less than six hundred forty (640) acres.

(122) **"Junk"**: The term "junk" is defined to mean and shall include scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc, and all other scrap metals and their alloys, and bones, rags, used cloth, used rubber, used rope, used tinfoil, used bottles, old cotton, or used machinery, used tools, used appliances, used fixtures, used utensils, used boxes or crates, used pipe or pipe fittings, used automobile or airplane tires, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition; subject to being dismantled for junk.

(123) **"Junk or Salvage Yard"**: A junk or salvage yard is a lot upon which waste or scrap materials are bought, sold, exchanged, stored, packed, disassembled, or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. A junk yard includes an automobile wrecking yard and automobile parts yard. A junk yard does not include such uses conducted entirely within an enclosed building.

(124) **"Kennel, Commercial"**: Any premises on which three (3) dogs or three (3) cats or more over the age of four (4) months or more are kept for sale or are boarded, trained or bred for remuneration.

(125) **"Kindergarten/Preschool"**: A school for children of pre-public school age in which constructive endeavors, object lessons and helpful games are prominent features of the curriculum.

(126) **"Land Owner"**: Shall mean the legal or beneficial owner or owners of the land. The holder of an option or a contract to purchase or other persons having an enforceable proprietary interest in such land shall be deemed to be a land owner for the purpose of this Code.

(127) **"Landscaped Area"**: That area within the boundaries of a given lot which is devoted to and consists of planting area(s) containing plant material, including but not limited to grass, trees, shrubs, flowers, vines and other groundcover, and native plant materials.

(128) **"Landscaping"**: Material such as, but not limited to, grass, ground covers, shrubs, vines, hedges, trees or palms; and non-living durable material commonly used in landscaping, such as, but not limited to, rocks, pebbles, sand, walls or fences, but excluding paving.

(129) **"Laundry/Commercial"**: An establishment providing dry-cleaning, washing, drying, or ironing services on the premises that are not self-service.

(130) **"Laundry/Self-Service"**: An establishment providing dry-cleaning, washing, drying, or ironing machines for use on the premises, usually coin-operated and self-service.

(131) **"Legal Height"**: The maximum height of a building permitted by this Code restricting the height of structures.

(132) **"Legal Lot"**: An undivided tract or parcel of land having access to a public street and which is, or in the future may be offered for sale, conveyance, transfer or improvement; which is designated and legally described in the deed records as a distinct and separate tract, and which is:

- (A) a part of a duly approved subdivision plat properly filed for record identified by a tract or lot number or symbol;
- (B) was properly filed for record identified by metes and bounds prior to July 8, 1975 and has not been divided into two or more parcels after this date.

(133) **"Levee"**: means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

(134) **"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.

(135) **"Lot"**: The word "lot" includes the word "plot."

(136) **"Lot Area"**: The net area of the lot, expressed in square feet or acreage, not including portions of any public street or alley.

(137) **"Lot Depth"**: The mean horizontal distance between the front and rear lot line.

(138) **"Lot Coverage"**: The percentage of the total area of a lot occupied by the base (first story or floor) of buildings located on the lot.

(139) **"Lot Lines"**: The legal boundaries of a lot as determined by a professional surveyor registered to practice in Texas.

(140) **"Lot Width"**: The distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided however the width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than (80) percent of the required lot width. In case of lots on the turning circle of cul-de-sac the width shall be a minimum of 60 feet.

(141) **"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 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.

- (142) **"Low Pressure Dose System"**: A system that utilizes some form of pumping device and a network of small diameter piping to distribute treated effluent within a subsurface sewage disposal area.
- (143) **"Major waterway"**: Any natural channel for surface water drainage that drains six hundred forty (640) acres or more.
- (144) **"Manufactured Home"**: For flood loss control provisions of this Code, means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "Manufactured Home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "Manufactured Home" does not include park trailers, travel trailers, and other similar vehicles.
- (145) **"Masonry"**: A building material on the exterior surfaces of the outside walls constructed of solid brick, or stone materials.
- (146) **"Massage Establishment"**: Any building, room, place or establishment, where manipulated massage or manipulated exercises are practiced for pay upon the human body by anyone who is not a duly licensed physician; osteopath; chiropractor; registered nurse or practical nurse operating under a physician's directions; licensed or certified alternative health care practitioner such as massage therapists, etc.; registered pathologists and physical or occupational therapists who treat only patients referred by a licensed physician and operate only under such physician's direction, whether with or without the use of mechanical therapeutic, or bathing devices, and shall include Turkish bathhouses. The term shall not include a regularly licensed hospital, medical clinic or nursing home.
- (147) **"Master Comprehensive Plan"**: The plan required by the Texas Local Gov't Code Annotated, Section 211.004. The comprehensive plan is an independent, long-term plan for use and development of land within the City and in the City's extraterritorial jurisdiction.
- (148) **"Mean Sea Level"**: means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- (149) **"Minor waterway"**: Any natural channel for surface water drainage that drains an area greater than sixty-four (64) acres but less than three hundred twenty (320) acres.
- (150) **"Mobile Home"**: A mobile or portable dwelling which is constructed on a chassis, and which is designed to be towed over Texas roads and highways under special permit, designed for year-round occupancy, designed primarily to be used without a permanent foundation, but which may sit on a permanent foundation, and designed to be connected to utilities. It may consist of one or more units that can be telescoped when transported and expanded later for additional capacity or of two or more units, separately transportable, but designed to be joined together into one integral unit. The following shall not be included in this definition:
 - (A) Travel trailers, pickup coaches, motor homes, camping trailers, or other recreational vehicles.

(B) Manufactured modular housing which is designed to be set on a permanent foundation, and which uses standard sheathing, roofing, siding, and electrical, plumbing, and heating systems which comply with City codes.

- (151) **"Mobile Home/Recreational Vehicle Park"**: Any area or tract of land where one or more mobile homes or recreational vehicle lots or spaces are rented or held for hire.
- (152) **"Motel/Hotel"**: A building or group of buildings developed as an integral unit in which there are: 1) guest rooms for living or sleeping accommodations which may be rented on a daily basis; and 2) desk or lobby service and telephone, maid, linen, room and similar services. Guest rooms may have individual entrances.
- (153) **"Mulch"**: Non-living organic and synthetic materials customarily used in landscape design to retard erosion and retain moisture.
- (154) **"Multi-family"**: An attached housing unit development designed to provide shelter to three or more individual persons or families, with each unit containing separate kitchen, bath and bedroom facilities and sharing a common wall. For the provisions of this Code only, multi-family includes but is not limited to four-plexes, apartments, townhouses or condominiums.
- (155) **"Native"**: Plants which have locally adapted by natural selection to the region's weather, soil, pests and disease conditions.
- (156) **"Natural"**: Produced or existing in nature; not manufactured, artificial or cultivated.
- (157) **"New Construction"**: means, for flood plain management purposes, structures for which the "Start of Construction" commenced on or after the effective date of a flood plain management regulation adopted by a community.
- (158) **"Noncompliance"**: any one or more of the following:
 - (a) The failure of a permittee to comply with the provisions of the City Code pursuant to which the permit was issued;
 - (b) The failure of a permittee to comply with the provisions of any relevant City Ordinance other than and in addition to the Sections of the Code pursuant to which the permit was issued;
 - (c) The failure of a permittee to comply with any term or condition imposed by the City in connection with the issuance of the permit;
 - (d) The making of any material misrepresentation or false or misleading statement by a permit applicant or one acting on his behalf in connection with or on a permit application;
 - (e) The failure of a permittee to timely commence the work required or authorized by a permit as approved by the City; or
 - (f) The failure of a permittee to timely complete the work required or authorized by a permit as approved by the City.

- (159) **"Non-complying"**: A building, structure, or area, including off-street parking or loading areas, that does not comply with currently applicable site development regulations for the district in which it is located, but did comply with applicable regulations at the time of its construction.
- (160) **"Non-conforming"**: The use of any land, building, or structure which does not conform with currently applicable use regulations, but which complied with use regulations in effect at the time the use was established.
- (161) **"Notice"** means actual notice or written notice sent by registered or certified mail.
- (162) **"Nuisance Factor"**: Any offensive or unpleasant thing which annoys or disturbs one in free use, possession, or enjoyment of his property or which endangers one's health or life or property, such as:
 - (A) Noise;
 - (B) Dust;
 - (C) Smoke;
 - (D) Fumes;
 - (E) Odor;
 - (F) Glare;
 - (G) Flashes;
 - (H) Heat;
 - (I) Electronic or atomic radiation;
 - (J) Effluent;
 - (K) Vibration;
 - (L) Shock waves;
 - (M) Gases;
 - (N) Vicious, mischievous, and barking dogs(s); and
 - (O) Unlawful diversion of drainage onto adjacent property.
- (163) **"Office"**: A room, studio, suite, or building or any part thereof in which a person transacts his business or carries on his stated occupation. For the purposes of the Code, an office shall not involve manufacturing, fabrication, production, processing, assembling, cleaning, testing, repair, or storage of materials, goods and products; or the sale and delivery of any materials, goods or products which are physically located on the premises. An office shall not be deemed to include a veterinary clinic.
- (164) **"Office complex"** means two or more offices and/or office establishments, sharing customer parking area, regardless of whether said offices or office establishments occupy separate structures or are under separate ownership, or on separate tracts or lots of land.
- (165) **"Official sign"** means any sign erected by or at the direction of any governmental body.
- (166) **"Off-premise sign"** means any sign other than an on-premise sign.
- (167) **"Off-street"**: Off the right-of-way of a public street or place.
- (168) **"On-premise sign"** means a sign which advertises only goods, services, facilities, events or attractions available on the premises where located, or identifies the owner or occupant or directs traffic on the premises. All other signs are off-premise signs.

- (169) **"Open Space"**: Any unoccupied space on a lot that is open and unobstructed to the sky and has no impervious cover.
- (170) **"Open Storage"**: Open storage is the storage of any vehicles, equipment, machinery, commodities, raw, semifinished materials, and building materials, not accessory to a residential use which is visible from any point on the building lot line when viewed from ground level to six (6) feet above ground level.
- (171) **"Outdoor Advertising"**: See "Sign."
- (172) **"Overland flow"**: Storm water runoff that is not confined by any natural or man-made channel such as a creek, drainage ditch, storm sewer, or the like.
- (173) **"Owner"**: For purposes of the chapter of this Code regulating tree and natural area protection, owner means any person with a freehold interest in land, or a lessee, agent, employee or other person acting on behalf of the owner with the owner's authorization.
- (174) **"Parking Bay"**: A parking facility unit, usually including one or two rows of parking spaces and a central aisle.
- (175) **"Parking module"**: The clear width provided for the parking of vehicles, including two rows of parking with an aisle between the rows.
- (176) **"Parking Space"**: An area on a lot or site or within a building not on a public street and having an all-weather surface; enclosed or unenclosed, together with an all-weather surface driveway which may be an easement, connecting the parking space with a street permitting free ingress and egress; used or intended to be used for parking of a motor vehicle.
- (177) **"Pavement Width"**: The portion of a street available for vehicular traffic. Where curbs are laid, "pavement width" is the portion between the face of curbs.
- (178) **"Paver"**: A masonry or concrete brick or tile suitable for paving streets, sidewalks, driveways, or related surfaces.
- (179) **"Pawn Shop"**: A business which transacts business that conforms to the Texas statutory definition for pawn shop.
- (180) **"Permanent Storage"**: Storage for a period of more than thirty (30) days.
- (181) **"Permit"**: A permit or license issued by the City authorizing the holder thereof, his agents or his employees to perform certain work or engage in certain activities.
- (182) **"Permittee"**: The person to whom any permit or license has been issued by the City, and any agent or employee of said person.
- (183) **"Person"**: Any individual, association, firm, trust, partnership, corporation, joint-stock company, joint venture, court appointed receiver or conservator, consortium, or any other legal or commercial entity; any group of the foregoing, organized or united for a business purpose; or any governmental agency or entity, or political subdivision.

- (184) **"Piping"**: All pipes, including valves, elbows, joints, flanges, flexible connectors and other fittings attached to and constituting a part of an underground storage tank system through which hazardous materials regulated by this Code flow.
- (185) **"Planning Commission"**: The Planning Commission of the City is the City Council.
- (186) **"Plant communities"**: A formation of vegetation that differs from each other by the dominant or characteristic species that are found in it. Geography and climate are the primary influences on the establishment and survival of plant communities.
- (187) **"Planting area"**: Any area designed for landscape planting having a minimum of 180 square feet of actual plantable area and a minimum inside dimension of any side of ten (10) feet.
- (188) **"Plat"**: A map, drawing, or chart of a single tract or a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of this Code.
- (189) **"Plot"**: See "lot."
- (190) **"Poles, overhead wires and associated structures"**: All poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, communications circuits, appliances, attachments, and appurtenances used or useful in supplying electric, communications or similar associated service.
- (191) **"Political sign"** means any sign which is designed to influence the action of the voters for the passage or defeat of a measure appearing on the ballot at any national, state, or local election or which is designed to influence the voters for the election or defeat of a candidate for nomination or election to any public office at any national, state or local election, but the sign shall not include the name of the sponsor or business promoting the activity or advertising the business.
- (192) **"Preliminary Plat"**: A plat of the proposed arrangement of streets, lots, easements, and other public spaces in a subdivision in preparation for review by the City Council.
- (193) **"Premises"** means a lot or tract within the City of Sunset Valley, Texas, and contiguous land(s) in the same ownership which is not divided by a public highway, street or alley, or right-of-way therefor.
- (194) **"Primary Containment"**: The first level of containment, or the inside portion of an underground storage tank or of fuel delivery piping, which comes into immediate contact on its inner surface with the hazardous material being contained.
- (195) **"Private On-site Sewage Facility"**: A sewage disposal facility, including facilities consisting of evapotranspiration systems, pressure dosing systems and holding tanks designed and intended to serve only an individual household, multiple unit residential structures or commercial establishments whose operation and maintenance is the sole responsibility of the householder or owner of the establishment's facilities. Such facilities are not subject to the issuance of wastewater discharge orders by the Texas Natural Resources and Conservation Commission.

(196) "**Projecting or hanging sign**" means any sign attached to a building and extending in whole or in part more than nine (9) inches beyond the building line. Allowable size does not include supporting structure.

(197) "**Protected Tree**": A protected tree means any tree having a trunk circumference of thirty-eight inches (38") or more, measured four and one-half feet (4½") above natural grade level. (Diameter equivalent to twelve inches (12") or larger)

(198) "**Public Building of Local, State or Federal Government**": Facilities such as office buildings required by branches of Local, State or Federal Government. Maintenance yards or shops in association with public buildings are not included in this definition.

(199) "**Public Garage**": Any building, except those described as a private garage, in which motor vehicles are equipped for operation, repaired or kept for remuneration, hire or sale, and where a filling station may be maintained.

(200) "**Public information sign**" means any sign which is intended to identify community, civic and social events, and is not a commercial sign, official sign, political sign, or real estate sign as defined herein.

(201) "**Public Parks**": A public park is any publicly owned park, playground, greenbelt, parkway, or roadway within the jurisdiction and control of the City.

(202) "**Quarrying**": The removal from the earth of stone, sand, gravel, caliche, minerals, topsoil or other natural material for the purpose of sale or any other commercial purpose, other than such as may be incidental to excavating or regrading in connection with or in anticipation of building development or landscaping on the site.

(203) "**Real estate 'for sale' or 'for lease' sign**" means a temporary sign designating that the premises upon which it is erected is for sale, rent, or lease.

(204) "**Recreational Vehicle**": A vehicle designed for human habitation for recreational purposes and capable of being used on a highway. Recreational vehicles shall include a motor home, travel trailer, truck camper and camping trailer, but shall not include a mobile home.

(205) "**Reflective surface**" means any material or device which has the effect of intensifying reflected light, such as scotch light, day glow, glass beads and luminous paint.

(206) "**Release**": Any spilling, including overfills, leaking, emitting, discharging, escaping, leaching or disposing from an underground storage tank or tank system into groundwater, surface water or subsurface soils.

(207) "**Release Detection System**": A system to detect releases, which system includes equipment or testing procedures designed to effectively monitor or measure for the presence of regulated substances in the secondary containment, tertiary containment, tank excavation, soil or other media outside of the underground storage tank system.

(208) "**Removal**": For purposes of the Chapter of this Code regulating tree and natural area protection, removal means uprooting; severing the main trunk of the tree or doing any act which causes or may reasonably be expected to cause the tree to die, including but not limited to, damaging the root system by machinery, chemicals, the storage of materials or soil compaction; substantially changing

the natural grade above the root system or around the trunk; pruning excessively; or paving with concrete, asphalt or other impervious materials in a manner which may reasonably be expected to kill the tree.

- (209) **"Repair"**: The restoration, renovation or mending of a malfunctioning or damaged underground storage tank system or component thereof.
- (210) **"Residence time"**: The average residence time of a basin equal to the volume of the basin divided by the average rate of the outflow.
- (211) **"Residential nameplate sign"** means a sign permitted for the sole purpose of identifying the inhabitant residing therein, the house name, or identifying the address of the house. The sign may contain no advertising of any kind.
- (212) **"Restaurant"**: An establishment whose primary business is selling food for consumption at tables on the premises or for take out, as determined by at least 51% of gross sales.
- (213) **"Restoration"** means the routine maintenance and painting of existing, approved signs, that do not change the approved design and color in any way.
- (214) **"Retail (General)"**: Establishments serving a local district market area, and engaged primarily in the rental or sale of retail goods and services commonly purchased by the general public, including those listed in Retail, Limited.
- (215) **"Retail (Limited)"**: Establishments engaged primarily in the rental or retail sale of goods and services for personal consumption or improvement or household use, except those items specifically defined under Retail, General, generally serving a neighborhood area.
- (216) **"Rezoning"**: A change in the zoning map; an amendment to the map.
- (217) **"Right-of-way"**: Any travelway open to the general public for travel or land dedicated for eventual travel by the public. Dedicated right-of-way may in addition to travel by the public be used for installation of utilities or other public purposes.
- (218) **"School, Public or Denominational"**: A school having a curriculum generally equivalent to public elementary or secondary schools, but not including trade or commercial schools.
- (219) **"Secondary Containment"**: The level of containment external to and separate from the primary containment, consisting of an impervious layer of materials which are installed so that any release of hazardous materials from the primary containment of an underground storage tank, fuel delivery piping or tank system is prevented from contacting the environment outside said impervious layer.
- (220) **"Secondary Use"**: A collateral use of land or buildings, which is customarily done or performed in conjunction with a permitted principal use, but not constituting a majority of either the employment, area or revenue of the combined uses.
- (221) **"Sewage"**: Water which contains, or which has been in contact with, organic and inorganic contaminants such as human or animal wastes, vegetable matter, cooking fats and greases, laundry and dishwashing detergents and other chemical compounds and waste products. The term "sewage" is interchangeable with the term "wastewater."

(222) **"Shade tree - small":** A self-supporting woody plant or species normally growing to a mature height of at least twenty (20) feet and a mature spread of at least fifteen (15) feet in Sunset Valley. Clusters of more than one tree may be used when it is demonstrated that the grouping of trees will, at maturity, surpass the 15' diameter requirement and that the grouping of trees is suitable for the proposed location.

(223) **"Shopping Center":** A group of four (4) or more retail establishments, planned, developed and managed as a unit, except that for the purposes of the Chapter of this Code regulating signs, "Shopping center" means two or more retail stores and/or service establishments, or one retail store and one service establishment, sharing customer parking area, regardless of whether said stores and/or establishments occupy separate structures or are under separate ownership or on separate lots or tracts of land.

(224) **"Shrub":** A shrub shall be defined and will qualify if either of the following are met:

- (A) A bushy, woody plant with several permanent stems instead of a single trunk usually not more than ten feet in height at maturity; a bush.
- (B) A plant listed as a shrub in any of the following:
 - (i) A list of shrubs prepared by the City of Austin Parks Department entitled "Landscape Supplement-Plant Materials for the Austin Area."
 - (ii) Trees, Shrubs and Woody Vines of the Southwest by Robert A. Vines.
 - (iii) Shrubs, Vines and Trees for the Austin Area, compiled by Ted Fisher, Travis County Extension Agent.

(225) **"Sign":** Any device or surface on which letters, illustrations, designs, figures or symbols are painted, printed, stamped, raised, projected or in any manner outlined or attached and used for advertising purposes. Also, a name, identification, image, light device, figure, painting, drawing, message, plaque, poster, billboard, description, display or illustration which is affixed to, painted or represented directly or indirectly upon a building, picture, window, or piece of land, and which directs attention to an object, product, place, activity, facility, service, event, attraction, person, institution, organization or business which is visible from any street, right-of-way, sidewalk, alley, park or other public property. Customary displays of merchandise or objects and material without lettering which are placed behind a store window are not signs or parts of signs. The term "Sign" includes the term "Outdoor Advertising."

(226) **"Single Family":** A detached building unit designed to provide shelter and contain one family unit. For the provisions of this Code only, single family shall include two family units.

(227) **"Site":** A space of ground occupied or to be occupied by a structure.

(228) **"Site Plan":** A map showing and describing a proposed development including the existing conditions and proposed changes to the subject property in accordance with the site plan requirements in this Code.

(229) **"Site specific planting":** The selection of plant material that is particularly well suited to withstand the physical growing conditions which are normal for that location.

(230) **"Special Use"**: A use that may be authorized by the City Council if the applicant can show, to the satisfaction of the City Council after a public hearing, that the use requested meets all applicable conditions and standards contained in Chapter 2.

(231) **"Start of Construction"**: Commencing any site clearing, excavation or grading. For purposes of the flood loss control provisions of this Code, "Start of Construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)) includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state 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 of the erection of temporary forms; nor does it include the installation on the property of accessory building, such as garages or sheds not occupied as dwelling units or not part of the main structure.

(232) **"Storage Warehouse"**: Establishments or places of business primarily engaged in wholesaling, storage, distribution and handling of materials and equipment within enclosed structures.

(233) **"Storage Permit"**: A permit issued by the City pursuant to this Code for the storage of hazardous materials in underground storage tanks.

(234) **"Story"**: The height between the successive floors of a building or from the top floor to the roof. The standard height for a story is eleven (11) feet, six (6) inches.

(235) **"Street"**: A public right-of-way, however designated, which provides vehicular access to adjacent land.

(236) **"Street, Collector Street"**: An undivided roadway generally providing access to minor arterials from local streets but generally without direct access from adjacent properties except for elementary schools, small apartment complexes, and neighborhood commercial centers.

(237) **"Street, Local Street"**: A roadway providing access to individual adjacent properties.

(238) **"Street, Major Arterial Street"**: A divided or undivided limited-access roadway designed to provide vehicular circulation between major traffic generators, such as large high-density residential neighborhoods, commercial centers, and other municipalities.

(239) **"Street, Minor Arterial Street"**: A divided or undivided, limited-access roadway designed to provide vehicular circulation between secondary traffic generators, such as a neighborhood/community shopping centers, office complexes, high schools, and municipal or regional parks/recreation areas, and between major arterial streets and streets of lower classification.

(240) **"Street, Private Street"**: A "private street" is a driveway or alley which serves only to give secondary vehicular access to a building lot or to an accessory parking or loading facility, or to allow vehicles to take or discharge passengers at the entrance to a building.

(241) **"Street, Through Street"**: A roadway with two or more outlets.

(242) **"Street Yard":** The street yard is the area of a lot which lies between the street right-of-way line and the actual front wall line of the building, as such building wall line extends from the outward corners of the building, parallel to the street, until such imaginary extensions of such front building wall line intersects the side property lines. In determining the actual building wall of the building for the purposes of this Code, steps and unenclosed porches shall be excluded, but such building wall line shall follow and include the irregular indentations of the building. A front building wall is a building wall fronting on a street.

On corner lots, the street yard shall consist of all the area of such lot between all abutting street rights-of-way lines and their corresponding actual front building wall lines, as such lines are imaginarily extended in the manner provided above.

When there are multiple buildings on a lot, the street yard shall consist of all the area of the lot between the street right-of-way line(s) and an imaginary line beginning at one side of the property line, running parallel to the street, connecting to the frontmost corner of the building wall fronting the street and nearest such side property line, then following and connecting the frontmost walls of all buildings fronting on the street, and then extending to the other side property line, running parallel to the street. If a building has a rounded front, the front building wall corners shall be the points closest to the side boundaries. Provided, that isolated buildings (e.g., photo processing dropoffs, bank drive-throughs, etc.) shall not be considered in delineating the street yard.

Notwithstanding all of the foregoing, on land used only for parking purposes or only as a commercial or private parking lot, the street yard shall consist of the area between the street right-of-way line and the back property line.

(243) **"Structure":** Anything, constructed or erected, which requires location on the ground, or attached to something having a location on the ground, but not including, advertising signs, billboards, and poster boards. The word "building" includes the word "structure." For purposes of the flood loss control provisions of this Code, "structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(244) **"Structural Alterations":** Any change in the supporting members of a building, such as bearing walls, columns, girders or beams over eight (8) feet long.

(245) **"Subdivider":** 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, or land sought to be subdivided.

(246) **"Subdivision":** A division of any tract, lot, piece, or parcel of land, or any portion or fraction thereof (whether by block or lot numbers, or by metes and bounds descriptions), situated within the corporate limits, or within the City's extraterritorial jurisdiction, in two or more parts for the purpose of transfer of ownership, or building development, whether immediate or future, or for laying out suburban lots or building lots, or any lots, whether all or any portion thereof be intended for public use, or only for the use of purchasers, short or long-term lessees, guests and/or agents. Subdivision also includes resubdivision of any tract, lot, piece, or parcel of land.

(247) **"Substantial Modification and Repair":** Repairs, additions, upgrading or alterations to, or the replacement of, an underground storage tank system or any component part thereof, except routine maintenance activity performed on the tank and fuel delivery system. The term shall include, but

not be limited to, tank repairs, such as interior and exterior relining or recoating, and the installation of new or replacement piping.

- (248) **"Substantial Improvement"**: means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose 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. The term does not, however, include dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
- (249) **"Sumpage"**: Liquids that enter a primary, secondary or tertiary containment system other than by direct precipitation or runoff.
- (250) **"Surface area of a sign"** means the total surface including frame and mounting, but shall include only one-half of a freestanding back-to-back sign, provided the freestanding sign's sides are back to back or angled with no greater separation between sides at its widest point than four (4) feet and provided that both sides have the identical sign.
- (251) **"Surveyor"**: A licensed State Land Surveyor or a Registered Public Surveyor, as authorized by State statute to practice the profession of surveying.
- (252) **"Tavern, Bar, Lounge or Private Club, Dance Hall, Night Club"**: A tavern, bar, lounge, dance hall or nightclub shall mean an establishment, the primary activity of which is the sale and consumption on the premises of beer, wine or other liquors, as determined by at least 51% of gross sales. Private club shall mean any organization or association of persons, whether unincorporated or incorporated, including fraternal and veteran organizations and all organizations required to be licensed by the Texas Alcoholic Beverage Commission, which sells, stores, possesses or regularly provides and dispenses or makes available alcoholic beverages at its meeting place or on the premises thereof to its members and their guests regardless of whether or not a fee is charged therefor and regardless of whether or not the dispensation of alcoholic beverages is incidental to or the primary function of the operation of such organization or association.
- (253) **"Temporary Construction Storage"**: A temporary, enclosed, lockable structure or shelter subject to removal by order of the City Council used to store small tools and small materials connected to the construction on the lot where the temporary construction storage is located.
- (254) **"Temporary Field or Construction Office"**: A structure or shelter, subject to removal by order of the City Council, used in connection with a development or building project for housing on the site of temporary administrative and supervisory functions and for sheltering employees and equipment. Not to be used for human habitation.
- (255) **"Temporary site development sign"** means a sign permitted to identify a project under construction including the project name, project address, general contractor, and architect.

(256) **"Tertiary Containment"**: The level of containment external to and separate from the secondary containment, consisting of an impervious layer of materials which are installed so that any release of hazardous materials from the secondary containment of an underground storage facility is prevented from contacting the environment outside said impervious layer.

(257) **"Tract"**: A defined area of land.

(258) **"Traffic control sign"** means a permitted sign for the purpose of identifying parking areas and directing the flow of traffic on private property.

(259) **"Tree"**: A tree shall be defined and will qualify as such if either of the following are met:

- (A) A woody plant having one well defined stem or trunk and a more or less definitely formed crown, and usually attaining a mature height of at least fifteen (15) feet and a trunk diameter of not less than two inches (2").
- (B) A plant listed as a tree in any of the following:
 - (i) A list of trees prepared by the City of Austin Parks Department entitled "Landscape Supplement-Plant Materials for the Austin Area."
 - (ii) Forest Trees of Texas, by the Texas Forest Service of the Texas A&M University Station.
 - (iii) Shrubs, Vines and Trees for the Austin Area compiled by Ted Fisher, Travis County Extension Agent.

(260) **"Two-Family"**: An attached housing unit designed to provide shelter and contain two separate family units with each unit separated by a common wall.

(261) **"Underground Storage Construction Permit"**: A permit issued by the City pursuant to this Code for the construction, replacement or substantial modification or repair of any underground storage tank, tank system or component thereof in which hazardous materials will or may be stored.

(262) **"Underground Storage Facility"**: A single location or site, including but not limited to retail service stations and retail fuel outlets with one or more underground tank systems, including any building or buildings, appurtenant structures, and surrounding land area.

(263) **"Underground Storage Tank"**: Any one or combination of underground tanks and any connecting underground pipes used to contain an accumulation of regulated substances, the volume of which, including the volume of the connecting underground pipes, is 10 percent or more beneath the surface of the ground.

(264) **"Underground Storage Tank System"**: An underground storage tank, all associated piping and ancillary equipment, spill and overfill protection equipment, release detection equipment, corrosion protection system, secondary and tertiary containment systems (as applicable) and all other related systems and equipment used for or in connection with the storage, transfer or containment of hazardous materials at an underground storage facility.

- (265) "**Uplands zone**": All lands and waters that are not included within the critical water quality zone or the water quality transition zone.
- (266) "**Utility Easement**": An interest in land granted to the City, to the public generally, and/or to a private utility corporation, over or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.
- (267) "**Utility lines**": All wires and lines used to provide telephone, cable television, and electricity to any structure, including guy wires and other supporting devices.
- (268) "**Variance**": An adjustment in the application of the specific requirements of this Land Development Code to a particular parcel of property, person, or both which, because of special conditions or circumstances peculiar to the situation, is necessary to prevent the person applying for a variance from being deprived of rights and privileges enjoyed by others in the same vicinity.
- (269) "**Vegetation, native**": Any plant species with a geographic distribution indigenous to all or part of the State of Texas. Plant species which have been introduced by man are not native vegetation.
- (270) "**Vegetative Filter Strip**": A strip of permanent vegetation above ponds, diversions and other structures to retard flow of runoff water, causing deposition of transported material, thereby reducing sediment flow.
- (271) "**Veterinary Clinic**": An establishment for the diagnosis and treatment of disease and injuries of animals, by a person trained and authorized to treat animals medically. Animals may be kept on the premises for treatment measures.
- (272) "**Violation**": For purposes of the flood loss control provisions of this Code, means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3 (b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (3)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.
- (273) "**Visual Screen**": A device designed to divide, conceal or protect from view. A screen may be a structure or vegetation.
- (274) "**Wall**": A wall shall be defined as an opaque structure constructed of masonry, concrete, stone, brick or other materials which either screens a portion of the site from view or retains earth. Such walls shall include but not be limited to architectural buffers, water quality pond walls and retaining walls.
- (275) "**Wall sign**": means a sign attached to, painted on, or erected against the wall of a building or structure with the exposed face of the sign in a plane parallel to the face of the wall and not projecting more than nine (9) inches from the face of the wall at any point.
- (276) "**Wastewater**": see **sewage**.
- (277) "**Water Quality Controls**": Mean detention/sedimentation basins, sedimentation/filtration basins, filtration basins and retention/irrigation, retention, wet ponds, irrigation, vegetative filter strips or other water quality control structures or systems designed to provide water quality benefits through the treatment of stormwater run-off.

- (278) **"Water Quality Transition Zone"**: Lands and waters as defined Chapter 4, Division 4.2, Section 4.201 of this Code.
- (279) **"Water Surface Elevation"**: means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.
- (280) **"Xeriscape"**: Landscape methods which conserve water through the use of drought tolerant plants and planting techniques.
- (281) **"Zone"** means a zoning district as shown on the official zoning map of the City.
- (282) **"Zoning"**: Control on the use and development of land, whether improved or not, for the benefit of citizens in the community and the public welfare.
- (283) **"Zoning Commission"**: The agency appointed by the City Council as an advisory body to it and which is authorized to recommend changes in the zoning.
- (284) **"Zoo (Private)"**: A facility housing and displaying live animals, reptiles or birds, privately owned and operated for a fee or for the promotion of some other enterprise.

Division 1.3: Interpretation and Rules of Construction

Sec. 1.300 General Rules of Construction

The following general rules of construction apply to the textual provisions of the Land Development Code:

- (a) **Computation of time.** In computing a period of days, the day of the act or event from which the designated period of days begins to run is excluded, and the last day of the period of days is included, unless the last day is not a working day. If the last day of the period is not a working day, the period runs until the end of the next day which is a working day. In computing a period of less than seven days, Saturdays, Sundays, and City holidays are excluded.
- (b) **Internal Reference.** A reference without further identification to a chapter, division, part, or section is a reference to a chapter, division, part, or section of this Land Development Code. A reference within a particular chapter, division, section, or subsection to an division, section, subsection, or other numbered or lettered divisional unit without further identification is a reference to a unit of the next larger unit of this Land Development Code in which a reference appears. For example, a reference in this subsection to subsection (a) is a reference to subsection (a) of Section 1.300; a reference to Division 1.3 is a reference to Division 1.3 of Chapter 1 .
- (c) **Headings.** Section and subsection headings contained herein are for convenience only and do not govern, limit, modify, or in any manner affect the scope, meaning, or intent of any provision of the Land Development Code.
- (d) **Illustration.** In case of any difference of meaning or implication between the text of any provision and any illustration, or table, the text shall control.
- (e) **"Shall", "must", "will", and "may".** "Shall", "must", and "will" are always mandatory and not discretionary. "May" is discretionary.

- (f) Tenses and numbers. Words used in the present tense include the future, and words used in singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (g) Conjunctions. Unless the context clearly indicates the contrary, conjunctions are interpreted as follows:
 - (1) "And" indicates that all connected items or provisions apply.
 - (2) "Or" indicates that the connected items or provisions may apply singly or in any combination.
 - (3) "Either...or" indicates that the connected items or provisions shall apply singly but not in combination.

Sec. 1.301 Conflict with Private Restrictions

The provisions of this Land Development Code are minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare. It is not the intent of these regulations to interfere with, abrogate, or annul any private easement, covenant, restriction, or other agreement between private parties. When regulations imposed by this Land Development Code require a greater restriction upon the use of a building or land, or upon the height of buildings, require larger open spaces, or otherwise impose greater restrictions than are imposed or required by other ordinances, rules, regulations, or by private easements, covenants, restrictions, or agreements, the provisions of the Land Development Code shall control.

Sec. 1.302 Inconsistent Provisions

- (a) Notwithstanding any ordinance of the City of Sunset Valley to the contrary, the provisions of this Land Development Code establish the procedures to be followed in connection with regulations governing the use and development of land. The requirements of this Land Development Code shall control over any previously enacted and inconsistent provision of an ordinance of the City of Sunset Valley.
- (b) Provisions of this Land Development Code shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare. Wherever a requirement of this Land Development Code is at variance with another requirement of this Land Development Code, any statute or City ordinance, the most restrictive, or that imposing the higher standard shall apply.

CHAPTER 2: ZONING

Division 2.1: Zoning Commission

Sec. 2.100 Zoning Commission Created

- (a) There shall be and is hereby created a zoning commission for the city, which shall consist of five members including a chairman. The members shall be resident citizens, tax-payers, and qualified voters of the city, all of whom shall be appointed by the city council.
- (b) All vacancies shall be filled in the same manner as provided for the original appointments.
- (c) Members of the commission may be removed by the council, after public hearing and for cause assigned in writing or upon the completion of their assigned term.
- (d) Members of the zoning commission shall not receive compensation for their services.

Sec. 2.101 Term of Office

The terms for the members of the zoning commission shall be concurrent with the term of office of the elected mayor.

Sec. 2.102 Powers and Duties

The zoning commission shall study the zoning questions of the city and make to the city council preliminary reports and an annual report, and any suggested amendments of the zoning provisions contained in this Code, for the regulation of the height of buildings and structures, setback lines or building lines, the intensity of the use of lot areas, the location of trades and industries, and buildings designed for industrial, business, residential, or other use, and dividing the city into various use, height, and other districts for the purposes of establishing and enforcing adequate and proper zoning regulations. The governing body shall perform such other duties as may be prescribed by the city council or state law.

Sec. 2.103 Organization and Rules

- (a) The zoning commission shall meet at such times as may be determined by it, and special meetings of the commission may be held upon call of the chairman or of any three (3) members thereof. The city secretary shall act as secretary of the zoning commission, unless provision to the contrary is made by the city council.
- (b) The zoning commission shall have the power to make rules, regulations, and bylaws for its own government, which shall conform as nearly as possible with those governing the city council and same shall be subject to approval by the city council. Such bylaws shall include among other items, provisions for:
 - (1) Regular and special meetings shall be open to the public, and subjects of the meeting shall be posted at least seventy-two (72) hours before each meeting except for emergencies.
 - (2) Records of all proceedings to be open for inspection by the public.

(3) The commission shall report to the governing body and public from time to time and annually.

Division 2.2: Board of Adjustment

Sec. 2.200 Term of Office of Prior Members of Board of Adjustment

The Members of the Board of Adjustment duly appointed pursuant to Ordinance No. 850212A and holding office on the effective date of Ordinance No. 951107 shall have the authority and shall serve the functions and purposes provided in this Division of the Land Development Code. The term of office of each member of the Board of Adjustment holding office on the effective date of Ordinance No. 951107 shall continue for the duration of the original term unless earlier terminated in accordance with this Division of the Land Development Code or applicable law. The Board of Adjustment shall exercise such functions and duties and shall have such authority as is provided in Tex. Loc. Gov't Code Chapter 211, as amended from time to time.

Sec. 2.201 Membership

(a) Membership

- (1) The Board of Adjustment shall consist of five (5) regular members and up to five (5) alternate members, each to be appointed by the City Council for a term of two (2) years.
- (2) Each Member of the City Council shall appoint two members to the Board of Adjustment. One of the appointments by each of the Council Members shall be designated a regular member and one appointment shall be designated an alternate member.
- (3) Alternate members shall serve in the absence of one or more regular members when requested to do so by the presiding officer of the Board of Adjustment.
- (4) The regular members of the Board of Adjustment shall elect from among themselves a chairperson, who shall serve as the presiding officer, and a vice-chairperson who shall serve as the presiding officer in the chairperson's absence. Alternate members shall elect from among themselves a second vice chairperson who shall be the presiding officer in the absence of the chairperson and vice chairperson.
- (5) In the event that a regular or alternate member leaves or is removed from office before expiration of the term of office, the resulting vacancy shall be filled by the City Council for the unexpired term of such member or alternate member. In the event that a chairperson, vice chairperson, or second vice chairperson leaves or is removed from office, a successor shall be elected in accordance with the provisions of subsection 2.201(a)(4).

(b) Meetings. Meetings of the Board of Adjustment shall be held at the call of the presiding officer and at such other times as the Board may determine. Each case before the Board must be heard by at least four members.

(c) Rules. The Board shall by majority vote adopt rules for the conduct of its duties, consistent with this Division and Tex. Loc. Gov't Code Chapter 211 as amended from time to time.

(d) Removal. The City Council may remove a Board member for cause, as found by the City Council, on a written charge after a public hearing.

Sec. 2.202 Procedures

Each case before the Board of Adjustment must be heard by at least 75 percent (75%) of the members. The concurring votes of 75% of the members of the Board is necessary to:

- (1) reverse an order, requirement, decision, or determination of an administrative official;
- (2) decide in favor of an application on a matter on which the Board is required to pass under a zoning ordinance; or
- (3) authorize a variance from the terms of a zoning ordinance.

Sec. 2.203 Qualifications for Membership

No member of the Board shall be an employee of the City or hold any other appointed or elected office in the City or serve on any other committee, board, or commission, the members of which are appointed by elected officials of the City.

Division 2.3: Procedures

Sec. 2.300 Public Hearings of Applications for Special Use Permit, Zoning Variances, Zoning Changes and Zoning Amendments

(a) The Board of Adjustment, Zoning Commission and/or City Council, as applicable, shall hold a public hearing within sixty (60) days of the date of the filing of a complete application for a special use permit, variance, zoning classification change, and proposed general amendment to the zoning provisions of this Code before acting thereon.

(b) Notice.

- (1) By Publication. The City shall cause notice of a public hearing to be published once in an official newspaper or in a newspaper of general circulation in Sunset Valley at least fifteen (15) days prior to the date set for such hearing. The notice shall state the time and place of the hearing and contain a description of the matter to be considered, including its nature, scope and location. The notice shall also describe any other concurrent actions the applicant has requested and shall state the location and times of which the application and supporting documents are available for public inspection.
- (2) Written Notice to Property Owners. When the public hearing is to consider a proposed variance, special use permits, variances, zoning classification changes, or other type of zoning amendment, written notice of such hearing shall be given to the owners of all real property located within five hundred feet (500') of the property on which the action is proposed. Where the subject property requesting the action constitutes a unit of a larger tract owned by the applicant, written notice of such hearing shall be given to the owners of all real property located within five hundred feet (500') of the property line of the larger tract. Notice shall be given not less than fifteen (15) days before the date set for the hearing either by personal service or by depositing a copy of the notice in the mail addressed to each owner

at the address shown on the last approved City tax roll. Such written notice shall be in addition to notice by publication and shall contain the same information.

- (3) Sign on Property Being Considered for a Special Use Permit, Zoning Variance or Zoning Classification Change Amendment. The City shall cause one or more signs to be erected in conspicuous locations on property for which a special use permit, zoning variance or change of zoning classification has been requested. Such signs shall be erected no later than ten (10) days before the request is to be considered at a public hearing before the Zoning Commission, Board of Adjustment and/or City Council and shall remain until final disposition of the request by the City. Each sign shall describe the nature of the proposed action, and indicate the time, date, and place of the public hearing before the Zoning Commission, Board of Adjustment or City Council and the time and place for public inspection of the application or proposal. No action taken by the Zoning Commission, Board of Adjustment or the City Council shall be affected by any failure to comply with this section.
- (c) Joint Hearing on Multiple Applications. Applications for special use permits, site plan zoning changes, zoning amendments and zoning approvals which involve the same development may be considered together, before either the Zoning Commission, the City Council, or both, at a single hearing, rather than at a separate hearing for each related application.
- (d) Concurrent Applications. An application for a zoning classification change may be filed concurrently with an application for a conceptual site plan, but shall be approved only after the latter applications have been approved. Tentative maps may be processed concurrently with a zoning classification amendment. Special use permits may be processed concurrently with a zoning classification change, but may not be approved until after the zoning classification change has been approved.

Sec. 2.301 Public Notice of Hearing

After the preparation of a tentative report and ordinance, the Zoning Commission shall hold a public hearing thereon, public notice of which hearing shall be published in a newspaper not more than thirty nor less than fifteen days prior thereto, and such notice shall state that a copy of the proposed ordinance is available in the office of the City Secretary for examination.

Sec. 2.302 Joint Meetings by the Zoning Commission and the City Council

Any public hearing required by law to be held by the Zoning Commission of the City of Sunset Valley, Texas, or by the City Council of the City of Sunset Valley, Texas, to consider boundaries of original districts and appropriate regulations to be enforced therein, or any proposed changes thereafter to such original zoning Ordinance, may be a joint meeting of such legislative body and such Commission, for the purpose of conducting such public hearing, and shall be held at a regular meeting of said City Council at a time to be agreed upon by the Mayor and the Chairman of the Zoning Commission, and when such date has been agreed upon, the Mayor shall direct the City Secretary to cause notice of such joint meeting, its date, time and place to be published in the official paper, if any, of the City, or in a paper of general circulation in the City for at least fifteen (15) days prior to the date of such meeting. At such public hearing before such joint meeting of the Zoning Commission and the City Council, all interested partes shall be given an opportunity to be heard and to make any protest or suggestion that may occur to them, and such meeting shall continue and may be adjourned from time to time until every interested party and citizen has had a full opportunity to be heard.

Sec. 2.303 Similar Applications Within Six (6) Months Prohibited

- (a) No application for a special use permit, or change of zoning classification, shall be accepted if a similar application on the same property has been denied by the City Council within the preceding six (6) month period, or withdrawn by the applicant within the preceding ninety (90) day period.
- (b) For purposes of this subsection, the withdrawal of an application is a withdrawal occurring any time after publication of notice of a public hearing for consideration by the Zoning Commission of the application.

Sec. 2.304 Application Fees

Fees shall be required as shown in the City of Sunset Valley Permit Fee Ordinance and amendments to that Ordinance, at the time an application for the permit is made.

Sec. 2.305 Amendments

- (a) Intent. To provide a vehicle to consider requests to add, delete or alter land use and development standards which regulate development when unanticipated significant changes occur within the area that make it unlikely that some parcels can be developed consistent with the Existing or Future Land Use Map and to ensure that all amendments to the zoning provisions of this Code are in accordance with the goals, standards and policies of the Comprehensive Land Use Plan. Amendment requests may encompass:
 - (1) Changes in the zoning classification, including conditional overlays, of specific or multiple parcels of land;
 - (2) Land use regulations; and
 - (3) General provisions of the zoning sections of this Code.
- (b) Procedures.
 - (1) Who May Initiate an Amendment Request. A request to amend the zoning provisions of this Code may be initiated by an owner of property or by the City Council.
 - (A) Application by Property Owner. A property owner, or his/her authorized agent, may file an application with the City requesting an amendment to the zoning provisions of this Code. No one may initiate a request for an amendment for a particular parcel of land owned by another person without the express written consent of the landowner.
 - (B) On Council's Own Motion. The Council, by motion, may initiate a proposal to amend the zoning provisions of this Code. Such amendment shall not become effective without first giving notice and holding hearings in accordance with Section 2.300, and must receive a favorable vote of the Zoning Commission and the favorable vote of the Council in conformance with all applicable law regarding the number of votes necessary for approval of changes in zoning classification and requirements.

(2) Application Requirements. An application shall be accompanied by:

- (A) A non-refundable deposit or fee as set forth by ordinance or resolution of the City Council;
- (B) Legal description, including volume and page of the deed record, and address of the parcel affected;
- (C) Present zoning classification and present use of the parcel and all contiguous parcels around it;
- (D) Type and location of any structures on the applicant's parcel and on adjoining land;
- (E) A conceptual site plan (See Appendix A);
- (F) A statement that explains:
 - (i) How the request satisfies the conditional findings set forth in subsection 2.305(b)(6);
 - (ii) How the conceptual plan, if being processed concurrently, meets the goals, standards and policies of the Comprehensive Land Use Plan; and
 - (iii) How the amendment request meets the goals, standards and policies of the Comprehensive Land Use Plan.
- (G) A site plan (see Appendix B) may be required by a member of the Council or Zoning Commission, and shall be required by the Council in such cases where an owner of real property located within five hundred feet (500') of the property on which the change in classification is proposed makes such request;
- (H) For proposals requesting amendments to Zoning Classification, the following are additional application requirements:
 - (i) The zoning change requested and the proposed use;
 - (ii) For zoning changes requesting a change in land use category or overlay district boundaries, the following shall also be submitted at the time of application:
 - a) A proposed map drawn proportionally to the existing zoning maps.
 - b) A statistical analysis providing applicable information, such as acreages, maximum dwelling units, and building intensity.
- (I) Any other relevant information requested by a member of the Council or Zoning Commission in order to properly review the application. Such information may include, but is not limited to preliminary plat plans, site building plans, a traffic impact study, contour maps, or a geological survey report of the impact the amendment could have on the environment.

(3) Report of Administrative Completeness. The City Secretary or City designee shall review each application for administrative completeness. After receipt of a complete application, the City Secretary or City designee shall cause to occur within five (5) working days:

- (A) Formal notice to be sent to the applicant stating:
 - (i) the date on which the application was admitted as complete;
 - (ii) a schedule of review, hearings and report dates;
 - (iii) that additional requests for other relevant information may be requested at any time during the review process in order to properly review the application. Such information may include, but is not limited to plat plans, site building plans, a traffic impact study, contour maps, or a report of the impact the amendment could have on the environment.
 - (iv) if applicable, whether the requested amendment conforms to the Existing or Future Land Use Map of the City of Sunset Valley Comprehensive Plan; and
- (B) An organized packet of information to be delivered to each member of the Zoning Commission and City Council containing a copy of the application and all application submittals including all correspondence to and from the applicant.

(4) Application Review and On-site Inspection (written request required).

- (A) Within thirty (30) working days of the receipt of an administratively complete application, a designated City planning professional shall review the application for the proposed amendment and prepare a brief report on whether the requested change conforms to the classification for the subject parcel as specified on the Future Land Use Map of the Comprehensive Plan of the City. If the requested change does not conform to the Future Land Use Map, the report shall indicate whether any significant and unanticipated changes have occurred in the area since the Future Land Use Map was adopted which make it unlikely that such parcel can be developed consistent with that map. If the report finds that development consistent with the Future Land Use Map is unlikely, the report shall indicate whether the requested change is consistent with the goals of the Comprehensive Plan. The report shall also indicate whether the requested zoning classification is an appropriate classification for the area affected.

Copies of the report shall be mailed to the applicant and to the members of the Zoning Commission. Within ten (10) days after the report has been mailed, the applicant may:

- (i) amend the application so it is consistent with the recommendations made in such report;
- (ii) withdraw the application; or

- (iii) proceed with the application as filed. Unless the City Secretary receives notice to the contrary within the applicable time limit, the City shall proceed to post notice of a public hearing regarding the application.
- (B) On-site Inspection. A person designated by the Chair of the Zoning Commission shall visit the site where the proposed amendment will apply and the surrounding area and shall report his/her findings to the Zoning Commission.

(5) Hearing and Notice. The Zoning Commission shall hold at least one (1) public hearing on all amendments to this Code in accordance with Section 2.300. The Zoning Commission shall review the amendment application at a public hearing within forty five (45) days of the date of the filing being declared administratively complete.

(6) Findings. Findings, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes. The burden of establishing such conditions is on the applicant.

- (A) Conditions required for a Change in Zoning Classification. In order for a zoning classification change to be approved, the Council must find that in its opinion, each of the following conditions have been established by competent evidence. The burden of establishing such conditions is on the applicant.
 - (i) The proposed change in zoning classification is consistent with the goals, standards and policies of the City's Comprehensive Plan; and
 - (ii) Significant unanticipated changes have occurred that make development with the current land use maps unlikely and inappropriate; and
 - (iii) The current zoning classification deprives the applicant of the reasonable use of his/her land; and
 - (iv) The zoning classification change requested is no greater than the minimum required to allow for reasonable use of the land; and
 - (v) There is no reasonable alternative to the proposed zoning classification change; and
 - (vi) The proposed change in zoning classification is in the community's best interest in terms of the public health, safety and welfare; and
 - (vii) Development likely to occur as a result of the proposed change in zoning classification can be served adequately by utilities, water supply systems, waste water systems, and drainage facilities; and
 - (viii) Development likely to occur as a result of the proposed change in zoning classification can be served adequately by the following services: police protection, fire protection, and emergency medical care; and
 - (ix) Development likely to occur as a result of the proposed change in zoning classification will not result in traffic conditions or vehicular circulation that

jeopardizes the City's public health, safety, welfare, environment, or the vehicular traffic goals, standards and policies of the Comprehensive Land Use Plan; and

- (x) Development likely to occur as a result of the proposed change in zoning classification will not disrupt the existing uses of land in the vicinity; and
- (xi) The proposed change in zoning classification and development likely to occur as a result of the proposed change in zoning classification will not negatively affect the value of property and improvements in the vicinity.

(B) Conditions required for an amendment to Land Use Regulations. In order for a land use regulation change to be approved, the Council must find that the change is consistent with each of the applicable purposes set forth in Chapter 2, Division 2.4, Section 2.400.

(C) Conditions required for an amendment to the general provisions of these provisions of the Code. In order for a general provision of these provisions of the Code to be approved, the Council must find that, at a minimum, the proposed change is consistent with each of the applicable purposes set forth in Chapter 2, Division 2.4, Section 2.400.

(D) Interpretative Rules applicable to all amendment requests.

- (i) Amendments should be granted sparingly.
- (ii) When considering requests to change zoning classification, zoning classification changes that have been granted previously in the vicinity are relevant to, but not determinative of the granting of such request, and pecuniary hardship, standing alone, shall not be deemed sufficient to grant the requested change.

(7) Report and Recommendation by the Zoning Commission.

(A) No amendment to the zoning provisions of this Code shall be enacted without a report and recommendation from the Zoning Commission. The report and recommendation of the Zoning Commission shall be advisory in its nature.

(B) Within ten (10) days of the conclusion of the public hearing, the Zoning Commission shall deliver a written report and recommendation of action to the Council. The Zoning Commission may postpone action on an amendment request up to sixty (60) days following the public hearing if additional information or assessment is required. The Commission shall not recommend an amendment unless it finds, based on competent evidence, that each of the conditions in Section 2.305(b)(6) has been established. Findings of the Zoning Commission, together with the specific facts upon which such findings are based, shall be incorporated into the Report by the Zoning Commission. The Zoning Commission may recommend by majority vote that the Council:

- (i) approve the amendment request;

- (ii) approve the amendment request with conditions, limitations and safeguards; or
- (iii) deny the amendment request.

(8) Review and Action by Council.

(A) Notice and Hearing. The City Council shall hold at least one (1) public hearing on all proposed amendments to this Code before acting thereon in accordance with Section 2.300. At the City Council's discretion, the hearing before the City Council may be combined with the hearing on the same matter before the Zoning Commission.

(B) Council Action. Council action on an application may include:

- (i) Approval of the recommendation of the Zoning Commission. This action would require a majority vote of the City Council, or
- (ii) Overrule recommendation by Zoning Commission denying an application would require a favorable vote of three-quarters (3/4) of all members of the City Council.
- (iii) If the City has received a written protest from 20% of the owners subject to the proposed change or from 20% of the owners of property within two hundred feet (200') of the subject property (where the amendment request constitutes a unit of a larger tract owned by the applicant, two hundred feet (200') from the property line of the larger tract), approval of action requires a favorable vote of three-quarters (3/4) of all members of the City Council.
- (iv) In computing the percentage of land area under subparagraph (iii) above, the area of streets and alleys shall be included.

(9) Conditions, Limitations and Safeguards Imposed by Council. The Council may impose such conditions, limitations and safeguards as it deems appropriate upon the granting of any amendment. Violation of any such condition, limitation or safeguard shall constitute a violation of this Code. The Council may require reasonable guarantee and evidence that the applicant, or its successors in interest, will satisfy any conditions imposed.

(10) Appeal. The Council's decision shall become final on the effective date of its resolution or motion. The action taken by the City Council cannot be reconsidered, unless substantive information not available to the Council when it originally made its decision is presented that significantly impacts the Council's decision. In accordance with state law, the applicant may appeal the Council's decision.

Sec. 2.306 Suspending Issuance of Permits and Approvals

No application for site plan approval shall be accepted for filing nor be processed and no building, site clearance, or grading permit shall be issued for any work, other than in connection with a single-family residential use, for a period not to exceed ninety (90) days, on land which is being considered for a change in zoning classification, such ninety (90) day period to begin on the date the City Council submits the

proposed zoning change to the Zoning Commission for a report and recommendation. Properties which have received preliminary or final site plan approval prior to such date are excepted.

Sec. 2.307 Variances

- (a) **Intent:** To provide a vehicle for relief from the provisions of this Code when strict compliance would cause undue hardship due to unusual circumstances or conditions peculiar to the subject property, such as size, shape, topography, location or surroundings.
- (b) **Application Requirements.** An application for a variance shall be made in writing in a form prescribed by the Board of Adjustment and shall be accompanied by:
 - (1) A non-refundable deposit or fee as set forth by ordinance of the City Council;
 - (2) A letter of justification describing the proposed project and explaining how it satisfies the conditional findings described in subsection (f) of this section (See Appendix A);
 - (3) A conceptual site plan;
 - (4) A detailed site plan (see Appendix B) may be required by the Board of Adjustment, and shall be required in such cases where an owner of real property located within five hundred feet (500') of the property on which the change in classification is proposed makes such written request; and
 - (5) Any other relevant information requested by the Board of Adjustment in order to properly review the application. Such information may include, but is not limited to plat plans, site building plans, a traffic impact study, contour/drainage maps, a surface geological assessment, or a report of the impact that the variance could have on the environment.
- (c) **Report of Administrative Completeness.** The City Secretary or City designee shall review each application for administrative completeness. After receipt of a complete application, the City Secretary or City designee shall cause to occur within five (5) working days:
 - (1) Formal notice to be sent to the applicant stating:
 - (A) The date on which the application was determined to be administratively complete;
 - (B) A schedule of review, report and hearing dates to consider action;
 - (C) That additional requests for other relevant information may be requested at any time during the review process in order to properly review the application. Such information may include, but is not limited to preliminary plat plans, site buildings plans, a traffic impact study, contour maps, or a report of the geological survey impact the variance may have on the environment.
 - (D) If applicable, whether the requested amendment conforms to the Existing or Future Land Use Map of the City of Sunset Valley Comprehensive Plan; and
 - (2) Twenty copies of an organized packet of information containing a copy of the application, all application submittals and all correspondence to and from the applicant to be delivered

to the City Secretary to be distributed to Members of the Board of Adjustment and Zoning Commission.

- (d) On-site Inspection. Upon the request of: a) the applicant; b) any member of the Board of Adjustment, Zoning Commission or City Council; or c) a property owner within 500' (five hundred feet) of the subject property, City representatives shall visit the site where the proposed variance will apply and the surrounding area and shall report his/her findings to the Board of Adjustment and the City's other governing bodies.
- (e) Hearing and Notice. The Board of Adjustment shall hold at least one(1) public hearing on all variance applications in accordance with the procedures for public notice and hearing in Section 2.300.
- (f) Findings. Findings of the Board, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the Board meeting at which such action is taken. The burden of establishing such conditions is on the applicant. No variance shall be granted unless the Board of Adjustment finds that all of the following criteria are met:
 - (1) Special circumstances or conditions affecting the parcel of land exist such that requiring strict compliance with the provisions of the applicable zoning provisions of the Code will cause undue hardship. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute undue hardship.
 - (2) Special circumstances or conditions affecting the parcel of land exist such that requiring strict compliance with the provisions of this Code will result in one or more of the following:
 - (A) Depriving the applicant of the reasonable use of his land; or
 - (B) Significant practical difficulties or unreasonable hardship to the landowner, or
 - (C) Significant or unreasonable disruption of the natural terrain, or
 - (D) Unreasonable destruction of the existing flora; and
 - (3) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
 - (4) There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of; and
 - (5) The variance will be no greater than the minimum required to alleviate the difficulty or hardship complained of; and
 - (6) The granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to other property or improvements in the area; and
 - (7) The granting of the variance will not have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this Code; and

- (8) The variance is in harmony with the intent of the Code's zoning provisions and with the goals, standards and policies of the City's Comprehensive Plan; and
- (9) The granting of the variance will not cause an unreasonable obstruction of direct sunlight to adjacent property; and
- (10) The proposed variance prescribes only conditions deemed necessary to or desirable in the public interest.

(g) Interpretative Rules

- (1) Variances to the zoning provisions in the Code should be granted sparingly.
- (2) A variance must be predicated on findings that the applicant's difficulties or hardships arise from unusual conditions or circumstances, such as exceptional irregularity or shape or topography, which are peculiar to the parcel of land involved and not shared generally by other parcels in the neighborhood or district, or because no other reasonable alternative is available.
- (3) A variance should be denied if conditions or circumstances relied on for a variance were self-created by the person having an interest in the property.
- (4) Lots, structures, uses or dimensional conditions on properties or structures within two hundred feet (200') of the subject property that are non-conforming or have been previously granted a variance, and that are similar to the conditions which would be created by the variance requested shall be relevant to, but not determinative of, the granting of the requested variance.
- (5) When considering the variance request the Board shall take into account:
 - (A) Existing and planned development on adjoining and nearby parcels;
 - (B) Thematic architecture and landscaping;
 - (C) Location of proposed buildings;
 - (D) Arrangement of uses proposed on-site;
 - (E) Access to the project site;
 - (F) On-site pedestrian and vehicular patterns;
 - (G) Distribution and amount of parking;
 - (H) Identification and mitigation of project impacts;
 - (I) The nature of the proposed use of the land involved;
 - (J) Existing uses of land in the vicinity;
 - (K) The number of persons who will reside or work in the proposed use;
 - (L) The effect upon traffic conditions; and
 - (M) The effect upon the public health, safety, convenience, welfare, and environment in the vicinity.

(h) Action by Board. The Board of Adjustment shall not grant a variance unless it finds, based on competent evidence, that each of the conditions in subsection (f) has been established. The Board may, by concurring vote of at least four members of the Board:

- (1) Approve the variance request;

- (2) Approve the variance request with conditions, limitations and safeguards; or
- (3) Deny a variance request.

(i) Conditions Imposed by Board. The Board may impose such conditions, limitations and safeguards as it deems appropriate upon the granting of any variance. Violation of any such condition, limitation or safeguard shall constitute a violation of this Code. The Board may require reasonable guarantee and evidence that the applicant, or its successors in interest, will satisfy any conditions imposed in connection with approval of a variance. The power to grant variances does not extend to changing a parcel's zoning districts, including the granting or denying of conditional overlays.

(j) Appeal. The Board's decision shall become final on the effective date of its resolution or motion. The action taken by the Board of Adjustment on a variance is final and cannot be reconsidered, unless substantive information which was not available when the Board made its decision is presented which could significantly impact the Board's decision. In accordance with state statute by law, the applicant may judicially appeal the Board's decision in accordance with State law.

(k) Time Limits. Unless action is being diligently pursued, any rights authorized by a variance which are not exercised within one (1) year from the date of granting such variance shall be conclusively presumed to have been withdrawn by the applicant.

(l) Enforcement and Revocation. Enforcement and revocation shall be in accordance with Chapter 2, Division 2.4, and other relevant provisions of this Code.

Division 2.4: General Provisions: Enforcement

Sec. 2.400 Purpose

The zoning regulations and districts adopted and established in this Land Development Code have been made in accordance with a comprehensive plan for the City of Sunset Valley for the purpose of promoting the public health, safety, moral and general welfare of the residents of the City of Sunset Valley, and to preserve places and areas of historical, cultural, or architectural importance and significance. They have been designed to lessen congestion in the street; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to maintain the environmental balance of the area; and to facilitate the adequate provisions of transportation, water, waste water, schools, parks, and other public requirements. They have been made with reasonable consideration, among other things, to the unique character of the City and its peculiar suitability for the particular uses; and with a view to conserving the value of property and buildings and encouraging the most appropriate use of land throughout the community.

Sec. 2.401 The Zoned District in General

The Zoned District shall be the present boundary limits of the City as herein set forth and are approved and established. A "Zoning Map" which is adopted with and declared a part of this Chapter shall be considered as much a part of the same as if the matters of information set forth thereby were all fully contained and described herein.

Sec. 2.402 Establishment of Zoning Districts

The City of Sunset Valley is hereby divided into the following zoning districts:

<u>District Symbol</u>	<u>Zoning District</u>
SF	Single Family Residential
O	Neighborhood Office
NC	Neighborhood Commercial
HC	Highway Commercial
GUI	Governmental, Utility and Institutional
P	Parks, Conservation Areas and Easements, and Open Areas
CO	Conditional Overlay Combining

Sec. 2.403 Official Zoning Map

- (a) The locations and boundaries of zoning districts established by Ordinance shall be recorded on an Official Zoning Map to be adopted by an Ordinance of the City Council and identified and amended in the manner specified in this Chapter. Recording on the official map is not a prerequisite to the effectiveness of a zoning Ordinance.
- (b) The Official Zoning Map shall be identified by the signature of the Mayor attested by the Secretary for the City under the following words: "This is to certify that this is the Official Zoning Map of the City of Sunset Valley, Texas."
- (c) Changes in the zoning classification of particular parcels or areas of land, approved by the City Council in accordance with the provisions of this Chapter, shall be noted promptly on the Official Zoning Map with the following entry: "On (date), by official action of the City Council, the following changes were made in the Official Zoning Map: (brief description of the nature of the changes)", which entry shall be signed by the Mayor and attested by the Secretary of the City.
- (d) No changes of any nature shall be made in the Official Zoning Map except in conformity with the procedures in this Chapter.
- (e) In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret, the City Council may by resolution adopt a new Official Zoning Map which shall exactly duplicate the original except for corrections of errors or omissions.

Sec. 2.404 Rules for Interpreting District Boundaries

The district boundary lines shown on the Official Zoning District Map are usually along streets, alleys, property lines, streams or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning District Map, the following rules shall apply:

- (a) Boundaries indicated as approximately following the right-of-way lines of streets, highways, alleys, or streams shall be construed to follow such lines;
- (b) Boundaries indicated as approximately following platted lot lines of lots or other parcels of record shall be construed as following such lot lines;

- (c) Boundaries indicated as approximately following City limit lines shall be construed as following City limit lines;
- (d) Whenever any street, alley or other public way is vacated by official action of the City Council, the zoning district line adjoining each side of such street, alley or other public way, unless otherwise acted upon by Council, shall be automatically extended to the center line of such vacated street, alley or way and all areas so involved shall then and thenceforth be subject to all regulations of the extended districts;
- (e) Where physical features on the ground are at variance with information shown on the Official Zoning District Map or when there arises a question as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of subsections (a) through (d) above, the property shall be considered classified "SF" (Single Family Residential) temporarily and the determination of permanent zoning shall be in accordance with the procedure established in this Code for amending zoning classifications applicable to property.

Sec. 2.405 Zoning of Newly Annexed Areas

- (a) Any land hereinafter annexed to the City of Sunset Valley, Texas shall immediately and automatically upon such annexation be temporarily classified as "SF" (Single Family Residential).
- (b) Classifications originating upon annexation shall be noted on the Official Zoning District Map in accordance with Section 2.403.
- (c) The Zoning Commission and the City Council shall, as soon as practicable after the annexation of any territory to the City, institute proceedings to give the newly annexed territory a permanent zoning classification. The procedure to be followed is provided in this Chapter of this Code.
- (d) Land which has been annexed to the City shall be subject to all zoning provisions of the Code upon the effective date of such annexation.

Sec. 2.406 Enforcement

- (a) **Stop Work Order.** The City Inspector, Council, or another duly authorized City official may order all work, including site clearing or other site preparation, stopped on any site where a significant violation of this the zoning Sections of this Code or a final site plan is found. Any person, including a workman on the site, who fails to comply with a stop work order shall be guilty of a misdemeanor punishable as provided in the penalty Section hereof.
- (b) **Revocation of Final Site Plan Approval.** If the Council finds, after notice and hearing, that a significant violation of an approved final site plan has occurred, the Council may revoke its approval of such site plan. It shall be unlawful for any person to do any work on the site covered by the site plan unless and until a new application for site plan approval has been filed and processed in accordance with the provisions of this Code and the Council grants approval to a new final site plan which corrects the violations of the original site plan.
- (c) **Injunction and Other Remedies.** Any structure erected or used, or any work done, contrary to any of the provisions of the zoning Sections of this Code or to any of the details contained in the final site plan approved by the City Council is hereby declared to be unlawful and shall constitute a violation of this Code. The Council may direct the City Attorney to initiate injunction, mandamus,

abatement, or any other action available in law or equity to prevent, enjoin, abate, correct, or remove such unlawful structure, use, or work.

(d) **Revocation of Variance.** If the Board of Adjustment finds, after notice and hearing, that information provided by the applicant to determine approval was intentionally inaccurate or misleading and was substantive in the granting of approval of a variance, the Board of Adjustment may revoke its approval. It shall be unlawful for any person to do any further work on the site for which the approval was granted until such time that a new application which corrects the inaccuracies has been filed and processed in accordance with the provisions of this Code.

(e) **Penalties.** Any person, firm, or corporation who violates any provisions of the zoning Sections of this Code or any order made under the authority of this Code, or who causes or permits any such violation, or who fails to perform any act required hereunder, or does any prohibited act or takes any action contrary to the final site plans approved by the Council or fails to take any action required by such site plan, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) per offense. Each and every day on which any violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

The owner or tenant of any building, structure, or premises and any designer, builder, contractor, agent, or other person who knowingly commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and subject to civil penalties as provided herein.

Division 2.5: Land Use

Sec. 2.500 Determination of Permitted Uses and Structures

The uses and structures permitted within each zoning district shall be expressly limited to those specified in this Chapter. The burden of proof that a proposed use or structure is permitted within a district as specified in this Code shall be on the applicant. No permit or other approval shall be granted if the proposed use or structure does not comply with the provisions of this Chapter; provided, however, that amendments to the Official Zoning District Map or text of this Code (including the addition of new zoning district classifications) may be authorized by the Council in accordance with the applicable provisions of this Code.

Sec. 2.501 Special Uses: Authorization Required

(a) The following special uses may be authorized by the City Council by special use permit:

<u>Special Use</u>	<u>District Allowed</u>
Accessory building with a home occupation	SF, O
Accessory food sales	O, NC, HC
Liquor sold in a restaurant for on-premise consumption	NC, HC
Day Care Facility	HC
Liquor sold in grocery for off premise consumption	NC, HC

Medical related professional office	O, NC, HC
Research, development, or clinical laboratory	HC
Restaurant	NC
Veterinary Services	O, NC

- (b) **Permit Required.** No special use shall be established, operated, or maintained except as authorized by a Special Use Permit issued in accordance with the requirements of this section.
- (c) **Special Use Permit Issued by City Council.** A Special Use Permit may be issued only for the special uses specified in this Section, and only for the district where it is authorized. A Special Use Permit may be issued by the City Council acting after a public hearing in accordance with Section 2.300 of this Code and a recommendation on the proposed use from the Zoning Commission in accordance with this section.
- (d) **Application.** An application for a Special Use Permit shall be made in writing in a form prescribed by the City Council and shall be accompanied by (1) a non-refundable fee as set forth by ordinance or resolution of the City Council and (2) such information as may be required (including a site plan) in order to properly review the proposed use. Such information may include, but is not limited to, site and building plans, drawings and elevations, and operational data.
- (e) **Report by City Inspector.** The City appointed designate shall visit the site of the proposed special use and the surrounding area and shall prepare findings to be delivered to the members of the Zoning Commission and to the City Council at least one (1) week prior to the public hearing date as set forth in Section 2.300(b).
- (f) **Notice--Public Hearing by Zoning Commission.** The Commission shall hold a public hearing on each application for a Special Use Permit in accordance with the procedures in Section 2.300.
- (g) **Review and Recommendation by the Zoning Commission.**
 - (1) The Commission shall review the application for a Special Use Permit to determine whether the proposed special use complies with each of the general criteria in Section 2.502, and with each of the specific criteria in Section 2.503 applicable to the proposed use, and shall make a separate finding thereon for each criterion.
 - (2) The Commission shall not recommend approval of an application unless it finds that the proposed special use as presented or as modified by the Commission complies with each of the general and applicable specific criteria.
 - (3) A recommendation of approval may be conditioned on the applicant's adoption of specified changes, additions, limitations, safeguards, or effective time periods designed to assure compliance with the criteria and to protect the public health, safety and welfare of the surrounding properties and the City as a whole.
 - (4) For sites where the applicant owns the improvements and the improvements do not comply with current development standards, the application for a Special Use Permit shall depict all improvements proposed to bring the site into conformance with all zoning regulations

in effect at the time of application submittal. If compliance with zoning regulations at the time of application submittal is not feasible, the Special Use Permit may be recommended for approval by the Zoning Commission conditioned upon the applicant receiving a variance from the Board of Adjustment.

- (5) The Commission shall forward its findings and recommendations to the City Council in writing.
- (h) Hearing before City Council. The City Council shall review an application for a Special Use Permit at a public hearing in accordance with the procedures in Section 2.300 after receiving findings and a recommendation from the Zoning Commission.
- (i) Review and Action by City Council.
 - (1) The City Council shall determine whether the proposed special use complies with each of the general criteria in Section 2.502 and with each of the special criteria in Section 2.503 applicable to the proposed use and shall make separate findings thereon or adopt the findings made by the Commission.
 - (2) The City Council may condition its approval of an application on the applicant's adoption of specified changes, additions, limitations, safeguards, or effective time periods designed to assure compliance with the criteria and to protect the public health, safety and welfare of the surrounding properties and the City as a whole.
 - (3) The City Council shall not grant a Special Use Permit unless it finds that the proposed special use, as presented or as modified by the Council, complies with each of the applicable general and specific criteria. If the application meets all criteria, the Council shall approve the application.
- (j) Temporary Special Use Permit. A Temporary Special Use Permit may be granted by the City Council on the terms and conditions determined by the City Council for a period not to exceed thirty (30) days. An Applicant for a Temporary Special Use permit shall submit an application to the City setting forth the location and all terms of the proposed use, accompanied by written approval of the owner of the property on which the use is proposed. The procedures for public notice and hearing in Section 2.300 do not apply to Temporary Special Use Permits. Applications by charitable organizations for a Temporary Special Use Permit to operate a carnival or other amusement activity may be granted for a period not to exceed two (2) weeks on the terms and conditions approved by the City Council.

Sec. 2.502 General Criteria Applicable to All Special Uses and Temporary Special Uses

A proposed Special Use or Temporary Special Use must comply with the following criteria:

- (a) The appearance, size, density and operating characteristics of the proposed special use are subject to the Effective Compatibility and Buffering Standards set forth in Section 2.505(b);
- (b) The proposed use will not have an adverse effect on the value of surrounding properties nor impede their property development;

- (c) The proposed use will not create a nuisance factor nor otherwise interfere with a neighbor's enjoyment of his property or operation of his business;
- (d) The traffic that the proposed use can reasonably be expected to generate on existing streets will not create nor add significantly to congestion, a safety hazard, or a parking problem in the area, nor will it disturb the peace and quiet of the neighborhood; and
- (e) The proposed use complies with all other applicable provisions of this Code and other ordinances and regulations.

Sec. 2.503 Specific Criteria Applicable to Individual Special Uses and Temporary Special Uses

- (a) Alcoholic Beverages Sold in a Restaurant for On-Premise Consumption. A proposal to sell alcoholic beverages in a restaurant for on-premise consumption must comply with the following specific criteria and conditions, as well as the foregoing general criteria:
 - (1) The restaurant where the alcoholic beverage is proposed to be sold is not located within three hundred feet (300') of a church or school as measured by State law;
 - (2) The restaurant where the alcoholic beverage is proposed to be sold is not located on property, two or more sides of which abut property in a residential zoning district;
 - (3) The gross receipts derived from the sale of alcoholic beverages shall not exceed the gross receipts derived from the sale of food;
 - (4) The permit shall be reviewed when the applicant's permit comes up for renewal by the Texas Alcoholic Beverage Commission; and
 - (5) Additional fees are to be collected after three (3) years operation in accordance with the Texas Alcoholic Beverage Commission permit rules.
- (b) Alcoholic Beverages Sold in Grocery Stores for Off-Premise Consumption
 - (1) The grocery store where the alcoholic beverage is proposed to be sold is not located within three hundred feet (300') of a church or school;
 - (2) The grocery store where the alcoholic beverage is proposed to be sold is not located on property, two or more sides of which abut property in a residential zoning district;
 - (3) The permit shall be reviewed when the applicant's permit comes up for renewal by the Texas Alcoholic Beverage Commission; and
 - (4) Additional fees are to be collected after three (3) years operation in accordance with the Texas Alcoholic Beverage Commission permit rules.
- (c) Accessory Food Sales. In addition to the general criteria applicable to all special uses, a special use for Accessory Food Sales shall be operated and maintained in accordance with the following conditions and limitations:

- (1) Accessory food sales shall occur in a structure, whether mobile or otherwise, in an area not exceeding 150 square feet.
- (2) The special use shall be operated either by the owner or lessee of improved property on which the special use is located, or pursuant to a written agreement with such owner or lessee.
- (3) The structure housing the special use shall not be located on any roadway or fire lane. The special use shall not be located so as to impede pedestrian traffic on any sidewalk.
- (4) A permit for accessory food sales shall expire in the event that the retail establishment to which such special use is an accessory discontinues its business on the property.
- (5) The operator of the special use shall at all times hold current certificates, permits and/or licenses required by the Travis County Health Department and any other agency of the State of Texas for operation of the food service establishment operated pursuant to the special use.
- (6) No signs advertising any aspect of the special use shall be displayed except as attached to and confined to the surface area of the walls of the structure housing the special use.
- (7) No goods or services shall be provided other than the sale of food and items incidental thereto, such as napkins and eating utensils. Sufficient signs, recyclable containers, and trash receptacles shall be provided by the operator of the special use to control and prevent litter incident to the special use.
- (8) Authorization for accessory food sales pursuant to this Division shall be for a period not to exceed six (6) months. Renewal periods for such authorization not to exceed six (6) months may be granted not later than the expiration of the previous authorization at the discretion of the City Administrative Assistant provided the applicant has not received more than two (2) validated warnings prior thereto regarding the special use. A twenty-five (\$25.00) dollar administrative fee shall be paid for all administrative renewal authorizations. In the event the City receives a verbal or written complaint regarding the special use, a staff person or designee will investigate the complaint in a timely manner to determine its validity. Administrative staff shall record the name, address, phone number, date and time that verbal complaints are registered. In the event the complaint is validated, the applicant shall receive a written warning with instructions to correct the violation. If the violation has not been corrected within fifteen (15) days after receipt of the second warning issued by the City, the Special Use Permit shall be revoked.

(d) Display of Oversized Merchandise. In addition to the general criteria applicable to all special uses, a special use for display of oversized merchandise shall be operated and maintained in accordance with the following conditions and limitations:

- (1) This subsection applies only to oversized merchandise offered for sale to the general public, which is too large to be conveniently stored and displayed inside the facility out of which sales are made.

- (2) Oversized merchandise shall be stored adjacent to the main facility out of which such oversized merchandise is sold. The display area shall be equipped with overhead sprinklers for protection against fire in the display area.
- (3) No more than 20% of the frontage of the main facility may be used for display of oversized merchandise.
- (4) Use of a display area permitted shall not impede pedestrian traffic on any sidewalks. The display area shall not include any part of a road, street, thoroughfare, fire lane or parking area used by motor vehicles.
- (5) The display area proposed to be used and the items proposed to be displayed shall be designated in an application for this special use. Each such designation shall be subject to approval of the City Council.

Sec. 2.504 General Requirements for All Special Uses and Temporary Special Uses

- (a) **Adherence to Approved Plans, Regulations.** A special use or a temporary use shall be established, operated, and maintained in accordance with the plans, terms, conditions, and limitations contained in the permit approved by the City Council.
- (b) **Enforcement.** Permitted special uses are integral to the zoning districts governing the respective parcels and are subject to the enforcement provisions of Chapter 2 of the Code.
- (c) **Revocation.** The City Council, after notice to the holder of the permit, may revoke any Special Use or Temporary Use Permit for one or more of the following reasons:
 - (1) A substantial violation of any of the plans, terms, conditions, and limitations applicable to the special use;
 - (2) A substantial violation of any applicable ordinance or regulation;
 - (3) Operation or maintenance of the special use in a manner that is detrimental to the public's health or safety, or so as to constitute a nuisance; and/or
 - (4) Discontinuance of the use or sale of the property.
 - (5) Transfer of an interest in the real property subject to the special use, whether such transfer is by gift, sale, lease, devise, or otherwise.
- (d) **Lapse of Permit.** A Special Use Permit shall lapse within one (1) year of the date the permit is issued unless the use has commenced or, and is diligently pursued toward completion.
- (e) **Transfer.** A Special Use Permit is not transferable.
- (f) **Short-term food sales.** No special use authorization for accessory food sales shall be required pursuant to this section for the following activities:
 - (1) School or City sponsored activities with a duration less than twenty-four (24) hours;

- (2) Events not to exceed seventy-two (72) hours associated with the opening of a new retail commercial establishment;
- (3) Fund-raising activities by charitable and/or non-profit organizations not to exceed twenty-four (24) hours;
- (4) Activities authorized by a temporary use permit obtained pursuant to Subsection (j) of Section 2.501.

Sec. 2.505 Regulations for Adjoining Districts

- (a) Districts which are adjacent to or abut each other shall conform to the following requirements:
 - (1) SF, Single Family Residential Districts shall not be adjacent to a HC Highway Commercial District and shall be effectively buffered from other districts.
 - (2) An arterial roadway may be adjacent to a Single-Family Residential District when the Single-Family Residential District is effectively buffered from the roadway as described in this section.
 - (3) NC, Neighborhood Commercial Districts shall be adjacent only to residential districts, O (Neighborhood Office) Districts, CO (Conditional Overlay) Districts, GUI (Government, Utility and Institutional) Districts, or HC (Highway Commercial) Districts.
 - (4) O, Neighborhood Office Districts shall be adjacent only to SF (residential) areas (as shown above), a NC (Neighborhood Commercial) District, a CO (Conditional Overlay) District, GUI (Governmental, Utility and Institutional) District or a HC (Highway Commercial) District.
 - (5) HC, Highway Commercial shall be located only in areas accessible from major traffic ways.
- (b) Effective Compatibility and Buffering Standards.
 - (1) Effective buffering of residential districts from all other districts, except P Districts, shall include a minimum one hundred feet (100 ft.) landscaped setback. All buffering shall be fully contained within the property of the district required to provide the buffering, and all requirements for buffering shall be met within that same property. Credit for existing fences, screens, vegetation, etc. adjacent to commercially zoned land but physically located on lesser zoned land cannot be given. However, existing natural topographic changes may be considered for their buffering effect, regardless of the property on which it occurs. No roadways can be located within this setback. The applicant cannot comply with landscaping requirements of this Code in this buffer zone.
 - (2) Applicability. The standards and guidelines set forth in this section shall apply to O, NC, HC, GUI or other commercial or governmental zoning districts or land so conditionally zoned and located adjacent to any SF, P, or other non-commercial zoned district.
 - (3) Evidence of Compliance. The burden of proving acceptable buffering shall be on the applicant. The use of plans, photographs, sections, elevations, scale models, etc. may be employed as methods of demonstrating compliance.

All requirements for screening shall be met at the time of project (or phase) completion. Maturation of vegetative screens is anticipated and is intended to provide a continuing and greater level of screening than the initial requirements.

(4) Compliance Guidelines.

(A) Visual Screening.

- (i) Intent: To partially or fully block views to or from SF districts to or from any commercial or governmental district so as to minimize the potential impact of commercial and governmental uses on the residents of the City.
- (ii) The "target point" of all buffering and screening from commercial and/or governmental to residential districts shall be a point 30' horizontally from the rear property line, and 20' high. This "target" is intended to approximate the theoretical position of view from a two-story residential structure located along the rear setback of a residential or office zoned lot.
- (iii) Requirements: Views from the "target point" to the outlined elements and/or heights shall be screened as set forth in Table A following this section.

(B) Light Screening.

- (i) Intent: Because lights, whether used for aesthetic or functional illumination, can be a night time intrusion on the residents of the City by creating glare and by detracting from the rural character of the City, this guideline is intended to minimize the impact of lights on residential properties in the City.
- (ii) Requirements: Lighting shall be screened, maintained, and operated in compliance with the criteria, standards and methods set forth in Table B following this section.

(C) Noise Mitigation

- (i) Intent: To minimize noise intrusion into residential districts which may be considered intrusive and incompatible with the peaceful enjoyment of adjacent residents, by way of site planning and other means which will effectively buffer noises and sound transmission.
- (ii) It is understood that the minimization of sound intrusion is most efficiently accomplished as close to the source as possible, and that sound travels in a radial direction from the source, unlike light which primarily travels in one direction.
- (iii) Requirements: Noise shall be mitigated and use of property shall be restricted to mitigate noise in compliance with the criteria, standards and methods set forth in Table C following this section.

(D) Odor Mitigation

- (i) Intent: To minimize the atmospheric transmission of commercially generated odors to nearby SF districts.
- (ii) General: Whenever a site or use will contain a source of odor emissions, consider the primary wind direction for this area (normally from the southeast) in site planning. Design landscape and vegetative screens to channel and re-direct wind flows through placement of the more compact and evergreen plant types to take advantage of their mass and ability to modify wind directions.
- (iii) Requirements: Odor shall be mitigated and use of property shall be restricted to mitigate odor in compliance with the criteria, standards, and methods set forth in Table D following this section.

Visual Screening
Table A

Element to Screen	Degree of Screening	Method of Screening (used singly or in combination)
<ul style="list-style-type: none"> • Dumpsters (including views into dumpsters from the top); • Trash collection areas; • On-ground and outdoor storage of materials for construction or sale; • Grade-level loading docks; Raised loading docks. • Utility Equipment and Meters 	<ul style="list-style-type: none"> • 100 percent to a minimum height of 7', or 7' above floor elevation of element. • Equal to complete visual buffering with no gaps larger than 1' horizontally. 	<ul style="list-style-type: none"> • Landscaping, including a combination of trees, shrubs, grasses including a mixture of deciduous and evergreen species. • Walls, constructed of wood, stone, masonry, building extensions. • Earthen berms, either used alone or in conjunction with landscaping or walls.
<ul style="list-style-type: none"> • Parking and interior drives or maneuvering spaces, including parking spaces, aisles, cul-de-sacs, driveways. 	<ul style="list-style-type: none"> • 80 percent to a minimum height of 4'. • No gaps larger than 3' horizontally. 	<ul style="list-style-type: none"> • Landscaping with a combination of trees, shrubs and grasses, both deciduous and evergreen. • Walls constructed of wood, stone or masonry. • Earthen berms.
<ul style="list-style-type: none"> • Commercial building walls or facades. • Roof-mounted mechanical equipment (other than vents or elements smaller than 6" diameter). 	<ul style="list-style-type: none"> • 65 percent to the maximum height of the element to be screened. • No gaps larger than 8' horizontally. 	<ul style="list-style-type: none"> • Landscaping with a combination of trees, shrubs and grasses, both deciduous and evergreen. • Walls constructed of wood, stone or masonry. • Earthen berms.

Light Screening
Table B

Element to Screen	Degree of Screening	Method of Screening
<ul style="list-style-type: none"> • Parking lot lighting. • General area lighting. • Exterior building security lights. 	<ul style="list-style-type: none"> • Lighting levels at property lines adjacent to SF districts shall not exceed 2 footcandles. 	<ul style="list-style-type: none"> • Direct all lights away from adjacent residential areas by appropriate locations of lights and by utilizing directional hoods or other devices, landscaping fences or walls.
<ul style="list-style-type: none"> • Car lights from parking lots or site driveways. 	<ul style="list-style-type: none"> • Block lights directly shining into residential property by 95 percent. 	<ul style="list-style-type: none"> • Provide solid screens of at least 4' height between parked or moving cars. • Screens may not have voids or gaps larger than 1 square foot.
<ul style="list-style-type: none"> • Landscape lighting. • Exterior building accent lighting. 	<ul style="list-style-type: none"> • Completely screen light sources and do not allow any lights to shine directly into adjacent properties. 	<ul style="list-style-type: none"> • Direct lights away from property lines adjacent to SF districts. • Block light sources (fixtures) by using earthen berms, walls, fences or landscaping.
<ul style="list-style-type: none"> • Advertising/sign lights. 	<ul style="list-style-type: none"> • Completely screen light sources and do not allow any lights to shine directly into adjacent properties. 	<ul style="list-style-type: none"> • Locate all lights a minimum of 100' from common property lines. • Provide solid screening of direct lights and glow. • Keep all lighted signs lower than building heights and comply with all aspects of the sign provisions of this Code.
<ul style="list-style-type: none"> • Building interior lights 	<ul style="list-style-type: none"> • Block direct light visibility from or to residential properties by a minimum of 75 percent. 	<ul style="list-style-type: none"> • Minimize window openings facing residential districts. • Utilize window screening or other architectural treatments to reduce light escape. • Block light sources with landscaping, walls, berms or fences.

Noise Mitigation
Table C

Noise Sources to be Screened	Method of Screening
● Dumpsters, refuse and recycling collection or storage facilities.	<ul style="list-style-type: none"> ● May not be located within 150' of an SF district. ● Locate within an enclosed structure constructed of solid building materials, such as masonry, stone, double-walled wood, etc. Physically orient access to area away from SF districts. ● Must also comply with guidelines for odor screening. ● Must meet all other compatibility guidelines.
● Loading docks and loading areas intended as large-scale delivery/pick up of goods and materials. ● Fabrication or assembly areas.	<ul style="list-style-type: none"> ● May not be located within 150' of SF districts. ● Provide a physical, solid screen of walls, fences, and/or berms adjacent to the noise source and between the noise source and SF districts. The height of the screen shall be a minimum of 8', rising 1' in height for every 20' in distance from the source of the noise.
● Outdoor public address systems.	<ul style="list-style-type: none"> ● Orient direction of sound projection 180 degrees away from SF districts. ● Adjust sound levels as necessary to keep address level unable to be heard within 100' of the intended targeted area.
● Public outdoor dining areas.	<ul style="list-style-type: none"> ● May not be located within 200' from any adjacent SF district, unless separated by a building or solid screen at least 8' in height. ● This screen must be located directly adjacent to the dining area.

Odor Mitigation
Table D

Source or Element to be Screened or Mitigated	Method of Screening
● Dumpsters (primarily dumpsters associated with restaurants or other food establishments, or any other source which will produce waste capable of emitting strong odors).	<ul style="list-style-type: none"> ● Locate a minimum of 150' from any SF district. ● Whenever possible, locate to the north, west or east of any residential district. ● Enclose on all sides within a structure made of solid building materials.
● Kitchen vents to the outside. ● Vents from other interior odor sources (dry cleaners, etc.).	<ul style="list-style-type: none"> ● Do not locate on building facades directly facing SF districts. ● Utilize hoods and/or other directional devices to direct emissions away from residential areas.
● Grease traps.	<ul style="list-style-type: none"> ● Do not locate on building facades directly facing SF districts. ● Use designs which minimize odor escapement to the outside air.

Sec. 2.506 Accessory Uses and Structures

- (a) The uses of land, buildings, and other structures permitted in each of the districts established in this Code are designated by listing the principal uses. In addition to such principal uses, accessory uses may be permitted in certain districts. Accessory buildings or structures shall:
 - (1) Be customarily incidental to the principal use established on the same lot;
 - (2) Be subordinate to and serve such principal use;
 - (3) Be intended for the comfort, convenience, or necessity of users of such principal use;
 - (4) Not be designed for human habitation;
 - (5) Not be attended by nuisance factors;
 - (6) Not be greater than 1,000 square feet without a variance;
 - (7) Not exceed the number of buildings allowable as shown in the Development Standards for each District with a variance;
 - (8) Not exceed a cumulative total of 1,500 square feet per lot;
- (b) Accessory buildings or structures may be used in conjunction with, support of, or storage for a home occupation by Special Use permit.

Sec. 2.507 Nonconforming Legal Lots

A structure for a permitted use may be constructed on any legal lot even if such lot does not meet the area, width, and depth requirements of this Code, provided that the following conditions are met:

- (a) Such lot shall be connected to the City of Sunset Valley centralized waste water system when said system is located within 300 feet of the property line. Otherwise, such lot shall properly support a private on-site sewage facility adequate to handle the anticipated need of the proposed use.
- (b) The structure proposed to be built upon such lot will comply with all the remaining dimensional regulations. No deviation from such remaining regulations shall be permitted except through the variance procedures provided in this Code.

Sec. 2.508 Nonconforming Uses of Land and Structures

Any use of land or structures lawfully existing on the effective date of this Code, or an amendment hereto, that is not permitted in the district in which the use is located may be continued, subject to the following conditions:

- (a) No non-conforming use of land shall be extended to occupy a greater area of land than was occupied at the earlier of the effective date of either adoption or amendment of this Code or predecessor ordinances incorporated in this Code, which adoption or amendment caused the use of land to be out of compliance with land use regulations.

- (b) No non-conforming use of land shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the earlier of the effective date of either adoption or amendment of this Code or predecessor ordinances incorporated in this Code, which adoption or amendment caused the use of land to be out of compliance with land use regulations.
- (c) When a non-conforming use of land is discontinued for a period of more than ninety (90) consecutive days, it shall be deemed to be abandoned and subsequent use of such land shall conform to the regulations specified by this Code for the district in which the land is located.
- (d) No existing structure devoted to a use not permitted by this Code in the district in which it is located shall be enlarged, extended, constructed, reconstructed (except to repair damage up to an extent of 50% of the replacement cost of the structure, or as ordered by the building official as set forth in section 2.509), moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- (e) Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non conforming use may not thereafter be resumed.
- (f) When a non-conforming use of land, a structure, or structure and premises in combination, is discontinued for three (3) consecutive months, except for repairs covered by an approved building permit, not exceeding six (6) months, it shall be deemed to be abandoned and the land, structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
- (g) Where non-conforming status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non conforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty percent (50%) of the replacement cost at time of destruction.
- (h) The City Council, after notice and hearing, may require that a non conforming use be screened from view of the street or surrounding property, or may require the elimination of any nuisance factor caused by a non conforming use.

Sec. 2.509 Non-Complying Structures

- (a) Any structure lawfully existing on the effective date of this Code, or any amendment hereto, that is designed for a use permitted in the district where the structure is located but which does not comply with one or more of the dimensional regulations of this Code, such as limitations on area, lot coverage, height, and location on lot, shall be designated a non-complying structure.
- (b) No such non-complying structure may be enlarged or altered except to redesign it in compliance with the structural requirements and for a use permitted in the district where the structure is located. Ordinary maintenance and repairs are permitted.
- (c) Should such non-complying structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Code.

- (d) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- (e) Non-complying structures shall be treated the same as structures which comply with all of the regulations of this Code, provided that alterations shall not be permitted which increase the non-compliance.
- (f) A non-complying structure must comply with all City regulations in effect other than those which qualify it as a non-complying structure.
- (g) The Building Official may order an unsafe non-complying structure to be restored to a safe condition. Any such order is subject to the provisions of this Section regulating the repair or restoration of partially damaged or destroyed non-complying structures.

Sec. 2.510 Prohibited Uses

All uses not expressly permitted or authorized by the Code are prohibited in the City, including but not by way of limitation, the following:

- (a) Commercial kennels;
- (b) Open-air commercial amusements except: (i) those in place for two weeks or less, and (ii) for which a temporary Special Use permit has been issued by the City;
- (c) Junk yards, salvage yards, and all open-air storage of junk, waste products and salvage materials;
- (d) Open-air storage of building materials, equipment and merchandise (except live vegetation) except that necessary to a construction project, provided that the materials and equipment are located on the site of the construction and are removed immediately upon completion or discontinuance of work;
- (e) Placing, locating or erecting a mobile home;
- (f) Mobile home or recreational vehicle parks;
- (g) All signs except as expressly permitted in the billboard, sign and outdoor lighting provisions of this Code;
- (h) Quarrying;
- (i) Hotels and motels;
- (j) Sale of new or used automobiles and other motor vehicles, mobile homes, recreational vehicles and boats;
- (k) Storage warehouses and building material storage yards;
- (l) Industrial, mining or extractive uses of all descriptions;
- (m) Taverns, bars, dance halls and night clubs;
- (n) Amusement centers or parlors;

- (o) Automobile wash services;
- (p) Massage establishments;
- (q) Adult entertainment activity;
- (r) The sale or manufacture of fireworks;
- (s) Uses attended by substantial nuisance factors;
- (t) All automobile service stations;
- (u) Storage of hazardous wastes or any facility that utilizes hazardous materials;
- (v) Automobile repair service;
- (w) Convenience stores;
- (x) Laundries, commercial or self-service;
- (y) Public garages;
- (z) Zoos.
- (aa) Print shops.

Sec. 2.511 Elimination of Nuisance Factors

Nuisance factors attending any use lawfully existing on the effective date of this Chapter shall be eliminated or mitigated to the maximum extent feasible within ninety (90) days of the effective date hereof.

Sec. 2.512 Visibility Along Streets and at Street Corners

No structure shall be erected and no vegetation or fence shall be maintained in the area of a corner lot between the sidelines of the intersecting streets and a straight line joining points on such sidelines fifteen feet (15') distant from their point of intersection, which materially obstructs safe visibility for vehicular traffic.

Sec. 2.513 Streets

No existing local streets (e.g., Sunset Trail, Reese south of Jones, Pillow Road south of Jones, Lone Oak, Oakdale) shall be extended, connected or joined with any other street so as to create a through street. All streets shall comply with the standards set forth in the Land Development Code and the Comprehensive Land Use and Roadway Plan.

Sec. 2.514 Signs

The only signs permitted in the City are those which meet the requirements of billboard, sign and outdoor lighting provisions of this Code, and amendments thereto, and which have received the necessary approval. No sign shall be permitted in the SF District except the following categories of signs which comply with the provisions of the sign and outdoor lighting provisions of this Code and have received approval when necessary: political sign, real estate sign, temporary site development sign, and residential nameplate sign.

Sec. 2.515 Solid Waste Containers

Storage structures for solid waste containers shall not be permitted in the setback area, and commercial solid waste containers shall conform with the Effective Compatibility and Buffering Standards. See Chapter 2, Division 2.5, Section 2.505(b). The design shall be approved at the time the site plan is approved.

Sec. 2.516 Television Dish Antennas

Television dish antennas are permitted within the City provided that said antennas do not exceed twelve feet (12') in diameter, are not located within the setback areas, and are painted in earthen colors so as to blend in with the natural landscape, and are not visible from any public street. Where possible, landscape screening should be used.

Division 2.6: SF, Single Family Residential Districts

Sec. 2.600 Intent of SF, Single-family Residential Districts

This district is intended to establish and preserve peaceful, attractive, safe, low-density residential neighborhoods of single-family detached dwelling units with a rural character and to protect the integrity of such areas by prohibiting the intermixture of residential and incompatible non-residential uses, and to harmoniously blend with existing Single Family Residential development (SF).

Sec. 2.601 SF, Single Family Residential District - Permitted Uses

- (a) Single family, detached dwellings limited to no more than one such building per lot and occupied by no more than one family.
- (b) Accessory structures and uses customarily incidental to single family, detached dwellings in a rural setting. Accessory structures shall comply with the provisions of Section 2.506 of this Code.
- (c) A recreational vehicle may be used for guests of the family residing in the principal dwelling for a period not to exceed 30 days within a 3 month period.
- (d) Temporary Construction Storage as defined in Section 1.201.
- (e) Home occupation--A proposed home occupation must comply with all general criteria specified in Section 2.506 of this Code and with specific criteria in this sub-section. A special use permit is not required unless an accessory building/use is involved. The following specific criteria are applicable to home occupation uses:
 - (1) The occupation shall produce no alteration or change in the character or exterior appearance of the principal building from that of a dwelling;
 - (2) Such use shall be incidental and secondary to the use of the premises for residential purposes, shall not utilize an area exceeding twenty percent (20%) of the gross floor area of the dwelling unit, and such use occurs in the dwelling used by the user as his/her private residence;

- (3) An accessory building/use shall not be used for a home occupation without a special use permit.
- (4) The occupation use shall be carried on by a person who uses the premises as his/her private residence and no assistant that is not a resident in the dwelling shall be employed or use the dwelling for such occupational use.
- (5) The traffic that the proposed use can reasonably be expected to generate will not increase or add to congestion, cause a safety hazard, or cause a parking problem in the area, nor will it disturb the peace and quiet of the neighborhood;
- (6) No window display or on-premises sign shall be used to advertise;
- (7) Garage sales and hobbies, as defined in Section 1.201 do not constitute a home occupation. Garage sales sale of plants, baked goods, wood, fruit, animals, etc., occurring more frequently than as described in Section 1.201 shall be defined as a home occupation and shall comply with the provisions of this section.
- (8) No substantial increase in waste water or water use shall be allowed.
- (9) No obnoxious noise or nuisance factor, or other conditions that are obnoxious (e.g., electrical interference) or hazardous to nearby residential property shall be created.

Sec. 2.602 Special Uses Permitted in SF, Single-family Residential

Home Occupation in an accessory building

Sec. 2.603 Specific Standards, SF District

A minimum of two (2) off-street parking spaces per dwelling unit are required, plus ½ parking space per bedroom.

Sec. 2.604 SF, Single Family Residential District

Intent. To establish and preserve peaceful, attractive, safe low-density residential neighborhoods of single-family detached dwelling units with a rural character and to protect the integrity of such areas by prohibiting the intermixture of residential and incompatible non-residential uses, and to match existing Single Family Residential developments (SF).

LAND USES		DEVELOPMENT STANDARD									
PERMITTED USES	BY SPECIAL USE PERMIT	SITE REQUIREMENTS	SUPPLEMENTARY REQUIREMENTS								
<ol style="list-style-type: none"> Single family, detached dwellings limited to no more than one such building per lot and occupied by no more than one family. Accessory structures and uses customarily incidental to single family, detached dwelling in a rural setting. A recreational vehicle may be used for guests of the family residing in the principal dwelling to a period not to exceed 30 days within a 3 month period. Temporary Construction Storage as defined in Chapter 1. Division 1.2. § 1.201. Home occupation located within the principal dwelling and meeting the criteria of Section 2.601 of Chapter 2, Division 2.6. 	<ol style="list-style-type: none"> Home Occupation in an accessory building (A special use permit is not required for a home occupation located within the principal dwelling and meeting all applicable criteria of this Code.) 	<p><u>General Requirements</u></p> <p>Maximum DU per Acre: 1.0 Minimum Lot Size: 1.0 acre Minimum Lot Width at Front Setback Line: 12 ft. Minimum Street Frontage: Standard Lot: 120 ft. Cul-de-Sac Lot: 60 ft. Minimum Lot Depth: 300 ft. Minimum Floor Area: 1,500 ft² Maximum Impervious Cover Not to Exceed Allowable under Watershed Provisions of this Code</p> <p><u>Primary Use & Structure</u></p> <p>Minimum Setbacks</p> <table> <tr> <td>Front:</td> <td>50 ft.</td> </tr> <tr> <td>Side:</td> <td>20 ft.</td> </tr> <tr> <td>Rear:</td> <td>30 ft.</td> </tr> <tr> <td>Maximum Height:</td> <td>35 ft.</td> </tr> </table> <p><u>Accessory Use & Structure</u></p> <p>Maximum Height: 20 ft. Minimum Side and Rear Setback: 20 ft. Maximum No. of Bldgs: 3 Minimum Distance Between Buildings: 10 ft. Placement: Side or Rear Yd Maximum Floor Area/Bldg: 1,000 ft² Maximum Combined Floor Area: 1,500 ft²</p>	Front:	50 ft.	Side:	20 ft.	Rear:	30 ft.	Maximum Height:	35 ft.	<p><u>Off-Street Parking</u> 2 spaces/dwelling unit plus ½ parking space per bedroom</p> <p><u>Other Requirements by Reference to the Following Provisions of this Codes, as Amended:</u></p> <ol style="list-style-type: none"> Wastewater System Provisions of this Code Watershed Provisions of this Code Landscaping and Buffering Provisions of this Code Sign and Outdoor Lighting Provisions of this Code with the stipulation that all outdoor lighting shall be directed away from neighboring properties (i.e., either up to light tree canopies or down to light ground but not horizontal away from house) Subdivision Provisions of this Code All other applicable Provisions of this Codes as amended
Front:	50 ft.										
Side:	20 ft.										
Rear:	30 ft.										
Maximum Height:	35 ft.										

Division 2.7: O. Neighborhood Office

Sec. 2.700 Intent of O, Neighborhood Office

To provide sites for quiet, low-intensity, neighborhood-oriented office uses on a scale that is in harmony with the rural character of the community.

Sec. 2.701 O, Neighborhood Office - Permitted Uses

Office of an accountant, architect, attorney, engineer, broker, consultant, insurance agent, or similar professional or semi-professional uses other than medical-related services and veterinary services, and uses permitted in SF districts.

Sec. 2.702 Special Uses Permitted in O, Neighborhood Office

- (a) Medical-related professional offices
- (b) Veterinary services

Sec. 2.703 Specific Standards, O District

- (a) No flat roofs shall be authorized.
- (b) Varied, multiple pitched roofs.
- (c) No store-front type structures with facade comprised of over 33% metal and/or glass.
- (d) No parking or parking facility between the front and sides of the building and the front and side setback lines.

Sec. 2.704 O, Neighborhood Office District

Intent. To provide sites for quiet, low-intensity, neighborhood-oriented office uses on a scale that is in harmony with the rural character of the community.

LAND USES		DEVELOPMENT STANDARD	
PERMITTED USES	BY SPECIAL USE PERMIT	SITE REQUIREMENTS	SUPPLEMENTARY REQUIREMENTS
1. Offices of an accountant, architect, attorney, engineer, broker, consultant, insurance agent, or similar professional or semi-professional uses other than medical-related services and veterinary services, and uses permitted in SF.	1. Medical-related professional offices. 2. Veterinary services.	<p><u>General Requirements</u> Minimum Lot Size: 1.0 acre Minimum Lot Width at Front Setback Line: 120 ft. Minimum Street Frontage: Standard Lot: 120 ft. Cul-de-Sac Lot: 60 ft. Minimum Lot Depth: 300 ft. Minimum Floor Area: 1,000 ft² Maximum Floor Area per building: 15,000 ft² Maximum Impervious Cover Not to Exceed Allowable under Watershed Provisions of this Code</p> <p><u>Primary Use & Structure</u> Minimum Setbacks Front: 35 ft. Side: 20 ft. Rear: 30 ft. Maximum Height: 35 ft.</p>	<p><u>Other Requirements by Reference to the Following Provisions of this Codes, as Amended:</u></p> <ol style="list-style-type: none"> 1. Wastewater System Provisions of this Code 2. Watershed Provisions of this Code 3. Landscaping and Buffering Provisions of this Code 4. Sign and Outdoor Lighting Provisions of this Code with the stipulation that all outdoor lighting shall be directed away from neighboring properties (i.e., either up to light tree canopies or down to light ground but not horizontal away from a building). 5. Subdivision Provisions of this Code. 6. All other applicable ordinances as amended. <p><u>Architectural Requirements:</u></p> <ol style="list-style-type: none"> 1. No flat roofs 2. Varied, multiple pitched roofs. 3. No store front type, metal or glass. 4. See Residential scale and texture. 5. No parking between the front and sides of the building, and the front and side setback lines. <p><u>Minimum Off-Street Parking:</u></p> <ol style="list-style-type: none"> 1. No parking between the front and side of the building and the front and side setback lines. 2. See Table 1. <p><u>Compatibility and Buffering Standards:</u></p> <ol style="list-style-type: none"> 1. 100 foot landscaped setback. See Section 2.505(b).

Division 2.8: NC, Neighborhood Commercial

Sec. 2.800 Intent of NC, Neighborhood Commercial

To provide sites for quiet, low-intensity, neighborhood-oriented retail and office uses on a scale that is in harmony with the rural character of the community.

Sec. 2.801 NC, Neighborhood Commercial - Permitted Uses (provided that there is no nuisance factor)

- (a) Those uses permitted in SF and O Districts;
- (b) Antique shop;
- (c) Arts and crafts supply store;

- (d) Bakery;
- (e) Barber or beauty shop;
- (f) Book or stationery store;
- (g) Carpeting, floor covering, and rug store;
- (h) China or glassware shop;
- (i) Clothing or shoe store;
- (j) Confectionery store;
- (k) Delicatessen or catering service;
- (l) Florist;
- (m) Gift shop;
- (n) Health food store;
- (o) Ice cream parlor;
- (p) Jewelry shop;
- (q) Laundry and dry cleaning substation, with no actual cleaning work being performed on the premises;
- (r) Nursery or greenhouse;
- (s) Optical goods store;
- (t) Pharmacy;
- (u) Seamstress, dressmaker or tailor shop;
- (v) Specialty food store;
- (w) Studio for art, dance, drama, music, photography, or interior decorating;
- (x) Toy store; and
- (y) Accessory uses customarily incidental to any of the foregoing permitted uses. See Section 2.506 of this Code.
- (z) Temporary field or construction office. See definition in Section 1.201.

Sec. 2.802 Special Uses Permitted in NC, Neighborhood Commercial

- (a) Medical-related professional office
- (b) Veterinary services
- (c) Restaurant

Sec. 2.803 Specific Standards, NC District

- (a) No flat roofs shall be authorized.
- (b) Varied, multiple pitched roofs.

Sec. 2.804 NC, Neighborhood Commercial District

Intent. To provide sites for quiet, low-intensity, neighborhood-oriented retail and office uses on a scale that is in harmony with the rural character of the community.

LAND USES		DEVELOPMENT STANDARD	
PERMITTED USES	BY SPECIAL USE PERMIT	SITE REQUIREMENTS	SUPPLEMENTARY REQUIREMENTS
<p>1. Retail, Limited as listed in § 2.801.</p> <p>2. Those uses permitted in O Neighborhood Office and SF Single Family Residential.</p>	<p>1. Medical-related professional offices</p> <p>2. Veterinary services</p> <p>3. Restaurants</p> <p>4. Alcohol sales limited to beer and wine</p> <p>5. Banks and savings and loans</p>	<p><u>General Requirements</u></p> <p>Minimum Lot Size: 1.0 acre</p> <p>Minimum Lot Width at Front Setback Line: 120 ft.</p> <p>Minimum Street Frontage:</p> <p>Standard Lot: 120 ft.</p> <p>Cul-de-Sac Lot: 60 ft.</p> <p>Minimum Lot Depth: 300 ft.</p> <p>Minimum Floor Area: 1,000 ft²</p> <p>Maximum Floor Area per building: 15,000 ft²</p> <p>Maximum Impervious Cover Not to Exceed Allowable under Watershed Provisions of this Code</p> <p><u>Primary Use & Structure</u></p> <p>Minimum Setbacks</p> <p>Front: 50 ft.</p> <p>Side: 20 ft.</p> <p>Rear: 30 ft.</p> <p>Maximum Height: 35 ft.</p> <p><u>Parking Lot and Other Impervious Cover:</u></p> <p>Minimum Setbacks:</p> <p>Front: 50 ft.</p> <p>Side: 20 ft.</p> <p>Rear: 30 ft.</p>	<p><u>Other Requirements by Reference to the Following Provisions of this Codes, as Amended:</u></p> <ol style="list-style-type: none"> 1. Wastewater System Provisions of this Code 2. Watershed Provisions of this Code 3. Landscaping and Buffering Provisions of this Code 4. Sign and Outdoor Lighting Provisions of this Code with the stipulation that all outdoor lighting shall be directed away from neighboring properties (i.e., either up to light tree canopies or down to light ground but not horizontal away from a building). 5. Subdivision Provisions of this Code. 6. All other applicable ordinances as amended. <p><u>Architectural Requirements:</u></p> <ol style="list-style-type: none"> 1. No flat roofs 2. Varied, multiple pitched roofs <p><u>Minimum Off-Street Parking:</u></p> <ol style="list-style-type: none"> 1. See Table 1. <p><u>Compatibility and Buffering Standards:</u></p> <ol style="list-style-type: none"> 1. 100 foot landscaped setback. See Section 2.505(b).

Division 2.9: HC, Highway Commercial

Sec. 2.900 Intent of HC, Highway Commercial

This district is intended to provide sites for community-oriented retail and office uses fronting Highway 290 West on a scale that are in harmony with the character of the community.

Sec. 2.901 HC, Highway Commercial - Permitted Uses (provided there is no nuisance factor)

- (a) Those uses permitted in SF, O and NC Districts;
- (b) Bank and/or savings and loan association;
- (c) Day care facilities;
- (d) Furniture store;
- (e) Grocery Store;
- (f) Hardware store;

- (g) Health and/or athletic club;
- (h) Indoor family recreation center;
- (i) Pawn shop;
- (j) Pet shop and pet grooming shop;
- (k) Photocopying, typing or printing service;
- (l) Restaurant with or without drive-up service. No intoxicating liquor may be sold for on-premises consumption unless authorized by a Special Use Permit;
- (m) Sporting goods store, excluding the sale or servicing of boats, boat motors and motor vehicles;
- (n) Variety Store;
- (o) Veterinary clinic;
- (p) Accessory uses customarily incidental to any of the foregoing permitted uses. (See Section 2.506 of this Code); and
- (q) Temporary field or construction. (See definition in Section 1.201).

Sec. 2.902 Special Uses Permitted in HC, Highway Commercial

- (a) Day Care Facility
- (b) Medical-related professional offices

Sec. 2.903 Specific Standards, HC District

- (a) No flat roofs shall be authorized.
- (b) Varied, multiple pitched roofs.

Sec. 2.904 HC, Highway Commercial District

Intent. To provide sites for community-oriented retail and office uses fronting U.S. 290 on a scale that is in harmony with the rural character of the community.

LAND USES		DEVELOPMENT STANDARD	
PERMITTED USES	BY SPECIAL USE PERMIT	SITE REQUIREMENTS	SUPPLEMENTARY REQUIREMENTS
<p>1. Retail, General.</p> <p>2. Those uses permitted in Neighborhood Office and Neighborhood Commercial.</p>	<p>1. Medical-related professional offices.</p> <p>2. Veterinary services.</p> <p>3. Alcohol sales limited to beer and wine sales.</p> <p>4. Day Care Facility.</p>	<p>1. Property subdivided before February 21, 1995, the effective date of the site requirements amendments:</p> <p><u>General Requirements</u></p> <p>Minimum Lot Size: 1.0 acre</p> <p>Minimum Lot Width at Front Setback Line: 120 ft.</p> <p>Minimum Street Frontage: Standard Lot: 120 ft.</p> <p>Cul-de-Sac Lot: 60 ft.</p> <p>Minimum Lot Depth: 300 ft.</p> <p>Minimum Floor Area: 1,000 ft²</p> <p>Maximum Floor Area: 10,000 ft² per acre not to exceed 50,000 ft² per building</p> <p>Maximum Impervious Cover Not to Exceed Allowable under Watershed Provisions of this Code</p> <p>2. For Property subdivided after February 21, 1995, the effective date of the site requirement amendments:</p> <p><u>General Requirements</u></p> <p>Minimum Lot Size: 3 acres</p> <p>Minimum Lot Width at Front Setback Line: 120 ft.</p> <p>Minimum Street Frontage: Standard Lot: 120 ft.</p> <p>Cul-de-Sac Lot: 60 ft.</p> <p>Minimum Lot Depth: 300 ft.</p> <p>Minimum Floor Area: 1,000 ft²</p> <p>Maximum Floor Area: 50,000 ft² per building</p> <p>Maximum Impervious Cover Not to Exceed Allowable under Watershed Provisions of this Code</p> <p><u>Primary Use & Structure</u></p> <p><u>Minimum Setbacks</u></p> <p>Front: 50 ft.</p> <p>Side: 20 ft.</p> <p>Rear: 30 ft.</p> <p>Maximum Height: 35 ft.</p>	<p><u>Other Requirements by Reference to the Following Provisions of this Codes, as Amended:</u></p> <p>1. Wastewater System Provisions of this Code</p> <p>2. Watershed Provisions of this Code</p> <p>3. Landscaping and Buffering Provisions of this Code</p> <p>4. Sign and Outdoor Lighting Provisions of this Code with the stipulation that all outdoor lighting shall be directed away from neighboring properties (i.e., either up to light tree canopies or down to light ground but not horizontal away from a building)</p> <p>5. Subdivision Provisions of this Code.</p> <p>6. All other applicable ordinances as amended.</p> <p><u>Architectural Requirements:</u></p> <p>1. No flat roofs</p> <p>2. Varied, multiple pitched roofs.</p> <p><u>Minimum Off-Street Parking:</u></p> <p>1. See Table 1.</p> <p><u>Compatibility and Buffering Standards:</u></p> <p>1. 100 foot landscape setback. See § 2.505(b).</p>

Division 2.10: GUI, Governmental, Utility, and Institutional

Sec. 2.1000 Intent of Governmental, Utility and Institutional District

To provide sites for important community services such as governmental, educational, and religious facilities.

Sec. 2.1001 GUI, Governmental, Utility and Institutional District - Permitted Uses

- (a) Buildings and other improvements owned by a federal, state or local governmental entity
- (b) Schools
- (c) Churches without child day care facilities
- (d) Other uses and structures similar or incidental to the above permitted uses

Sec. 2.1002 Special Uses Permitted in GUI, Governmental, Utility and Institutional

Medical-related services

Sec. 2.1003 Specific Standards, GUI District

- (a) No flat roofs shall be authorized.
- (b) Varied, multiple pitched roofs.

Sec. 2.1004 GUI, Government, Utility, and Institutional District

Intent. To provide sites for governmental, educational, religious, and other community facilities.

LAND USES		DEVELOPMENT STANDARD	
PERMITTED USES	BY SPECIAL USE PERMIT	SITE REQUIREMENTS	SUPPLEMENTARY REQUIREMENTS
<ol style="list-style-type: none"> 1. Government buildings 2. Schools. 3. Churches 4. Parks 5. Other uses and structures similar or incidental to the above permitted uses 	<ol style="list-style-type: none"> 1. Medical-related Services 	<p><u>General Requirements</u></p> <p>Minimum Lot Size: 1.0 acre Minimum Lot Width at Front Setback Line: 120 ft. Minimum Street Frontage: Standard Lot: 120 ft. Cul-de-Sac Lot: 60 ft. Minimum Lot Depth: 300 ft. Minimum Floor Area: 1,000 ft² Maximum Floor Area: 15,000 ft² per building Maximum Impervious Cover Not to Exceed Allowable under Watershed Provisions of this Code</p> <p><u>Primary Use & Structure</u></p> <p>Minimum Setbacks Front: 50 ft. Side: 20 ft. Rear: 30 ft. Maximum Height: 35 ft.</p>	<p><u>Other Requirements by Reference to the Following Provisions of this Codes, as Amended:</u></p> <ol style="list-style-type: none"> 1. Wastewater System Provisions of this Code 2. Watershed Provisions of this Code 3. Landscaping and Buffering Provisions of this Code 4. Sign and Outdoor Lighting Provisions of this Code with the stipulation that all outdoor lighting shall be directed away from neighboring properties (i.e., either up to light tree canopies or down to light ground but not horizontal away from a building) 5. Subdivision Provisions of this Code 6. All other applicable ordinances as amended <p><u>Architectural Requirements:</u></p> <ol style="list-style-type: none"> 1. No flat roofs 2. Varied, multiple pitched roofs <p><u>Minimum Off-Street Parking:</u></p> <ol style="list-style-type: none"> 1. See Table 1. <p><u>Compatibility and Buffering Standards:</u></p> <ol style="list-style-type: none"> 1. 100 foot landscape setback. See § 2.140(b)

Division 2.11: CO, Conditional Overlay Combining District

Sec. 2.1100 CO, Conditional Overlay Combining District - Intent

To provide flexible and adaptable use or site development regulations by requiring standards tailored to individual properties in addition to and more stringent than the base district to which it is attached, to insure compatibility among competing or potentially incompatible uses, to ease the transition from one base district to another, to address land uses or sites with special requirements, and to guide development in unusual situations or unique circumstances.

Sec. 2.1101 Conditional Overlay Combining District

- (a) **Application.** Property may be zoned as a CO combining district in accordance with the provisions of this Code. When an applicant applies for zoning or rezoning using the CO combining district, any notice required by this Code shall include a description of the restrictions proposed by the applicant and a statement that additional conditions may be imposed by the City Council and that additional notice shall be provided if the City Council proposes to require fewer conditions than proposed by the applicant or to zone or rezone the property into the requested base district without the requested CO combining district.
- (b) **Use and Site Development Regulations in the Conditional Overlay Combining District.** The CO combining district modifies and restricts the use and site development regulations otherwise authorized in the base district. All requirements of a CO combining district are in addition to and supplement all other applicable requirements of this Code. Restrictions which may be imposed by the CO combining district shall be limited to the following:
 - (1) prohibiting Permitted and Special Uses and accessory uses otherwise authorized in the base district, or making a Permitted Use a Special Use;
 - (2) decreasing the number or average density of dwelling units which may be constructed on the property;
 - (3) increasing minimum lot size or minimum lot width requirements;
 - (4) decreasing the maximum Floor to Area Ratio permitted;
 - (5) decreasing the maximum height permitted;
 - (6) increasing the minimum yard and setback requirements;
 - (7) decreasing the maximum building or impervious coverage permitted;
 - (8) restricting access to abutting and nearby roadways, including specific design features intended to ameliorate potentially adverse traffic impacts;
 - (9) providing for architectural and design features to enhance compatibility with the residential character of the City; or
 - (10) any other specific site development regulations required or authorized by City ordinance or Code provision.
- (c) **Method of Adoption.** Conditions imposed by the CO combining district shall be included in the ordinance zoning or rezoning the property as a CO combining district. All property included in a CO combining district shall be identified on the Official Zoning Map by adding the letters "CO" to the base district symbol. The ordinance zoning or rezoning property as a CO combining district shall specifically state the modifications imposed pursuant to this Code. The restrictions shall be

considered a part of the zoning provisions of this Land Development Code. A violation of the restrictions shall be a violation of the zoning provisions of this Code. The restrictions shall continue in full force and effect until modified by City Council by amendment to the ordinance zoning or rezoning the property as a CO combining district.

- (d) **CO Zoning of Property Subject to Public Restrictive Covenants.** For purposes of this section, a "public restrictive covenant" is a covenant which (i) names the City as its beneficiary, (ii) restricts use or development of the property, and (iii) was recorded as a condition of approval of zoning or rezoning by the City Council. The owner of any property subject to a public restrictive covenant may request CO combining district zoning of the property, provided it pays an application fee for zoning. The City Council may initiate CO combining district zoning for any property subject to a public restrictive covenant notwithstanding a request from the owner of the property. Restrictions imposed under an ordinance granting a CO combining district shall be identical to restrictions in the public restrictive covenants. An ordinance zoning property as a CO combining district that includes all restrictions imposed by public restrictive covenant(s) constitutes the consent of the City Council to terminate the public restrictive covenant(s) on the property.
- (e) **Permitted Uses.** Permitted uses are determined by the base district except as limited or further restricted by the CO Conditional Overlay.
- (f) **Special Uses.** Special uses are determined by the base district except as limited or further restricted by the CO Conditional Overlay.
- (g) **Site Requirements.** Site requirements are determined by the base district except as limited or further restricted by the CO Conditional Overlay.
- (h) **Supplementary Requirements.** Supplementary requirements are determined by the base district except as limited or further restricted by the CO Conditional Overlay.

Division 2.12: P, Parks, Conservation Areas and Easements, and Open Areas

Sec. 2.1200 Intent of Parks, Conservation Areas and Easements, and Open Areas District

To provide dedicated open space for parks, recreation, and conservation areas in both public and private ownership.

Sec. 2.1201 P, Parks, Conservation Areas and Easements, and Open Areas Overlay District - Permitted Uses (provided there is no nuisance factor)

- (a) Public Parks
- (b) Publicly Owned Open Areas
- (c) Privately Owned Open Areas
- (d) Conservation areas or conservation easements
- (e) Other uses and structures similar or incidental to the above permitted uses.

Sec. 2.1202 P, Parks, Conservation Areas and Easements, and Open Areas District

Intent. To dedicate open space for parks, recreation, and conservation areas in both public and private ownership in combination with any of the other districts in this Code.

LAND USES		DEVELOPMENT STANDARD	
PERMITTED USES	BY SPECIAL USE PERMIT	SITE REQUIREMENTS	SUPPLEMENTARY REQUIREMENTS
<ol style="list-style-type: none"> 1. Public Parks 2. Publicly owned Open Areas 3. Privately owned Open Areas 4. Other uses and structures similar or incidental to the above permitted uses 5. Conservation area or easement 		<ol style="list-style-type: none"> 1. Determined by the primary use district. 2. Direct public access must be provided for parks and recreation areas. 	<ol style="list-style-type: none"> 1. Common areas not held in public ownership shall be maintained by the homeowners' association for the neighborhood or subdivision in accordance with the association's restrictive covenants. 2. All restrictive covenants must be approved by the City and must include common maintenance criteria which include the following: <ol style="list-style-type: none"> a. Only vegetation included in the City's approved plant list may be used. b. Maintenance practices must conform with the City's integrated Pest Management Plan. 3. All other applicable ordinances as amended.

Division 2.13: General Standards

Sec. 2.1300 How to Measure Lot Area, Width, Depth

- (a) Area. In computing the area of a lot, no part of a street shall be included.
- (b) Width. The width of a lot shall be measured along the front building setback line.
- (c) Depth. The depth of a lot shall be the horizontal distance between the front and rear lot lines measured along the median between the side lot lines.

Sec. 2.1301 Building Setback Distances

- (a) No principal building shall have any front, side, or rear setback distance less than that shown on the schedule of regulations provided in this Code as being required in the district in which the building is located. Unroofed steps and ramps shall not be considered as a part of the principal building when measuring the setback distance of such building.
- (b) Corner Lots: In the case of lots abutting on more than one street, the property line fronting the street which serves as the primary entrance and identity for the lot shall be deemed the front for purposes of setback requirements.

Sec. 2.1302 Setbacks for Accessory Structures Other than Fences, Walls, Solid Waste Containers and Mailboxes

The minimum setback distances for an accessory structure, other than unroofed steps, ramps, fences, walls, walks, driveways, solid waste containers, and mailboxes shall be the same as the setback distance applicable to a principal building under the appropriate category in Sections 2.604, 2.704, 2.804, 2.904, and 2.1004.

Sec. 2.1303 Lot Coverage

The amount of ground covered by the principal and accessory structures and parking areas shall not exceed the maximum percentage of the total lot area shown on the schedule of regulations.

Sec. 2.1304 Height of Structure

- (a) No structure shall have a height greater than that shown on the schedule of regulations as being permitted in the district in which the structure is located.
- (b) Height shall be measured vertically from the undisturbed natural grade at the mean elevation of the building pad to the highest point of the building or structure, excluding spires, dish antennas, ventilators, chimneys, or other similar appurtenances. Chimneys, spires, dish antennas, ventilators and other appurtenances shall not extend over six feet (6') above the building on which they are located.

Sec. 2.1305 Minimum Floor Area for Dwellings

- (a) No dwelling unit shall have an enclosed living area smaller than that shown on the schedule of regulations.
- (b) The minimum floor area shall be computed exclusive of breezeways, garages, open porches, carports, or accessory buildings not designed and used directly and specifically for dwelling purposes.

Sec. 2.1306 Construction Requirements

- (a) Construction standards shall be in conformity with all City Building Code requirements, as amended.
- (b) Exterior surfaces of all principal buildings shall be constructed of fifty-one percent (51%) or more of masonry. The exterior surfaces of all other walls may be constructed of approved siding, such as wood or aluminum or solar energy conservation materials, or any combination of such materials, or other type shingles, but no shiplap may be used.
- (c) All foundation plans shall be designed and sealed by a registered engineer.
- (d) All exposed foundation types shall be enclosed.
- (e) The following shall apply to offices:
 - (1) Residential in scale and texture.
 - (2) No parking between the front and sides of the building and the front and side setback lines.

Sec. 2.1307 Impervious Cover Requirements

See the watershed provisions of this Code, and amendments thereto, for requirements.

CHAPTER 3: SUBDIVISION REGULATIONS

Division 3.1: General Provisions: Enforcement

Sec. 3.100 Authority

This Chapter is adopted under the authority of the Constitution and laws of the State of Texas, including particularly, but not limited to, Chapters 231, Acts of the 40th Legislature, Regular Session, 1927, as heretofore or hereafter amended, and the provisions of Chapter 212 of the Texas Local Government Code as heretofore or hereafter amended. This Chapter is adopted pursuant to the provisions of the general law of the city.

Sec. 3.101 Purpose

The purpose of this Chapter is to provide for the orderly, safe and healthful development of the area within the corporate limits of Sunset Valley and the City's extraterritorial jurisdiction and to promote the health, safety, morals and general welfare of the community.

Sec. 3.102 Special Provisions

- (a) No land in the City of Sunset Valley or its extraterritorial jurisdiction shall be divided into one or more lots until such subdivision of land has been approved by the City Council in accordance with the regulations herein.
- (b) No permit shall be issued pursuant to any City ordinance for any structure or for the repair, modification or installation of Public or Private Sewage Facility upon any lot in a subdivision, resubdivision or Confirming Plat for which a final plat has not been approved and filed for record by the City of Sunset Valley, Texas, or upon any lot in a subdivision or confirming plat in which the standards contained herein or referred to herein have not been complied with in full.
- (c) No building, repair, plumbing or electrical permit shall be issued by the City for any structure on a lot in a subdivision for which a final plat has not been approved and filed for record, nor for any structure on a lot within a subdivision in which the standards contained herein have not been complied with in full.
- (d) The City shall not repair, maintain, install or provide any streets or public utility services in any subdivision for which a final plat has not been approved and filed for record, nor in which the standards contained herein or referred to herein have not been complied with in full.
- (e) Any right, privilege or remedy granted by this Ordinance to the person obtaining or holding plat or plan approval shall also run in favor of such person's successors in interest and assigns. Any duty or obligation of or remedy against such person arising from this Chapter shall also inure as to such person's successors in interest, assigns, agents, employees, representatives, or any person acting pursuant to the direction of any of the foregoing, or under color of same.
- (f) The City shall not sell or supply any water, gas, electricity, or sewage service within a subdivision for which a final plat has not been approved or filed for record, nor in which the standards contained herein or referred to herein have not been complied with in full.
- (g) In behalf of the City, the City attorney shall, when directed by the City Council, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this Chapter or the standards referred to herein with respect to any violation thereof which occurs within the City, within the extraterritorial jurisdiction of the City as such jurisdiction as determined under the Texas Local Government Code, or within any area subject to all or a part of the provisions of this Chapter.

- (h) If any subdivision exists for which a final plat has not been approved or in which the standards contained herein or referred to herein have not been complied with in full, and the City Council of the City shall pass a resolution reciting the fact of such noncompliance or failure to secure final plat approval, and reciting the fact that the provisions of paragraphs (a), (b), (c), and (d) of this Section will apply to the subdivision and the lots therein, the Secretary for the City shall, when directed by the City Council of the City, cause a certified copy of such resolution under the corporate seal of the City to be filed in the deed records of Travis County in which such subdivision or part thereof lies. If full compliance and final plat approval are secured after the filing of such resolution, the Secretary for the City shall forthwith file an instrument in the deed records of Travis County stating that paragraphs (a), (b), (c), and (d) no longer apply.
- (i) The provisions of this Section shall not be construed to prohibit the issuance of permits for any lots upon which a residence building exists and was in existence prior to passage of this Chapter, nor to prohibit the repair, maintenance, or installation of any street or public utility services for, to or abutting any lot, the last recorded conveyance of which prior to February 15, 1985 was by metes and bounds, and/or any subdivision, or lot therein, recorded or unrecorded, which subdivision was in existence prior to February 15, 1985.

Sec. 3.103 Fiscal Security Requested

- (a) All plans and actual construction of required improvements shall be inspected by a registered professional engineer retained by the City. No plans or completed construction shall be considered for approval or acceptance by the City Council without certification from said engineer that such plans and calculations and such construction is complete and that they are in accordance with specifications and standards contained or referenced herein, and/or with plans previously approved for the subject subdivision. The engineer shall make frequent field inspections during the construction period and arrange for testing in accordance with accepted civil engineering practice. The engineer shall submit periodic progress reports to the City Council during the construction period. The final responsibility for the adequacy and acceptability of all construction shall rest with the subdivider.
- (b) Maintenance of Improvements. The subdivider shall maintain such improvements in good condition and in a manner acceptable to the City's engineer and without cost to the City for a period of two (2) years after acceptance of completed construction. Upon completion of construction and final acceptance, the subdivider shall either deposit money in escrow or file with the City Council a letter of credit or other such guarantee acceptable to the City Council, executed by a bank or a surety company holding a license to do business in the State of Texas, and acceptable to the City Council, in an amount equal to ten percent (10%) of the construction costs of the improvements required, and approved by the City. Such money or surety shall be irrevocable for two (2) years from the date of acceptance of completed construction. Such surety shall guarantee that, in the event of failure of the subdivider to maintain such improvement as provided above, the subdivider's credit shall be encumbered so as to cause the improvements to be repaired or restored without cost to the City. Such money in escrow or bond shall be approved as to form and legality by the City Attorney.
- (c) Construction Guarantee. The subdivider shall file the security and the maintenance guarantee if all construction is not completed prior to requesting final plat approval. The security shall be either money in escrow or a letter of credit, irrevocable for a period of two (2) years from the date of approval of the final plat, in escrow or in a form approved by the City Attorney, in the amount equal to the total estimated cost of constructing and installing all the improvements required by this Chapter. Such letter of credit shall guarantee that, in the event of failure of the subdivider to make such improvements, within two (2) years from the date of approval of the final plat, the subdivider's credit shall be encumbered so as to cause the improvements to be constructed and installed without cost to the City.

- (d) Construction Inspection. The City's engineer shall inspect such improvements while in progress and upon completion of construction shall notify the subdivider, the City Council, and the Attorney for the City in writing as to his acceptance or rejection of the construction. He shall reject such construction if it fails to comply with the standards and specifications contained or referred to herein. If he rejects such construction, the Attorney for the City shall, on direction of the City Council, proceed to enforce the guarantees provided in this Chapter.
- (e) Extensions. Where good cause exists, the City Council may extend the period of time for completion under subsection (c) of this section for an additional period of time not to exceed six (6) months if the subdivider has not completed the required site improvements or completed such improvements in compliance with this Chapter. No such extension shall be granted unless security and maintenance guarantees as required herein have been provided by the subdivider covering the extended period of time.
- (f) Release of Escrow. Security and/or maintenance guarantees shall not be released by the City until all the requirements for approval and acceptance of improvements have been met. Money in escrow may be drawn from time to time in relation to the percent of construction completed. Completion of construction phases shall be approved by the City's engineer and submitted to the City Council for approval and release of funds. If it becomes apparent that the subdivider is not going to complete the construction of any or all of the required improvements in accordance with the previously approved plans and Code requirements, or provide the necessary maintenance within the stipulated two (2) year period or any extension thereof granted under subsection (e) of this Section, the City's engineer shall so inform the City Council in writing and the City Council shall take necessary action against the guarantees and security posted by the subdivider to complete such construction or maintenance at no cost to the City. The City Council may also file appropriate proceedings in District Court against the subdivider and his/her security as set forth above.

Sec. 3.104 Variances

- (a) All requests for variances must be submitted in writing to the City Council. The City Council may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In making the findings herein required, the City Council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience, and the welfare in the vicinity. No variance shall be recommended unless the City Council finds:
 - (1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of his land; and
 - (2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
 - (3) That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area; and
 - (4) That the granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provision of this Code; and
 - (5) That the variance request is of such a minor nature that the spirit and intent of this Code is not to be violated.
- (b) 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 such

variance is recommended. Variances may be recommended only when in harmony with the general purposes and intent of this Chapter so that the public health, safety, and welfare may be secured and substantial justice done. Pecuniary hardships to the subdivider, standing alone, shall not be deemed to constitute undue hardship.

- (c) No variance of the lot dimensional requirements shall be granted by the City Council except after a public hearing wherein notice is given to owners of real property within five hundred feet (500') of the boundaries of the subject property.
- (d) Where such conditions are found, the variance permitted shall be the minimum departure from the terms of this Chapter necessary to avoid such deprivation of privileges enjoyed by such other property to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences. The City Council may not grant a variance if it would provide the applicant with any special privileges not enjoyed by other similarly situated property with the similarly timed development, or if based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivides land after the effective date of this Chapter.
- (e) Any application for a variance shall be accompanied by the fees set by the City Council by ordinance or resolution.

Sec. 3.105 Authority of the City Council

The City Council is hereby authorized and directed to promulgate rules, regulations, fees, standards and specifications for the construction, installation, design, location and arrangement of streets, curbs, street lights, street signs, alleys, utility layouts, utility easements, gates for utility easements, sidewalks, water supply and water distribution systems, fire hydrants, sewage disposal systems, septic tanks, water wells, monuments, criteria for drainage easement requirements, drainage facilities, and crosswalk ways. It shall file same with the City Clerk at least fourteen (14) days before it becomes effective. It may amend the same from time to time, provided that an amendment must be filed with the City Clerk at least fourteen (14) days before it becomes effective. No such rules, regulations, standards and specifications shall conflict with the provisions of this Code or any Ordinance of the City of Sunset Valley, Texas. All such improvements shall be constructed, installed designed, located and arranged by the subdivider in accordance with such rules, regulations, standards and specifications.

Division 3.2: Subdivision Procedures

Sec. 3.200 Conceptual Presentation and Inspections

- (a) Prior to the official filing of a preliminary plat, the subdivider and his engineer(s) and/or planner(s) shall consult with and present a proposed plan of subdivision to the City Council and/or the planner(s) authorized to represent the City for comments and advice on the procedures, specifications, and standards required by the City for the subdivision of land.
- (b) Prior to the official filing of a preliminary plat or of a final plat under the Short form Subdivision procedures, the subdivider shall schedule a conceptual presentation with the City Council at an official meeting. The following information shall be furnished by the subdivider at the conceptual presentations:
 - (1) A print or copy of an aerial photograph (available from the City of Austin) showing the tract boundaries and conceptual plans for land use, roadways, drainage, utility services, lots and other design features.

- (2) A description of existing conditions of the site, data on land characteristics and natural site features, information describing the proposed number and size of lots, proposed protective covenants and physical improvements.
- (3) A map showing the relationship of the proposed subdivision to existing landmarks and community facilities within a one (1) mile radius, including thoroughfares, adjacent subdivisions, shopping centers, public schools, parks, playgrounds and the development name and location, scale, north arrow and date.
- (4) Where the proposed subdivision constitutes a unit of a larger tract owned by the subdivider, which is intended to be subsequently subdivided as additional units of the same subdivision, the conceptual plan shall be accompanied by a layout of the entire area showing the tentative improvements for such uses.
- (c) After the conceptual presentation, the planner(s) representing the City shall make a written report to the City Council which includes a review of the plans, relationship to the City's adopted comprehensive plan and recommendations for area wide improvements affecting said tract. The subdivider and City Council shall be provided with a copy of the report.
- (d) Any person or his successor and assigns who has presented a conceptual plan of subdivision or who has submitted a short form plat for approval shall agree to allow entry on their land or premises or proposed subdivision, or on the larger tract if the proposed subdivision is intended to be subsequently subdivided as additional units of the same subdivision. The entry is for the purposes of inspection of conditions of the premises during the review period approval stage and during development and construction by duly authorized representatives and inspectors of the City.
- (e) Fees. Such conceptual presentation shall not proceed until the subdivider has paid a fee as set forth in the fee schedules established by the City Council by ordinance or resolution. That fee is non-refundable and no review or action by the City Council shall be made until the fee is paid.
- (f) Twenty days following the subdivision presentation and written report of the planner representing the City, the City Council at the next regularly scheduled meeting shall discuss any interests or concerns of an areawide nature which may directly affect the review of the proposed preliminary plat and shall so inform the subdivider in writing.

Sec. 3.201 Preliminary Plat and Accompanying Data

- (a) General. The subdivider shall cause to be prepared a preliminary plat by a surveyor or engineer in accordance with this Ordinance.
- (b) Time for Filing and Copies Required. The subdivider shall file eight (8) blue or black line copies of the plat, along with all accompanying data and exhibits, with the Secretary for the City at least fifteen (15) days prior to the date at which formal application for the preliminary plat review is made to the City Council. The application must be complete before any review by the City can begin.
- (c) Filing Fees. Such plat shall be accompanied by a filing fee set forth in the fee schedules adopted by ordinance or resolution. The filing fee is non-refundable and no review or action by the City Council shall be made until the fee is paid.
- (d) Formal Application. Formal application for preliminary plat approval shall be made by the subdivider in writing to the City Council at an official meeting.
- (e) Form and Content. The plat shall be drawn on 24" x 36" sheets or 18" x 24" sheets with a binding margin of not less than 1½ inches on the left side of the sheet and margins on the other three sides

of not less than a half ($\frac{1}{2}$ ") inch. The plat shall be drawn to scale of one hundred (100') feet to one (1) inch. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. The plat shall show the following:

- (1) Names and addresses of the subdivider, record owner, engineer and/or surveyor.
- (2) A copy of the deed shall be attached.
- (3) Proposed name of the subdivision, which shall not have the same spelling or be pronounced similar to the name of any other subdivision located within the City.
- (4) Names of contiguous subdivisions and the owners of contiguous parcels of unsubdivided land, and an indication of whether or not contiguous properties are platted.
- (5) Description, by metes and bounds, of the subdivision.
- (6) Primary control points or descriptions, and ties to such control points to which all dimensions, angles, bearings, block numbers and similar data shall be referred.
- (7) Subdivision boundary lines, indicated by heavy lines, and the computed acreage of the subdivision.
- (8) Existing features as follows:
 - (A) The exact location, scaled dimensions, name and description of all existing or recorded streets, alleys, reservations, easements or other public rights-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries.
 - (B) The exact location, scaled dimensions, description and name of all existing or recorded residential lots, parks, public areas, permanent structures and other sites within or contiguous with the subdivision.
 - (C) Location of trees having a trunk circumference of thirty (30) inches or more, measured four and one-half (4 $\frac{1}{2}$) feet above natural grade level.
- (9) A topographic map, with two (2) foot contour intervals, meeting national map accuracy standards, showing:
 - (A) Each location of each major, intermediate and minor waterway, as defined herein; and each type of waterway shall be distinguished from others;
 - (B) The one-hundred (100) year and twenty-five (25) year flood elevations and flood plain boundaries;
 - (C) The two (2) year flood plain where needed to determine the critical water quality zone required by the provisions of this Code;
 - (D) Critical water quality zones as required by the provisions of this Code;
 - (E) Existing topographical features including but not limited to existing faults and fractures along waterways, and sinkholes;

- (10) A map or maps showing soil map units, surficial and bedrock geology, faults, sinkholes and other geologic units. Maps may be based on compiled data available from the Soil Conservation Service, U.T. Bureau of Economic Geology, City of Austin Environmental Resource Management Office and U.S. Geological Survey, and shall be complemented by an onsite geological survey conducted by a professional geologist.
- (11) A report that includes the following items:
 - (A) A description of existing topography;
 - (B) Geologic, soil, and vegetation characteristics;
 - (C) General description of the proposed changes to the site;
 - (D) A general description of the temporary measures which shall be utilized for the control of erosion;
 - (E) General sequencing of construction;
 - (F) A description and calculation of all impervious cover on the site and for each commercial lot.
- (12) General plans for wastewater lines or onsite sewage treatment systems' installation shall be submitted with the preliminary plan and shall include:
 - (A) The use of minimum construction corridor widths that might disturb subsurface faults and fractures; and
 - (B) The use of environmental protection measures and vegetative restorations as provided for in the Watershed provisions of this Code.
- (13) The exact location, scaled dimensions, description and name of all proposed streets, alleys, parks, other public areas, reservations, easements or other rights-of-way, blocks, lots, and other sites within the subdivision.
- (14) A preliminary plan of the proposed drainage systems with grade, pipe size, and location of outlet.
- (15) A preliminary plan of proposed fills or other structure-elevating techniques, levees, channel modifications, floodwalls, and other methods to overcome flood or erosion-related hazards.
- (16) Date of preparation, scale of plat, and north arrow.
- (17) A number or letter to identify each lot or site and each block.
- (18) Front building setback lines on all lots and sites; side yard building setback lines at street intersections and crosswalk ways.
- (19) Landscaping setbacks and buffer zones on all lots except single family residential.
- (20) Location of the city limits line, the outer border of the City's extraterritorial jurisdiction, and zoning district boundaries, if they traverse the subdivision, form part of the boundary of the subdivision, or are contiguous to such boundary.

- (21) Vicinity sketch or map at a scale of not more than five hundred (500') feet to an inch which shall show existing subdivisions, streets, easements, rights-of-way, parks and public facilities in the vicinity, the general drainage plan and ultimate destination of water, and possible storm sewer, water, gas, electric and sanitary sewer connection by arrows.
- (22) The certification of a registered professional engineer that the plans and specifications included with the preliminary plat are accurate and of adequate design, and that the preliminary plat is complete.
- (23) Special notes or attachments as may be required by other Section of this Code.

(f) Processing of Preliminary Plat.

- (1) The City Council shall appoint an entity to check the preliminary plat as to its conformity with the prevailing master plan, major street plan, land use plan, zoning districts, the standards and specifications set forth by Ordinance and code, and the result of the conceptual presentation between the subdivider and the City pertaining to said plat. The appointed person shall determine whether the proposed plat and all required supporting materials are complete and fees paid.
- (2) The checking entity shall have sixty (60) days to review the preliminary plat. Copies of the preliminary plat, along with the findings and recommendations of the checking entity, shall be forwarded to the City Council no less than fifteen (15) days prior to the official meeting at which preliminary plat approval is sought.
- (3) Within seventy five (75) days after the preliminary plat application for review is finally filed and after the plat is deemed complete, the City Council shall approve or disapprove such plat. If the City Council disapproves a proposed preliminary plat, it shall reference, in writing, any and all deficiencies of the proposed preliminary plat which were cause for disapproval. The subdivider shall be allowed to submit a revised preliminary plat which resolves the deficiencies on or before 180 days after the disapproval of the preliminary plat. The City Council shall approve or disapprove the revised preliminary plat within thirty (30) days after the complete revised preliminary plat is formally filed. If the subdivider fails to file a revised preliminary plat on or before 180 days after the disapproval of the proposed preliminary plat, the application for review shall be conclusively presumed to have been withdrawn by the applicant.
- (4) Approval of a preliminary plat by the City Council shall be deemed an expression of approval of the layout submitted on the preliminary plat as a guide to the installation of streets, water, sewer and other required improvements and utilities and to the preparation of the final or record plat. Approval of a preliminary plat shall not constitute automatic approval of the final plat.
- (5) Approval of a preliminary plat by the City Council shall be effective for six (6) months. Any portion or all of the preliminary plat may be subject to modification or revision in light of information previously not brought to the attention of the City Council. If in the light of new or significant information, the City Council should require revisions to a previously approved preliminary plat, it shall so inform the subdivider in writing.
- (6) If no development has occurred which would affect the proposed plat, after six (6) months of effective approval, the City Council may, upon the application of the subdivider, extend the approval for an additional six (6) months.
- (7) In no case shall any development commence prior to City Council approval of the preliminary plat.

(8) Notice.

- (A) Written notice of a proposed subdivision or confirming plat shall be given to owners of real property lying within five hundred feet (500') of the boundaries of the property to be subdivided. Such notice shall be given not less than ten (10) days prior to the date set for City Council review to all owners who have rendered their said property for City Taxes as the ownership appears on the last approved City Tax Rolls.
- (B) Every notice required by this Chapter may be served by delivering a copy of the notice to the person to be served, or his duly authorized agent either in person or by registered or certified mail to his last known address, or it may be given in such other manner reasonably calculated to give notice, if approved by the City Council. Whenever the notice is served by mail, three (3) days shall be added to the prescribed period.
- (C) The notice, document, or paper shall consist of:
 - (i) A written statement in plain and concise language sufficient to give fair notice of the proposed subdivision and any variance requested; and
 - (ii) Information as to where the plat or variance of such subdivision may be inspected; and
 - (iii) The date, time, and location of the City Council review on such application.
- (D) Should the City Council deem it necessary, ten (10) days prior to the hearing of any application for a subdivision, the applicant shall place a sign(s) on the property easily visible to the public for the purposes of advising the public of the subdivision proposed. All required signs shall remain on the property until after final disposition of the application.

Sec. 3.202 Final Plat

(a) Requirements.

- (1) The final plat and accompanying data shall conform to the preliminary plat as approved by the council, incorporating any and all changes, modifications, alterations, corrections and conditions imposed by the City Council.
- (2) The final plat shall be drawn in indelible ink on a durable reproducible and permanent medium acceptable to the City Council. It shall be at least 24 inches wide and 18 inches long with a margin of at least one and one-half (1½) inches on the left side of the sheet and margins of not less than one-half (½ inch on the other three sides. The plat shall be drawn at a scale of one hundred (100) feet to one (1) inch. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat.
- (3) The final plat shall be submitted in such number as is required by the City Council, and shall contain all of the features required for the preliminary plats in Section 3.201(e) above.
- (4) The final plat shall also include the following information on the plat or as an attachment to the plat:

- (A) description, by metes and bounds, of the subdivision, including location of all monuments and primary control points to which dimension, angles, bearing, etc., in the description are referenced.
- (B) The location, scaled dimensions, name and description of all existing or recorded streets, alleys, reservations, easements, or other public rights-of-way within the subdivision, intersecting or contiguous with its boundary forming such boundary, with accurate dimensions, bearing or deflecting angles and radii, area, and central angle, degree of curvature, tangent distance and length of all curves where appropriate.
- (C) The exact location, dimension, description and name of all proposed streets, alleys, parks, other public areas, reservations, easements or other rights-of-way, blocks, lots, and other sites within the subdivision with radii, area, and central angles, degree of curvature, tangent distance and length of all curves where appropriate. These proposed improvements shall comply with the standards and specifications in, or referenced in, Section 3.203 of this Chapter.
- (D) The final plat shall also be accompanied by a complete list of restrictive covenants which are intended to be recorded along with the plat and all plat notes which are required by this Code.

(5) In addition, the final plat shall be accompanied by detailed construction plans and detailed cost estimates for all proposed site improvements. The plat and all plans and engineering calculations shall bear the seal and signature of an engineer, certifying their completeness and accuracy. These site improvements shall include, but not be limited to, the following:

- (A) Streets, alleys, walks, and monuments;
- (B) Sanitary sewer systems, including, where appropriate, treatment and disposal systems;
- (C) Water supply systems, including pipes and hydrants and, where appropriate, wells and reservoirs, and pumping stations; and
- (D) A detailed drainage plan and street layout, as follows:
 - (i) Grades and runoff figures on the inlet and outlet side of all channels and storm sewers.
 - (ii) Drainage easements.
 - (iii) A general location map of the subdivision showing the watershed sub-areas.
 - (iv) Calculations showing the anticipated storm water flow, including watershed area, percent runoff, and time of concentration. When a drainage ditch or storm sewer is proposed, calculations shall be submitted showing the basis for design.
 - (v) When a drainage channel or storm sewer is proposed, complete plans, profiles, and specifications shall be submitted, showing complete construction details.
 - (vi) When conditions upstream or downstream from a proposed channel or storm sewer do not permit maximum design flow, high water marks based

on a twenty-five (25) year frequency, shall be indicated based on existing conditions.

- (vii) Identification of all critical water quality zones with notation of restrictions pertaining to such zones as required by the provisions of this Code.
- (E) A documentation of compliance with water quality control strategies as required by the Watershed provisions of this Code as amended.
- (F) A final erosion-sedimentation control plan and construction sequencing plan as required by the Watershed provisions of this Code, as amended.
- (G) A statement signed and acknowledged by the owner dedicating all streets, easements, water distribution and wastewater collection systems, parks and other open access to public use, or where, with the approval of the City Council, the owner has made provisions for perpetual maintenance thereof to the inhabitants of the subdivision. Disapproval of the plat shall indicate refusal to accept any offered dedications. Approval of the plat shall not be deemed acceptance of such dedications until such time as the City has appropriated same by entry, use, or maintenance.
- (H) The certification statement to be signed by the Mayor upon approval of the City Council that the final plat conforms to all requirements of the subdivision regulations and other relevant regulations of the City of Sunset Valley, Texas.
- (I) A certification by the surveyor responsible for surveying the subdivision area, attesting to its accuracy;
- (J) The certification of the engineer responsible for the preparation of the final plat and supporting data, attesting to its completeness and accuracy.

(b) Processing of Final Plat.

- (1) General. A final plat shall not be filed for recording with the County Clerk until the City Council has approved the final plat and the accompanying construction plans and cost estimates. Processing for final plat approval shall parallel that described in Section 3.201(f) of this Code for processing preliminary plats. Within thirty (30) days after the complete application for final plat approval is formally filed, the City shall approve or disapprove such plat. If the City Council disapproves a proposed final plat, it shall reference, in writing, any and all deficiencies of the proposed final plat which were cause for disapproval. The subdivider shall be allowed to submit a revised final plat which resolves the deficiencies on or before 180 days after the disapproval of the proposed final plat. The City Council shall approve or disapprove the revised final plat within thirty (30) days after the complete revised final plat is formally filed. If the subdivider fails to file a revised final plat on or before 180 days after the disapproval of the proposed final plat, the application for review shall be conclusively presumed to have been withdrawn by the applicant.
- (2) If desired by the subdivider and approved by the council, the final plat may constitute only that portion of the approved preliminary plat which he proposes to record and develop. However, such portion shall conform to all the requirements of this Code.
- (3) As soon as practical after the subdivider is notified of the approval of the preliminary plat, his engineer shall submit to the City Council at an official meeting the final plat of the subdivision or portion thereof.

(4) Submittal of the Final Plat Application. A complete, formal application for final plat approval shall be made by the subdivider in writing to the Secretary for the City at least twenty (20) days prior to the official meeting of the City Council at which approval is sought. Eight (8) copies of the final plat, together with all the accompanying plans and exhibits, shall be filed. The Secretary for the City or the entity responsible for checking the proposed final plat shall determine whether the proposed plat and all required plans and exhibits are complete and fees paid. The twenty (20) day period specified in this Paragraph and the thirty (30) day period specified in Section 3.202(b)(1) of this Chapter shall not commence until the proposed plat and plans and exhibits are complete.

(5) No final plat will be considered unless a preliminary plat has been submitted and approved. However, if an approved plat has been duly recorded and the subdivider wishes to increase the size of the lots by combining two or more lots or by combining one lot with a portion of the adjacent lot in such manner that no portion of a lot remains smaller than the original lots, no preliminary plat will be necessary. Major changes from the development proposed on the preliminary plat may necessitate filing and approval of an amended preliminary plat.

(6) A final plat of an approved preliminary plat or a portion thereof shall be submitted to the City Council within six (6) months of the date of approval of the preliminary plat; otherwise, the approval of the City Council shall become null and void, unless an extension of time is applied for and granted by the City Council.

(7) If no development has occurred which would affect the proposed plat, after six (6) months of effective acceptance, the City Council may, upon the application of the subdivider, extend the acceptance for one (1) additional six (6) month period. After review by the City Council, further modification may be required by the City Council at that time of review. No additional filing fee shall be required if modifications are requested by the City Council.

(8) City Council Approval or Disapproval of Final Plat. The City Council shall disapprove the proposed final plat unless;

(A) The plat complies with the provisions of this Chapter; and

(B) The uses proposed for the property being subdivided are consistent with its zoning.

(9) Disapproval of the final plat shall indicate refusal to accept any offered dedications. If the final plat is disapproved, the City Council shall inform the subdivider in writing of the reasons for disapproval.

(10) Approval of the plat shall not be deemed acceptance of such dedications until such time as the City has appropriated same by entry, use, or maintenance and by the approval of the constructed improvements therein. Approval of the final plat, plans, and specifications required herein shall not prevent the City Council or the entity responsible for checking such documents from thereafter requiring the correction of errors in said plans and specifications and in the construction of the associated improvements.

(11) When the final plat is filed with the City Council for approval, it shall be accompanied by all relevant fees as set forth in the fee schedules adopted by ordinance or resolution. Filing fees are non-refundable.

(12) Recording of Plat.

(A) A final plat shall not be filed for recording with the County Clerk until the City Council has approved the final plat and the accompanying construction plans, cost estimates and security and maintenance guarantees as hereinafter required, and

certificates have been received stating that all taxes on the land being subdivided have been paid to the current year.

- (B) After the final plat has been finally approved and the subdivider has constructed all the required improvements and such improvements have been approved and accepted by the City and a maintenance guarantee filed as hereinafter provided; or after the final plat has been finally approved and the subdivider has filed the security and maintenance guarantees as hereinafter provided, the Secretary for the City shall cause the final plat to be recorded with the County Clerk within two (2) weeks after consent for filing has been received from the subdivider. The City Council shall also cause the check or checks from the recordation fee or fees deposited at the time the final plat was filed for approval to be delivered with the final plat to the County Clerk.
- (C) No plat shall be filed for record without the written consent of the subdivider. If the subdivider fails to give such written consent within thirty (30) days of the date of the final approval of the plat, the City Council may at any time thereafter cancel such approval.

Sec. 3.203 Standards and Specifications

No preliminary or final plat shall be approved by the City Council, and no completed improvements shall be accepted by the City Council unless they conform to the following standards and specifications:

- (a) Conformity with a Comprehensive Plan. The subdivision shall conform to any comprehensive plans, codes and ordinances of the City.
- (b) Provision for Future Subdivisions. If a tract is subdivided into parcels larger than ordinary building lots, such parcels shall be arranged to allow the opening of future streets.
- (b) Reserve Strips Prohibited. There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use.

Sec. 3.204 Vacation of Plat or Subdivision

- (a) General. Any plat or replat may be vacated or resubdivided or corrected by the owner of the land, provided that the council approves the action and the owner complies with applicable State law. No plat shall be allowed to be resubdivided until the original plat has been vacated.
- (b) Plat Vacation. If no lots in the subdivision have been sold or conveyed by any other means to another owner, the owner of the subdivision shall be allowed to vacate said plat by submitting a written instrument to and approved by the City Attorney and the County Clerk, and recording the same with the County Clerk. In cases where lots in the subdivision have been sold or otherwise conveyed to the owner, the plat shall only be allowed to be vacated upon the application of all the owners of lots in said subdivision and with the approval, as provided above, of the City Attorney and County Clerk.
- (c) Plat Correction. Plat corrections may be allowed by the City Attorney without complying with the procedure for vacation and resubdivisions as provided above. However, the correcting documents must be approved by the City Council and City Attorney and recorded by the County Clerk.
- (d) Fees. Any application for plat vacation or resubdivision or correction shall be accompanied by fees set by the City Council in the fee schedules adopted by ordinance or resolution set forth in this Code.

Sec. 3.205 Burden of Proof

Any subdivider applying for a subdivision plat approval under this Chapter must establish that the plat complies with the requirements of this Chapter.

Division 3.3: Platting Requirements

Sec. 3.300 Monuments

- (a) Monuments shall be located at centerline intersections and at points of curvature and points of tangency of the centerline of interior streets and at the intersection of street centerlines with the perimeter boundary.
- (b) In addition to the requirements specified herein, the requirements of the County for monumentation shall apply.
- (c) Where, due to topographic conditions, permanent structures, or other conditions, the view is obstructed between any two adjacent monuments, intermediate monuments shall be so set as to assure a clear view between adjacent monuments.

Sec. 3.301 Alleys

No alleys will be permitted, except to serve commercial sites, as required by the City Council. Where required by the City Council, consideration shall be given to intersection of alleys and overhang easements, among others. In no case shall dead end alleys be permitted.

Sec. 3.302 Utility Easements

- (a) Each block shall have utility easements reserved for the use of all public utility lines, conduits, and equipment. These utility easements shall be a minimum of fifteen feet (15') in width, taking feet from each lot where appropriate, and shall be adequate to provide service to the entire length of the block. All utilities must be underground. The subdivider shall be responsible for placing the easements in locations acceptable to utility companies.
- (b) Normal ribbon curb exposure shall be required where utility easements intersect streets.

Sec. 3.303 Streets

- (a) Street Layout. Adequate streets shall be provided by the subdivider and the arrangement, character, extent, width, grade, and location of each shall conform to the comprehensive plan of the City and shall be considered in their relation to existing and planned streets, to topographical conditions, to public safety and convenience, and in their appropriate relationship to the proposed uses of land to be served by such streets. The street layout shall be devised for the most advantageous development of the entire neighborhood and shall minimize the opportunity for through traffic in neighborhoods. Trees which are required to be shown on the preliminary plat shall be avoided whenever possible in the construction of streets.
- (b) Relation to Adjoining Street System. Where necessary to the neighborhood pattern, existing streets in adjoining areas shall be continued, and shall be at least as wide as such existing streets and in alignment therewith.
- (c) Projection of Streets. Where adjoining areas are not subdivided, the arrangement of streets in the subdivision shall make provision for the proper projection of streets into such unsubdivided areas.

- (d) Street Jogs. Whenever possible, street jogs with center line offsets of less than 150 feet shall be avoided.
- (e) Half-streets or Adjacent Streets. Street intersections shall be as nearly at right angles as practicable, giving due regard to terrain and topography. In no case will intersections at angles more acute than seventy degrees (70°) be permitted.
- (f) Street Intersections. Street intersections shall be as nearly at right angles as practicable, giving due regard to terrain and topography. In no case will intersections at angles more acute than seventy degrees (70°) be permitted.
- (g) Dead-End Streets. Dead-end streets as defined in Section 1.201 shall be allowed with sufficient turning radius for emergency vehicles.
- (h) Cul-de-sacs. Cul-de-sac streets shall have a turnaround of not less than 45 feet in diameter of pavement in residential areas, and not less than 50 feet in diameter of pavement in commercial.
- (i) Streets on Comprehensive Plan. Where a subdivision embraces a street as shown on the comprehensive plan of the City, such street shall be platted in the location and of the width indicated by the comprehensive plan. Areawide needs shall be addressed through the procedures specified in Section 3.200 of Chapter 3 of this Code.
- (j) Design and Construction Standards. Street design proposals shall be certified by a registered professional engineer as to maintainability, operation, safety and traffic design with due regard to subgrade conditions, base and pavement specifications, grades, curves, speed limits and adequacy of drainage. The subdivider shall excavate, fill, grade and pave all streets, including sidewalk areas. No street shall be surfaced until the underground utilities which are to be installed in the portions of the streets intended for vehicular traffic have been so installed and inspected. The City's engineer shall be responsible for approving the specifications for design and construction. Texas Highway Department Standard Specifications shall be the minimum standard.
- (k) Pavement Widths and Right-of-Way. Pavement widths and rights-of-way shall be as follows:
 - (1) Major arterial streets shall have a right-of-way width of at least ninety (90) feet, with a pavement width of at least two (2) divided twenty-seven (27) foot lanes.
 - (2) Minor arterial streets shall have a right-of-way of at least seventy (70) feet and a pavement width of at least thirty-six (36) feet.
 - (3) Collector streets shall have a right-of-way of at least sixty (60) feet and a pavement width of at least twenty-four (24) feet.
 - (4) Local streets shall have a right-of-way width of at least sixty (60) feet and a pavement width of at least eighteen (18) feet with ribbon curbing causing a total width of twenty (20) feet.
- (l) Pavement widths and rights-of-way of streets forming part of the subdivision. Pavement widths and rights-of-way of streets forming part of the subdivision shall be as follows:
 - (1) The subdivider shall dedicate a right-of-way of ninety (90) feet in width for new adjacent major arterial streets, and two (2) lanes each with twenty-seven (27) foot widths shall be paved.
 - (2) New major arterials, minor arterials, collector, and local streets shall conform to Section 3.303(j) of this Chapter.

(3) Where the proposed subdivision abuts upon an existing street or half-street that does not conform to the requirements of this subsection, the subdivider shall dedicate right-of-way sufficient to make the full right-of-way width conform to such Paragraph, and there shall be paved so much of such right-of-way as to make the full pavement width comply with such Paragraph. Before any pavement is laid to widen existing pavement, the existing pavement shall be cut back at least two (2) feet to assure an adequate sub-base and pavement joint.

(m) **Curbs.** Ribbon curbs shall be installed by the subdivider on both sides of all interior streets, and on the subdivision side of all streets forming part of the boundary of the subdivision. In lieu of curbs and gutters, ribbon curbs shall be constructed of Portland cement concrete at least twelve (12) inches in width, and eighteen (18) inches in depth and flush with the pavement. Materials shall conform to the City of Austin Standard Specifications for Public Works Construction as amended.

(n) **Roadway Drainage.**

(1) As a general rule, drainage carried in roadside channels shall be minimized and off-roadway locations shall be used as the primary drainage network whenever practicable.

(2) When roadside channels are required, they shall be contained within a dedicated right-of-way or right-of-way easement. Channel sideslopes shall be no steeper than four:one (4:1), except for curves and transitions where slope stabilization acceptable to the City's engineer may be allowed. Roadways shall be designed for fordable driveway approaches whenever practical. All driveways shall be designed such that drainage flow from a twenty-five (25) year storm shall not exceed a depth of twelve (12) inches on any portion of the driveway. Should driveway culverts be required, the culvert design, capacity, and general location shall be shown on the construction plans. In no case shall driveway approaches constitute a blockage of roadway drainage.

(o) **Street Names.** Names of new streets shall not duplicate or cause confusion with the names of existing streets in the cities of Sunset Valley and Austin unless the new streets are a continuation of or in alignment with existing streets, in which case names of existing streets shall be used.

(p) **Street Lights.** Street lights shall be installed by the subdivider at major street intersections within the subdivision and at major intersections on the boundaries of the subdivision inside the corporate limits of the City, as deemed appropriate by the City Council.

(q) **Street Signs.** Street signs shall be installed by the subdivider at all intersections within or abutting the subdivision. Such signs shall be of a type approved by the City, and shall be installed in accordance with standards of the City.

(r) **Street Striping.** Striping shall be applied by the subdivider in compliance with State and City guidelines.

Sec. 3.304 Blocks

Block lengths shall not exceed 2,000 feet, nor be less than 400 feet unless approved by the City Council.

Sec. 3.305 Crosswalk Ways

Crosswalk ways four (4) feet in width shall be dedicated where deemed necessary by the City Council to provide circulation or access to schools, playgrounds, shopping centers, and transportation and other community facilities, or to provide pedestrian circulation within the subdivision. Crosswalk ways shall be provided with concrete or other approved sidewalk material at least four (4) feet wide.

Sec. 3.306 Lots

- (a) The minimum and average sizes of lots shall be in accordance with Sections 4.201(c) and 4.202(c) of Chapter 4. Lots shall not be located within the Critical Water Quality Zone.
- (b) In case of irregularly shaped lots, the minimum width shall be measured at the front building setback line. Corner lots shall be at least one hundred (100) feet wide. Lots abutting on crosswalk ways shall be treated as corner lots.
- (c) Each single family lot shall front upon a public street. Lots of irregular shape shall not be allowed unless they have a street frontage of at least one hundred (100) feet. Lots on a cul-de-sac street shall have a minimum street frontage of sixty (60) feet.
- (d) Side lot lines shall be substantially at right angles to straight street lines and radial to curved street lines.
- (e) The minimum front building setback line shall be required of at least fifty (50) feet from the front property line. Where a corner lot is a key lot (where lots face the frontage street and other lots face the side street), the corner lot shall have at least the minimum building setback line on both streets. Where a corner lot is not a key lot, it shall have a minimum building setback line from the side street of at least twenty (20) feet. Lots abutting a crosswalk way shall be treated as corner lots.
- (f) Minimum rear yard depths shall be thirty (30) feet from the rear lot line.
- (g) The minimum side yard width on each side of buildings on interior lots and on the building side of corner lots shall be at least fifteen (15) feet. Lots abutting on crosswalk ways shall be treated as corner lots.
- (h) Where a lot in a residential area backs up to a railroad right-of-way, a high-pressure gasoline, oil or gas line, an arterial street, an industrial area, or other land use which has a depreciating effect on the residential use of property, and where no street is provided at the rear of such lot, additional depth shall be required by the City Council. In no case shall a depth in excess of twenty (20) additional feet be required. Where a lot sides to any of the above, additional width shall be required by the City Council, but in no event shall a width in excess of twenty (20) additional feet be required.
- (i) The minimum setback lines, minimum yard depths, side yard widths, and other such features as required by the council and by this Chapter shall be clearly indicated on the final plat, either by delineation or by statement.

Sec. 3.307 Sidewalks

Sidewalks shall be constructed in the following locations:

- (a) On the subdivision side of all through streets adjacent to the subdivision;
- (b) As deemed necessary by the City Council in commercial, public, and residential areas.
- (c) Sidewalks shall be designed and constructed in accordance with accepted civil engineering practice, and with approval of the City Council. Consideration should be given to use of porous asphalt and other permeable, stable materials.

Sec. 3.308 Short Form Subdivisions

(a) **General.** A short form procedure may be followed for the approval of a subdivision only when the land proposed to be subdivided or resubdivided meets the following conditions and requirements:

- (1) Such land abuts upon a street of adequate width and is so situated that no additional streets and no easements or other public property, other than public utility easements, are required in order to meet the requirements of this Code.
- (2) The perimeter of the tract being subdivided has been surveyed and marked on the ground and plat thereof prepared and filed with the City Council, and the nearest corner of each lot or parcel of such proposed subdivision is within two hundred (200) feet of a known corner which is adequately marked by a concrete monument or iron stake.
- (3) The topography of the tract and the surrounding lands is such that no regard need be given in such subdivision to drainage, or, where drainage facilities are required, arrangements have been made for the construction of such facilities and noted as conditions on the plat upon which approval is predicated.
- (4) The utilities, as required in this Code, are in place to serve each parcel or lot of such subdivision or resubdivision, or arrangements to provide such utilities have been made and their construction and maintenance guaranteed as required by this Chapter.
- (5) Written notice of a proposed subdivision or confirming plat shall be given to owners of real property lying within five hundred (500) feet of the boundaries of the property to be subdivided in accordance with Article V, Section 3.201(f)(8) of Chapter 3 of this Code.

(b) **Plat Filing.**

- (1) When the land proposed to be subdivided meets the requirements and conditions of the preceding subsection, the owner of such tract of land may deliver to the City a plat of the same, accompanied by a fee as specified by ordinance or resolution for the final plat not less than fifteen (15) days prior to the next regularly scheduled City Council meeting.
- (2) The plat shall be signed and acknowledged by the owner of the land and shall be accompanied by tax certificates indicating that all taxes are current.
- (3) This procedure shall not be used if the uses proposed for any part of the land are inconsistent with existing zoning regulations.

(c) **Plat Contents.** The plat of a subdivision under this Chapter shall be drawn in indelible ink on a durable, permanent, and reproducible medium acceptable to the City Council at a scale of one hundred (100) feet to one (1) inch and shall show the following information:

- (1) Existing streets, alleys, easements and other public property serving the land being subdivided.
- (2) Adjoining tracts of land.
- (3) Known marked or monumented corners.
- (4) Length of lot lines and, where necessary, their courses.
- (5) Certification by a registered professional engineer as specified in Section 3.202(a)(5)(j) of Chapter 3 of this Code.

(d) **Plat Approval or Disapproval.**

- (1) The City Council shall cause the plat filed under this Code to be checked as specified in Section 3.202(b)(4) of Chapter 3 of this Code.
- (2) The City Council shall consider the plat filed under this Code, and shall approve or disapprove such plat within thirty (30) days from the date of its filing with the City Council.

Sec. 3.309 Parks and Other Public Uses

All land within the critical water quality zone in the property to be subdivided shall be dedicated in fee simple to the City to protect water quality. A space equal to at least three (3) percent of the total property to be subdivided shall be dedicated in fee simple to the City for recreational or conservational use. The subdivider shall receive a credit on meeting this three (3) percent requirement for all land dedicated in the critical water quality zone, provided there will be no credit for any land used for roadway or utility easements.

In lieu of land within the property to be subdivided, the City shall have the option to arrange for the acquisition and dedication of other land of similar value if mutually agreeable to the subdivider and the City, or to accept a deposit of money in a trust account in the amount equal to the market value, as reflected on the Travis Central Appraisal District Property Tax Appraisal Roll, of three (3) percent of the total property to be subdivided for the tax year in which the property is subdivided. These funds are to be used by the City for acquisition of park land, recreational facilities or conservation in another area. No area or facility shall be dedicated for such public purposes unless approved and accepted by the Council.

Sec. 3.310 Wastewater System Installation

- (a) All subdivisions shall be provided with City approved sewage treatment and disposal systems.
- (b) Connection with a sanitary sewer system shall be required by the City Council.
- (c) Alternative sewage systems may be allowed upon approval of the City Council.
- (d) If the subdivision is not to be served immediately by a sewage-collecting system connected to a community septic tank system or treatment plant or to a public sewer system, and if disposal of domestic sewage through an onsite system has not been approved by the City or another duly authorized official, a restriction shall be filed with the Secretary for the City and the County Clerk which states that occupancy of any lot shall be prohibited until a wastewater system is installed in accordance with the rules and regulations of the State Department of Health and the County Health Department and has been inspected and approved by the City.

Sec. 3.311 Responsibility for Payment of Installation Costs

- (a) All expenses for installation of utilities, water, sewer extensions, street lights, signs, streets, and all other installation expenses associated with the subdivision or confirming plat shall be borne by the subdivider.
- (b) The subdivider is responsible for the water and sewer extensions, tap fees, and any other charges which may be assessed against the improvements by the subdivider on water and sewer improvements.
- (c) All street construction costs and installation of street appurtenances are to be paid by the subdivider.

Sec. 3.312 Drainage

(a) The interpretation of the requirements set forth in this Section shall be made by the City's engineer or designate, unless specified otherwise by the City Council. The subdivider shall be responsible for the conveyance of all storm drainage flowing through or abutting the subject property, including drainage directed to the property by prior development as well as that naturally flowing by reason of topography.

(b) Where new drainage improvements are required along the boundary of a subdivision, the owner proposing development shall be responsible for designing and constructing all the required improvements at or before the time of development, including the dedication of all necessary rights-of-way or easements necessary to accommodate the improvements. Where the subdivider proposes to subdivide only a portion of the property, only the drainage improvements for the portion being subdivided shall be required to be installed, except as drainage improvements outside the portion being subdivided are deemed necessary by the City for proper drainage of the portion being subdivided.

(c) The responsibility of the subdivider shall extend to the provision of adequate off-site drainage facilities and improvements to accommodate the full effects of the development of said property.

(d) When the subdivider certifies by affidavit that a bona fide attempt to acquire property rights to meet off-site drainage requirements was not successful, the City may assist at its discretion in the acquisition of necessary property rights to provide for the construction of off-site drainage improvements. In such cases, the subdivider shall make adequate guarantees that he will stand the full cost of acquiring said property rights and constructing the off-site improvements and facilities.

(e) Unless otherwise specified herein, the design of all storm drainage facilities shall be in accordance with the minimum provisions of the City of Austin, Texas, Drainage Criteria Manual, as amended.

(f) Computation of runoff shall be based on a fully developed drainage area, or watershed, in accordance with the minimum provisions of the City of Austin drainage criteria. The drainage system shall be designed to convey the theoretical twenty-five (25) year storm as predicted in the Drainage Criteria Manual. The design shall further provide for system overflows from larger storms up to the intensity of the one-hundred (100) year storm without increasing the risk of flood damages to development.

- (1) Natural drainage channels shall be preserved whenever possible. Open surface drainage through grass-lined swales shall be preferred over the use of enclosed sewers, streets and street right-of-way as the central drainage network. The provisions of Section 3.303 shall apply in regard to street drainage. Drainage into or across sinkholes, faults and other areas of rapid groundwater recharge shall be avoided whenever practicable.
- (2) The rate of runoff after construction shall not exceed the site's runoff rate prior to construction. Rate of runoff shall be computed on a twenty-five (25)-year storm peak flow using the City of Austin Drainage Criteria Manual as of the effective date of this Code.
- (3) In the event that stormwater drainage systems and/or culverts are necessary, such systems shall be designed to mitigate their impact on water quality through the use of approved control strategies to control sediment and dissipate energy and through the use of multiple smaller outlets whenever practical and by locating discharges to maximize overland flow.
- (4) Surface drainage channels shall be designed to reduce velocity, minimize potential erosion and to maximize the bottom width to flow depth ratio, in accordance with the following criteria:
 - (A) Channel cross-sections shall be trapezoidal in configuration.

- (B) Side slopes of channels shall be no steeper than four (4) horizontal to one (1) vertical.
- (C) For a six-month design storm assuming wet antecedent conditions, channel bottom flow depth shall not exceed four (4) inches and design flow velocity shall be two and one-half (2½) feet per second.
- (D) All constructed and altered drainage channels shall be stabilized and vegetated immediately after final grading.
- (E) The City Council may allow exceptions to the design flow velocities or depths in the following situations in conformance with the purpose of Section 3.312(f)(3) hereof.
 - (i) On lands with greater than fifteen (15) percent slope, or less than two (2) percent slope; provided that the design flow velocity shall never be greater than three (3) feet per second or design depth greater than six (6) inches.
 - (ii) In limited transitional channel sections (such as culverts, culvert entries and exits, drop sections, sharp bends, and water quality basin entries).

(g) Public easements or rights-of-way shall include all drainage at least to the limits of the twenty-five (25) year flood as indicated on the flood plain maps or as determined on the basis of the Drainage Criteria Manual. The minimum drainage easement or right-of-way width shall be twenty-five (25) feet. All drainage easements across private property shall contain the necessary language to permit the required unobstructed water flow, require maintenance of vegetation by the property owner(s), and permit the necessary access by City officials for inspection and repairs. All easements, twenty-five (25) and one hundred (100) year flood plain boundaries and water quality zones shall be clearly shown on drainage plans and the final plat.

(h) As a general rule, drainage carried in roadside channels shall be minimized and off-roadway locations shall be used as the primary drainage network whenever practicable.

(i) When roadside channels are required, they shall be contained within a dedicated right-of-way or right-of-way easement. Channel sideslopes shall be no steeper than four:one (4:1), except for curves and transitions where slope stabilization acceptable to the City's engineer may be allowed. Roadways shall be designed for fordable driveway approaches whenever practical. All driveways shall be designed such that drainage flow from a one hundred (100) year storm shall not exceed a depth of twelve (12) inches on any portion of the driveway. Should driveway culverts be required, the culvert design, capacity, and general location shall be shown on the construction plans. Minimum driveway culvert diameter shall be twelve (12) inches. In no case shall driveway approaches constitute a blockage of roadway drainage.

(j) All drainage facilities located in the street rights-of-way shall be maintained by the appropriate jurisdiction. All drainage facilities located on private property shall be maintained by the property owner.

(k) Duly authorized inspectors of the City shall have the right of entry on the land or premises where property owners are required to maintain drainage facilities or detention facilities, at reasonable times, for the purpose of inspection or writing that the property owner comply. This notice shall describe the measures required to be taken. If, within three (3) months of the notice the maintenance required is not accomplished, the City shall either:

- (1) Cause the necessary restoration to be accomplished and assess the property owner for the City's actual cost; or

- (2) Bring an action for mandatory injunction to require the property owner to accomplish the necessary maintenance.
- (l) The required maintenance by private landowners and the power of the City shall be noted on the plat.

Sec. 3.313 Water System Installation

- (a) All subdivisions shall be provided with water supply and water distribution systems approved by the City Council. The distribution system shall be designed in accordance with the same standards and specifications as are required of the City by applicable State codes. Connection with the Municipal Water Supply System shall be required. Isolated lots may be served by a private well if permitted by the City Council. In no event shall a water well be dug without a permit from the City.
- (b) If the subdivision is not to be served immediately by the existing system, the subdivider shall be required to make necessary improvements to the system.
- (c) Before the City Council may approve a final plat for a subdivision located outside of or beyond the existing water supply system, the subdivider shall furnish the City Council and the City's engineer with statements from the State Health Department that water satisfactory for human consumption may be obtained from sources on the land.
- (d) Standard fire hydrants shall be installed as part of the water distribution system per specifications of the State Board of Insurance and the Manchaca Fire Department.
- (e) All subdivisions shall provide for, as a minimum, 130 gallons per capita of additional ground storage or 55 gallons per capita of additional elevated storage. The calculated storage volume for a residential subdivision shall be based on three (3) persons per single family living unit. In addition, as a minimum, a firm pumping capacity of 500 gallons per minute, with 20 pounds per square inch of residual pressure, shall be provided.

CHAPTER 4: WATERSHED DEVELOPMENT

Division 4.1: General Provisions

Sec. 4.100 Authority

This Chapter is adopted under the authority of the Constitution and laws of the State of Texas, including particularly, but not limited to Chapters 231, Acts of the 40th Legislature, Regular Session, 1927, as heretofore or hereafter amended (compiled as Article 974a, V.T.C.S.), and the provisions of Chapter 212 of the Texas Local Government Code. This Chapter is adopted pursuant to the provisions of the general law of the city.

Sec. 4.101 Purpose

The purpose of this Chapter is to provide for the orderly, safe and healthful development of the area within the corporate limits of Sunset Valley and the City's extraterritorial jurisdiction and to promote the health, safety, morals and general welfare of the community.

Sec. 4.102 Permit Required

- (a) No land in the City of Sunset Valley or its extraterritorial jurisdiction shall be developed and no improvement shall be constructed or installed thereon until such proposed development, construction or installation is in compliance with all applicable provisions of this Code and any other ordinance or City Code and has been approved by the City Council in accordance with this Chapter.
- (b) No permit of any kind shall be issued pursuant to this Code for the construction, repair, or modification of any structure, or improvement or for the installation of a Public or Private Sewage Facility unless a watershed development permit for such construction, repair or modification or installation has been approved and filed with the City of Sunset Valley and all applicable standards contained herein or referred to in this Chapter have been complied with in full.
- (c) Any right, privilege or remedy granted by this Chapter to the person obtaining or holding permit approval shall also run in favor of such person's successors in interest and assigns. Any duty or obligation of or remedy against such person arising from this Chapter shall also inure to such person's successors in interest, assigns, agents, employees, representatives, or any person acting pursuant to the direction of any the foregoing, or under color of the same.
- (d) The City shall neither sell nor supply any water or sewage service nor authorize natural gas or electricity service for use on: (i) improved property either developed or improved without an approved watershed development permit at a time when such permit was required by applicable law; or (ii) improved property which is not in compliance with any standard or regulation applicable to the property pursuant to approval of a watershed development permit for the property.
- (e) In behalf of the City, the City attorney, shall when directed by the City Council, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this Chapter or the standards referred to herein with respect to any violation thereof which occurs within the City, within the extraterritorial jurisdiction of the City, or within any area subject to all or a part of the provisions of this Chapter.
- (f) Provided, however, that the provisions of this Section shall not be construed to prohibit the issuance of a permit for any parcel of land that meets the following conditions:

- (1) The parcel had a residential building and the building was in existence and in use as a residence prior to the passage of Ordinance 920519 of the City of Sunset Valley; and
- (2) The last conveyance of the parcel prior to the passage of Ordinance 920519 was either by metes and bounds or by lot and block if within a subdivision and said conveyance was filed of record with the property records of Travis County, Texas prior to the passage of Ordinance 920519.

(g) The provisions of this Chapter shall not be construed to prohibit the issuance of permits for repair or maintenance.

Sec. 4.103 Variances

- (a) All requests for variances must be submitted in writing to the City Council. The City Council may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In making the findings herein required, Council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience, and the welfare in the vicinity. No variance shall be approved unless the City Council finds:
 - (1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable and economic use of his land; and
 - (2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
 - (3) That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area; and
 - (4) That the granting of the variance will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of this Chapter; and
 - (5) That the proposal demonstrates water quality will be equal to or better than would have resulted had development proceeded without the variance.
- (b) 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 such variance is recommended. Variances may be recommended only when in harmony with the general purposes and intent of this Chapter so that the public health, safety, and welfare may be secured and substantial justice done. Pecuniary hardships to a person or developer standing alone, shall not be deemed to constitute undue hardship.
- (c) The City Council may grant a variance from the terms referring to the Development Free Zone within a proposed plan when the strict compliance will result in an unreasonable and unwarranted taking or an undue hardship. Where such conditions are found, the variance permitted shall be the minimum departure from the terms of this Chapter necessary to avoid such deprivation of privileges enjoyed by such other property to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences. The City Council may not grant a variance if it would provide the applicant with any special privileges not enjoyed by other similarly situated property with the similarly timed development.

(d) Any application for a variance shall be accompanied by the fees set by the Council in the fee schedules adopted by ordinance or resolution.

Sec. 4.104 Exemptions

(a) General. Except as expressly authorized in this Section, no development, as that term is defined in this Code, can occur or be undertaken within the City of Sunset Valley or its extraterritorial jurisdiction unless a watershed development permit has been issued in conformity with the provisions of this Chapter.

(b) Residential Construction.

- (1) No watershed development permit is required for the construction of one single family residence on a legal lot provided the entire lot is located within the uplands zone and provided that the owner and/or developer of the property complies with the impervious cover requirements set forth in this Chapter and with the building and site development requirements imposed by this or other applicable City provisions of this Code and City ordinances.
- (2) For the construction of a single family development that proposes residential lots of no less than five acres per lot and is appropriately restricted to that residential density, a watershed development permit is required, however, no Water Quality Controls are required, provided the owner and/or developer of the property complies with the impervious cover requirements set forth in this Chapter and with the building and site development requirements imposed by this or other applicable provisions of this Code and City ordinances.
- (3) Additions and/or accessory structures to any single-family residence existing prior to the adoption of Ordinance 920519, shall be allowed, provided that the total impervious cover including both proposed and existing structures, drives, etc. does not exceed eighteen (18) percent.

(c) Capital Improvement Projects. For the construction of Capital Improvement Projects for roadways, a watershed development permit is required, however, the impervious cover calculations addressed in this Chapter do not apply.

(d) Minor Fill Activities.

- (1) This subsection applies to minor fill activities involving the deposit of no more than 10 cubic yards of fill on property within the City or its extraterritorial jurisdiction, provided that no part of said fill shall be or is to be deposited on land located within the critical water quality zone, the water quality transition zone or a drainage easement. If any part of said fill is to be deposited on any land so located, a watershed development permit must be applied for and issued and the requirements of this Chapter must be complied with in full.
- (2) If the City has reason to believe that more than 10 cubic yards of fill is being deposited within the critical water quality zone, water quality transition zone or a drainage easement, without a permit therefore, the City shall issue a stop work order to both the property owner and the person depositing the fill. No additional fill shall be deposited or further work done in connection with the project until either a development fill permit is obtained pursuant to paragraph 6(d)(3) below, or a watershed development permit is obtained in accordance with and as required by the provisions of this Chapter.
- (3) Any developer, property owner or other person wishing to deposit more than 10 but fewer than 50 cubic yards of fill on property within the City or this extraterritorial jurisdiction shall

first secure a development fill permit. The application for the development fill permit shall be on such form as may be provided by the City, and shall be reviewed by the City Secretary and the Mayor or the Mayor Pro Tempore, who shall determine whether the proposed project qualifies as a minor fill activity. Such determination shall be based upon the information contained in the application and such other information as the City may reasonably require. Due consideration shall be given to such factors as the use and proposed location of the fill, the nature, number, location and frequency of prior deposits of fill on the property, the location and topography of property on which the fill is proposed to be deposited, and the impact of the deposit on the environment and the public health, safety and welfare. If the proposed project is found to qualify as a minor fill activity, a development fill permit shall be issued, subject to such conditions as the City may reasonably impose. No permit fees and no City inspections shall be required in connection with the issuance of the permit.

- (4) If the City Secretary and Mayor or Mayor Pro Tempore determine, in accordance with the guidelines set forth in Section 4.104(d)(3) above, that the proposed project does not qualify as a minor fill activity, the permit applicant shall be notified of such determination in writing, and advised that he or she may not engage in or proceed with the proposed fill activity without first complying with all provisions of this Chapter relevant to the securing of watershed development permits and the requirements for the issuance of said permits.
- (5) The applicant may appeal the determination of the City Secretary and the Mayor or Mayor Pro Tempore that the proposed project does not qualify as a minor fill activity by filing written notice of appeal with the City Secretary within ten business days of receipt of the notice referred to in Section 4.104(d)(4) above. The City Council shall consider said appeal as soon as practicable, and shall either affirm, modify or overrule the determination.
- (6) With respect to any fill proposed to be deposited above, the applicant shall submit to the City the identity of the source of any fill material to be deposited and the certification of the owner of such fill that same does not contain any hazardous or toxic substances or materials.

Sec. 4.105 Site Plan Submittals

- (a) General. Prior to issuance of a Watershed Development Permit, the following information shall be submitted to the City for review and approval.
- (b) Standard Preliminary Requirements.
 - (1) Preliminary Site Plan Submittals shall include the following:
 - (A) Six (6) copies of a preliminary site plan showing the following information shall be submitted with the development permit application.
 - (B) Legal description of the property;
 - (C) Name and address of the Owner/Developer;
 - (D) Name and address of the company or individual who prepared the site plan;
 - (E) A topographic map with two (2) foot contours based upon City of Austin data showing:
 - (i) Location of all classified waterways showing the limits of each classification;

- (ii) The horizontal limits and elevations of the one-hundred (100) and twenty-five (25) year flood plains with a citation of the source of the information;
- (iii) Locations of the Critical Water Quality Zone (CWQZ) and the Water Quality Transition Zone (WQTZ);
- (iv) Location of trees having a trunk with a six (6) inch diameter or a circumference of 19 inches or greater measured 4½ feet above the ground;
- (v) Existing geologic features including but not limited to faults and fractures along waterways and other critical environmental features (CEF) as defined herein;
- (vi) Location of all proposed improvements including buildings, streets, driveways, storm drainage systems, water supply and distribution systems, wastewater collection systems or wastewater treatment and disposal systems;
- (vii) Location of all temporary erosion/sedimentation controls and permanent water quality controls;
- (F) Location of the city limits line, the outer boundary of the City's extraterritorial jurisdiction, and the boundaries of the zoning districts, both on the subject property and on adjacent properties;
- (G) Tabulations for the entire site and each individual lot showing total area of the site or lot, area of the CWQZ, area of the WQTZ, area of the 25-year flood plain, net site area, allowable impervious cover, impervious cover transfers, area of proposed impervious cover separated into buildings, streets, driveways, parking lots, sidewalks, and other impervious cover as appropriate; and
- (H) With respect to any fill proposed to be deposited, the identity of the source of any fill material to be deposited, and the certification of the owner of such fill that same does not contain any hazardous or toxic substances or materials.
- (I) Other information as the City may reasonably require.

(2) A map or maps showing soil map units, surface and subsurface geology, faults, sinkholes and other geologic units. Maps may be based on compiled data available from the Soil Conservation Service, U.T. Bureau of Economic Geology, City of Austin Environmental Resource Management Department and U.S. Geological Survey, and shall be complimented by an on-site geological survey conducted by a professional geologist.

(3) A report that includes the following:

- (A) A description of existing topography of the site;
- (B) A description of the geologic, soil, and vegetation characteristics of the site;
- (C) A general description of the proposed changes to the site;
- (D) A general description of the temporary measures to be utilized for the control of erosion/sedimentation during construction;
- (E) General sequencing of construction;

- (F) A description of the proposed permanent water quality controls and the basis of design;
- (G) A description of the methods proposed for site restoration; and
- (H) An analysis of the impact of the development project on sedimentation in creek bottoms, on ground and surface water quality, on the quantity and quality of recharge, and the extent to which the proposed project will alter natural drainage patterns and the impact of any such changes.
- (I) A Traffic Impact Analysis, if required as a condition of approval of the preliminary site plan.

(4) Preliminary landscape plan prepared in compliance with the requirements of the Landscape provisions of this Code.

(c) The preliminary site plan submittal shall be approved if the City Council finds that the proposed development as specified in the preliminary site plan submittal is in compliance with all applicable provisions of this Code and any other ordinance or City Code.

(d) Standard Final Site Requirements. Within six (6) months of approval of the preliminary site plan, a final site plan shall be submitted. A preliminary site plan shall expire if a final site plan is not submitted within this time frame.

A final site plan shall contain the following information:

- (1) Detailed construction plans bearing the seal and signature of a professional engineer, containing the following information.
 - (A) Cover sheet with appropriate signature block;
 - (B) General construction notes;
 - (C) Final grading plans where appropriate drawn at a scale of 1"=50' (max.);
 - (D) Plans and profiles for streets, storm sewers, drainage channels, wastewater lines, water lines 12 inches in diameter and larger, water quality control facilities, driveways, curbcuts and access points to public streets, alleys and rights of way drawn at a scale of 1"=50' (max.) horizontal and 1"=5' (max.) vertically;
 - (E) Construction details and typical sections;
 - (F) Temporary erosion/sedimentation control plans drawn at a scale of 1"=100' (max.) and appropriate details;
 - (G) Tree protection plan drawn at a scale of 1"=100' (max.) and appropriate details; and
 - (H) Final restoration plan drawn at a scale of 1"=100' (max.) including any appropriate specifications, details, and application rates for seeding, fertilizing, and mulching.
 - (I) Any change or deviation from the Preliminary Site Plan submittal for the affected property.

(2) Engineering Design Report bearing the seal and signature of a professional engineer certifying to the accuracy and completeness of the report containing the following information:

- (A) Description of the basis for design of each element of the project;
- (B) Detailed design calculations in conformance with the provisions of this Chapter on "Standards and Specifications" and other referenced design manuals;
- (C) Printouts of computer models used in the design of the proposed improvements;
- (E) Subsurface investigation reports where appropriate to justify basis of design;
- (E) Traffic Impact Analysis if required as a condition of the approval of the preliminary site plan;
- (F) Itemized estimated cost of all proposed improvements.
- (G) Such other information as the City may reasonably require; and,
- (H) The signature of the owner of the property to be developed and, if someone other than the owner, the developer of the project.

(3) Final Landscape Plan

(e) The final site plan shall be approved if the City Council finds that the proposed development as specified in the final site plan is in compliance with all applicable provisions of this Code and any other ordinance or City Code.

(f) Small Project Requirements. For a legal lot which is to be developed with one single family residence and which is not otherwise exempt from the requirements of this Chapter, only the following information will be required for submittal:

- (1) three (3) copies of a preliminary site plan showing the following information shall be submitted with the development permit application;
- (2) legal description of the property;
- (3) name and address of the Owner/Developer;
- (4) name and address of the company or individual who prepared the site plan;
- (5) a topographic map with two (2) foot contours based upon City of Austin data showing:
 - (A) the horizontal limits and elevations of the one-hundred (100) and twenty-five (25) year flood plains with a citation of the source of the information;
 - (B) locations of the Critical Water Quality Zone (CWQZ) and the Water Quality Transition Zone (WQTZ);
 - (C) location of trees having a trunk with a six (6) inch diameter or a circumference of 19 inches or greater measured 4½ feet above the ground that will be removed;
 - (D) existing geologic features including but not limited to faults and fractures along waterways and other critical environmental features (CEF) as defined herein;

- (E) location of all proposed improvements including buildings, streets, driveways, storm drainage systems, water supply and distribution systems, wastewater collection systems or wastewater treatment and disposal systems;
- (F) location of all temporary erosion/sedimentation controls and permanent water quality controls;

(6) With respect to any fill proposed to be deposited, the identity of the source of any fill material to be deposited, and the certification of the owner of such fill that same does not contain any hazardous or toxic substances or materials.

(7) Other information as the City may reasonably require.

(g) Upon approval of the final site plan and provided that the proposed development is in compliance with all applicable provisions of this Code and other ordinances and City Codes, the City Council shall issue a Watershed Development Permit.

Sec. 4.106 Additional Requirements for Issuance of Watershed Development Permit for Deposits of Fill Unrelated to Onsite Construction Activities

- (a) **General Provisions.** This Section sets forth requirements applicable to watershed development applications and permits for deposits of fill unrelated to on-site construction activities. For purposes of this Section, the deposit of fill is unrelated to on-site construction activities if the construction or substantial modification of the building, structure, roadway or utility in connection with which the fill is deposited is not sequenced to begin within 60 days prior to or after the deposit of the fill.
- (b) **Application Requirements.**
 - (1) designate where the fill is proposed to be deposited;
 - (2) identify the quantity of the fill to be deposited;
 - (3) identify the source and type of the fill to be deposited;
 - (4) be signed by the contractor or other person responsible for the transport of the fill and the owner of the property on which the fill is to be deposited.
- (c) **Cash Deposit.** A cash deposit shall be tendered to the City prior to the issuance of a permit for any fill activity subject to the provisions of this Section. The amount of the cash deposit shall be based upon the City Engineer's estimate of the following:
 - (1) the cost of hiring a gatekeeper to monitor compliance with the terms of the permit relevant to the source and quantity of the fill;
 - (2) the cost of removing the fill if same is not deposited in accordance with the terms of the permit;
 - (3) the cost of grading and/or revegetating the fill site if same is not done in accordance with the terms of the permit; and
 - (4) reasonable administrative costs incurred by the City in connection with the foregoing.
- (d) **Permit Terms.** Upon the applicant's tender of the cash deposit, and compliance with the provisions of this Chapter, the City Council may issue the watershed development permit. The permit shall

specify the duties of the gatekeeper, the location at which the fill shall be deposited, the quantity of the fill that shall be deposited, the source of the fill to be deposited, how the fill site is to be graded, how the fill site is to be revegetated, and the dates by which such grading and revegetation must be completed. Unless authorized by the City council, all grading shall be completed within 30 days of the deposit of the authorized fill, and revegetation of the fill site within 30 days thereafter.

- (e) **Inspections and Notice to Correct.** The City shall have the right to enter upon the property and inspect the fill site. If the City determines that the terms of the permit are being or have been violated, the City shall issue a written stop work order, and/or a written notice to correct the violation(s). The notice to correct shall be served upon the owner and the contractor and shall identify the violations and specify the corrective action to be taken and the time within which same must be completed. The notice shall also advise that if the corrective action is not completed as directed, the City will draw upon the cash deposit and perform or cause to be performed the required corrective action.
- (f) **Appeals.** The owner and/or contractor may appeal the City's determination that the terms of the permit have been violated by filing a written notice of appeal with the City Secretary within ten (10) business days of receipt of the notice to correct. The City Council shall consider said appeal as soon as practicable. If the City Council determines that any condition of the permit has been violated, it may proceed to draw upon the cash deposit and perform or cause to be performed the required corrective action.
- (g) **Draw on Deposit.** If no appeal is taken in accordance with and as authorized by subsection (f), and the required corrective action is not completed as and within the time directed, the City may draw upon the cash deposit and perform or cause to be performed the required corrective action.
- (h) **Refund of Deposit Balance.** Upon final inspection and the City's determination that the terms of the permit have been satisfied, the City shall refund the balance of the cash deposit that remains after deductions therefrom have been made to pay the expenses of the gatekeeper, the costs incurred by the City in connection with its performance of any required corrective action and the City's reasonable administrative costs incurred in connection with the foregoing.

Division 4.2: Water Quality Zones

Sec. 4.200 Critical Water Quality Zone

- (a) Critical water quality zones shall be established along all creeks and tributaries with drainage basins greater than sixty-four (64) acres in size. The zone line shall be delineated parallel to each such creek or tributary according to the size of the drainage basin.
 - (1) For minor waterways, the zone line shall be defined by the limits of the one hundred year flood plain, provided that it shall never be extended beyond one hundred (100) feet on each side from the centerline of the waterway.
 - (2) For intermediate waterways, the zone line shall be defined by the one hundred year flood plain, provided that it shall never be located greater than two hundred (200) feet nor less than one hundred (100) feet on each side from the center line of the waterway. (S.V. Branch of Williamson Creek)
 - (3) For major waterways, the zone line shall be defined by the one hundred year flood plain; provided that it shall never be located greater than four hundred (400) feet not less than two hundred (200) feet on each side from the center line of the waterway. (Williamson Creek) (Dry Fork Creek)

- (b) The flood plain delineation shall be based on a channel in its unaltered state, and shall assume fully developed watershed conditions.
- (c) The critical water quality zone shall remain free of all construction activity, development and alterations except that the following may be permitted:
 - (1) Utilities as provided by Section 4.200(d) and (e) of this Chapter.
 - (2) Fences that do not obstruct flood flows.
 - (3) Public and private parks and open space, with development in the parks and open space limited to trails and outdoor facilities (other than stables and corrals for animals) for hiking, jogging, nonmotorized biking, and nature walks when a program of fertilizer, pesticide and herbicide use is approved by the City.
 - (4) Concrete private drives to allow access to property not otherwise accessible.
 - (5) Arterial, collector and residential street crossings provided no major waterways may be crossed.
- (d) All utilities other than wastewater shall be located outside the critical water quality zone, except for crossings.
- (e) Wastewater trunk lines and lateral lines shall be located outside the critical water quality zone whenever possible except for crossings. At the time of the watershed development permit application review, the City's appointed designate shall make a report to the City Council on any significant environmental impact and possible alternatives related to wastewater line locations in the critical water quality zone. In no case shall any wastewater line be located less than one hundred (100) feet from the center line of a major waterway or fifty (50) feet from the center line of an intermediate waterway except for crossings, unless approved by the City Council upon consideration of reports by the City appointed designate, and unless the applicant has shown that installation outside of this zone is physically prohibitive or environmentally unsound.

Sec. 4.201 Water Quality Transition Zone

- (a) A water quality transition zone shall be established parallel to all critical water quality zones, and shall extend from the outer boundaries of the critical water quality zone for three hundred (300) feet along major waterways, two hundred (200) feet along intermediate waterways, and one hundred (100) feet along minor waterways.
- (b) The water quality transition zone shall remain free of all construction activity, development and alterations except that the following may be permitted:
 - (1) Utilities as provided by Section 4.200(d) and (e) of this Chapter.
 - (2) Fences that do not obstruct flood flows.
 - (3) Public and private parks and open space, with development in the parks and open space limited to trails and outdoor facilities (other than stables and corrals for animals) for hiking, jogging, nonmotorized biking, and nature walks when a program of fertilizer, pesticide and herbicide use is approved by the City.
 - (4) Concrete private drives to allow access to property not otherwise accessible.

- (5) Arterial, collector and residential street crossing provided no major waterways may be crossed.
- (6) Minor drainage facilities and water quality controls, provided such facilities or controls are in compliance with the floodplain modification guidelines section of the City of Austin Environmental Criteria Manual, as amended, as if they were in the floodplain.
- (7) Additions and/or accessory structures to any single-family residence existing prior to the adoption of this Code, shall be allowed, as provided in Section 4.104(b)(3) of Chapter 4 of this Code.
- (c) The minimum size of all lots within or partially within a water quality transition zone shall be at least one (1) acre, exclusive of all land within a twenty-five (25) year floodplain.
- (d) No commercial development shall occur within the water quality transition zone.

Sec. 4.202 Upland Zone

- (a) An uplands zone is established to be that portion of land which is not located within the Critical Water Quality Zone or the Critical Water Transition Zone.
- (b) Development limitations including impervious cover shall not exceed the limits set forth in Section 4.301 of this Chapter.
- (c) The minimum size of all lots within the uplands zone shall be at least one (1) acre.

Division 4.3: Building Sites/Impervious Cover Calculation and Transfer of Development Intensity

Sec. 4.300 Building Sites

All lots or tracts of land shall contain an adequate building site prior to development. An adequate building site shall not contain:

- (a) Discontinuous segments;
- (b) Land within the critical water quality zone;
- (c) Land within the water quality transition zone;
- (d) Land within a drainage or utility easement;
- (e) Any stream, pond or permanent water quality controls;
- (f) Land within building setback lines.

Sec. 4.301 Impervious Cover Calculations

- (a) Although a certain percentage of impervious cover is discussed and designated within this Section, nothing in this Section shall release a person from meeting the requirements of the zoning and landscape provisions of this Code.
- (b) Impervious cover calculations shall include all roads, driveways, parking areas, buildings, concrete and other impermeable construction covering the natural land surface. Swimming pool surface water area for pools which discharge to a storm drainage system shall also be included. All pedestrian sidewalks within public right-of-way are excluded from the impervious cover calculations.

Water quality controls and other conveyances for drainage purposes only shall not be calculated as impervious cover.

- (c) Impervious cover credits shall not be given for permeable or interlocking pavers.
- (d) Impervious cover calculations for single family lots shall be assumed as follows:

LOT AREA	IMPERVIOUS COVER
Three (3) acres or greater	5,000 square feet
One (1) to Three (3) acres	4,000 square feet
Less than one (1) acre	3,500 square feet

- (e) Single family lots shall not exceed one residential unit per acre nor 18 percent aggregate impervious cover.
- (f) The projected impervious cover on any single commercial or multi-family residential lot or undivided tract in the upland zone shall not exceed forty (40) percent with the following exceptions:
 - (1) a maximum of fifty (50) percent shall be allowed if transfers of development intensity are made in accordance with Section 4.302 of this Chapter.
 - (2) a maximum of fifty (50) percent shall be allowed on a tract of land consisting of ten (10) acres or more if it is located along Highway 290 and the entire development utilizes one (1) water quality control facility.
- (g) Impervious cover calculations shall include each roadway within a proposed development only up to a maximum pavement width of twenty four (24) feet. Requirements for water quality controls or detention facilities for runoff from such roadways are not affected by this provision.
- (h) Development adjacent to roadways shall include in its calculations the roadway's impervious cover as outlined in the City of Austin Environmental Criteria Manual, as amended, except that this provision does not apply to those roadways that already have Water Quality Controls in place or have been approved for construction by the City Council.
- (i) Impervious cover calculations for development within the extraterritorial jurisdiction of the City, shall include any site area used for the storage of scrap and metal salvage, including auto salvage, as impervious cover.
- (j) In calculating projected impervious cover data, all existing impervious surfaces shall be included in the calculations and charged against impervious cover allowances. This provision does not include any "natural" imperviousness, such as rock outcrops. Roads, parking area, buildings and other construction are to be assumed as one hundred (100) percent impermeable unless specific proposed alternate surfaces are authorized as being less than such by the City Council or its appointed designate. Water quality basins, swales and other conveyances for overland drainage need not be calculated as impervious cover.

Sec. 4.302 Transfer of Development Intensity

- (a) Development intensity transfer credits is not permitted on land which is located within the Critical Water Quality Zone.
- (b) Development intensity transfer credits for land within the Water Quality Transition Zone is permitted for commercial and multi-family lots. For each one (1) acre of land the impervious cover limitation for commercial and multi-family development in the Uplands Zone may be

increased by 6000 square feet, provided however, that the total impervious cover in the Upland Zone after such transfer shall not exceed fifty (50) percent of the total area of the Uplands Zone.

- (c) Development intensity may not be transferred to a receiving tract whose boundary is beyond a half-mile radius from the transferring tract unless the tracts are either contiguous and under single ownership or are not separated by and owned by someone other than the applicant. Development intensity may not be transferred outside the City Limits or the City's ETJ.
- (d) Development intensity rights may not be transferred unless the transferring tract is platted concurrently with the receiving tract and all rights are transferred from the transferring tract at that time. A transfer of development intensity rights must be noted on both the plat of the transferring and receiving tract, in a manner satisfactory to the City Attorney, and the subdivider must file in the deed records a restrictive covenant, approved by the City Attorney, running with the transferring tract and noting the transfer of development intensity rights from the tract.

Division 4.4: Standards and Specifications

Sec. 4.400 General

- (a) The City engineer shall inspect all land grading, drainage, detention and water quality controls to determine compliance with the released site plan.
- (b) When construction of these facilities is complete, the design engineer shall submit a concurrence letter to the City engineer stating that in the Engineer's opinion, the project is in substantial conformance with the approved construction plans. A final inspection will then be performed by the City engineer. If all applicable Code provisions and construction plan requirements are met, a Certificate of Occupancy will be released by the accountable official.
- (c) Final acceptance of facilities by the City, or approval of Certificates of Occupancy shall not be issued until a water quality control inspection of the facility and certificate of compliance is completed by the City.

Sec. 4.401 Erosion-Sedimentation Control and Construction Sequencing

- (a) Erosion and sedimentation controls in accordance with the specifications established in the Environmental Criteria Manual, as amended, are required for all construction and development, including without limitation commercial, multi-family, single-family, and two-family construction, the construction of all roads, utilities, parks, golf courses, water quality controls, detention basins, and all other activities utilizing clearing, trenching, grading or similar construction techniques.
- (b) Projects shall not be considered complete until restoration has been made, the approved permanent vegetation established and installation certified for acceptance by the City after receipt of the engineer's concurrence letter.
- (c) Significant changes to approved erosion control and construction sequencing plans may be made in the field after two days written notice to the permit holder if the City inspector deems the control or sequencing inappropriate or inadequate, and has confirmed those findings with the City. Minor changes which result in an upgrading of erosion controls or simply reflect the progression of construction on a site may be accomplished in the field without such written approval.
- (d) Development shall require a temporary erosion and sedimentation control plan and water quality plan certified by a registered professional engineer and approved by the City engineer which will control off-site sedimentation during the construction of the project by temporary structural controls, site management practices, or other approved methods until permanent revegetation is certified complete. The temporary erosion control plan must be phased to be effective at all stages

of construction and must be adjusted, maintained, and repaired as necessary. The water quality plan shall be approved in conjunction with the site plan approval.

- (1) The owner shall designate a Project Manager to the City who shall be responsible for managing the on-going compliance with the erosion and sedimentation control elements of the site plan and water quality plan during the construction periods.
- (2) If the length of time between initial clearing and final revegetation is expected to exceed six (6) months, a phased revegetation plan shall be submitted with the site plan. Phasing of the revegetation shall assume that no area remains unvegetated for a period longer than six (6) months.
- (3) It shall be a violation of this Chapter to allow sediment from a construction site to enter a minor, intermediate, or major waterway due to failure to maintain erosion controls or failure to follow the approved sequence of construction.

(e) The following general standards shall apply to all development:

- (1) Clearing of existing vegetation is prohibited unless the City determines the clearing is pursuant to and in accordance with a released site plan or a released subdivision construction plan;
- (2) Limited clearing of existing vegetation or other specified development activities necessary for surveying or geological testing is authorized before release of a site plan or subdivision construction plans to the minimum extent necessary to survey or conduct geological tests. Areas cleared for surveying or testing purposes shall not exceed a width of fifteen (15) feet. No tree with a diameter greater than eight (8) inches or having a circumference of nineteen (19) inches shall be removed in connection with surveying or testing.
- (3) Clearing of existing vegetation on land used for an agricultural use is prohibited if an application for approvals required to develop that land for other than an agricultural use is pending or such an approval has been granted, including without limitation an application for approval of a preliminary subdivision plan, a final subdivision plat, a site plan, or zoning as a district where the agricultural use is not permitted. The City may waive this prohibition if the applicant can show that the clearing has a bona fide agricultural purpose and is unrelated to the proposed development or sale of the land for nonagricultural uses.
- (4) The location for clearing for temporary storage of spoils or construction equipment shall be shown on the released site plan. Any such location shall be in accordance with the City of Austin Environmental Criteria Manual, as amended. Topsoil shall be protected against erosion during and after the site grading operations. Where practical, the existing vegetation shall be left in place.
- (5) The length of time between rough-cutting and final surfacing of a street shall not exceed 12 months. If an applicant does not meet this deadline, the City shall provide written notice to the applicant and to the record owner of the subject property that the City may complete the street or revegetate the disturbed area at the applicant's expense unless the work is completed no later than 60 days after the date of notice.
- (6) Roadway clearing width shall not exceed the width of the dedicated right-of-way.
- (7) Vegetation within the critical water quality zone and the water quality transition zone may not be disturbed except for purposes consistent with development activity permitted by Sections 4.200 and 4.201 of Chapter 4.

- (8) All constructed and altered drainage channels shall be stabilized and vegetated immediately after final grading.
- (9) The City shall submit a copy of the erosion and sedimentation control measures to the Barton Springs/Edwards Aquifer Conservation District for review and comment.

Sec. 4.402 Water Quality Controls

- (a) General. Water quality controls and the drainage systems to the controls shall be designed, constructed and maintained in accordance with the specifications established by the City of Austin Environmental Criteria Manual, as amended. Construction of Water Quality Control facilities must begin within twelve (12) months from construction plan approval. The Watershed Development Permit shall expire if construction fails to commence within this time frame.

Water quality controls shall be required according to the criteria established by this Section as evaluated for each development application. When required, water quality controls shall be shown on the slope map, preliminary plan, land use site plan, construction site plan and/or the subdivision construction plans as required by the City of Austin Environmental Criteria Manual, as amended.

- (1) For water quality controls located in series, the second or later control following sedimentation, extended detention, sedimentation/filtration or similar structure shall not require an impervious liner.
- (2) Water Quality controls shall be required for golf courses, playfields and similar improved recreational uses where fertilizers, herbicides, or pesticides are applied.
- (3) Water quality controls shall increase the capture volume by one tenth (.10) of an inch above the required one half (.50) inch for each 10% increment of impervious cover over 20%.
- (4) Water quality controls are required for all development regardless of the level of impervious cover. Such controls will be designed to meet the standards of the City of Austin Environmental Manual, as amended, provided that the design therein achieves the greatest pollutant removal efficiency for the particular site conditions.

- (b) Design Criteria. The interpretation of the requirements set forth in this Chapter shall be made by the City's engineer or designate, unless specified otherwise by the Council. Water quality controls shall be designed and constructed in conformance with the City of Austin Environmental Criteria Manual, as amended, and be approved by the City's engineer or other designate of the Council.

- (1) Water quality control facilities designed in the Water Quality Transition Zone must be placed as close to the Upland Zone line as technically practical.
- (2) Plans are to be submitted to the Texas Natural Resource Conservation Commission for approval.
- (3) All commercial/office/multi-family construction and all single-family and two-family developments with four lots or more consisting of less than five (5) acres per lot shall provide water quality controls that shall comply with the City of Austin's Environmental Manual, as amended.
- (4) Water quality control facilities shall be situated and constructed to capture runoff from residential, commercial and Multi-family developments and associated streets (including boundary streets).

(A) The water quality controls and drainage into the water quality control basins shall be designed to capture and isolate the first flush of runoff as required in Section 4.402(a)(3). All subsequent runoff in excess of the design capacity of the water quality basins shall bypass the water quality facilities and remain segregated in a detention basin up to the designed capacity specified in the City of Austin Drainage Criteria Manual, as amended.

(5) The design of all permanent water quality control sedimentation basins shall allow an average residence time of twenty-four (24) hours for the water quality volume determined in Section 4.402(a)(3).

(6) All basins shall have impervious liners to prevent seepage to groundwater, except as provided in Section 4.402(a)(1).

(7) Input to and release from detention basins shall utilize grass-lined swales and/or overland flow dispersion measures in conformance with Section 4.502 of this Chapter.

(8) No portion of a water quality control basin shall be located within the critical water quality zone.

(c) Maintenance and Compliance.

(1) All water quality control facilities and their appurtenances required for development of a commercial lot shall be maintained either by the property owner, or by the City in accordance with a contractual agreement between the City and the property owner. If the property owner will perform the maintenance, a plan for operation and maintenance shall be submitted to the City along with construction plans and must be approved by the City's engineer or designate.

(A) Water quality control facilities for a commercial lot development shall also require an annual renewal permit in accordance with Section 4.402(d)(2).

(2) All water quality control facilities and their appurtenances required for single family and two family residential development shall be maintained by the City after final acceptance. The City shall not be required to accept for maintenance any water quality control facility which does not meet the criteria established in the City of Austin Environmental Criteria Manual as amended.

(A) Water quality control facilities and their appurtenances shall be dedicated to the City by easement or fee simple as the City may require.

(3) All water quality controls and their appurtenances shall be appropriately maintained in accordance with the maintenance standards established by the City of Austin Environmental Criteria Manual, as amended.

(4) Duly authorized inspectors of the City shall have the right of entry on the land or premises where property owners are required to maintain drainage or water quality control facilities, at reasonable times, for the purpose of inspection of the maintenance required. Where facilities are found not to be in good condition, the City shall request in writing that the property owner comply and shall specify the measures required to be taken. If, within thirty (30) days of the notice the maintenance required is not accomplished, the City shall either:

(A) Cause the necessary maintenance to be accomplished and assess the property owner for the City's actual cost; OR

- (B) Bring an action for mandatory injunction to require the property owner to accomplish the necessary maintenance.
- (5) All drainage easements across private property shall contain the necessary language to permit the required water flow, allow and require the maintenance set out herein, and permit the necessary access by the City for inspection and maintenance. All these shall be properly noted on the site plan and/or subdivision plat.
- (6) The required maintenance on a commercial lot by a property owner and the power of the City shall be noted in a restrictive covenant agreement to be filed with the Travis County Deed Records.
 - (A) The applicant shall designate one person or legal entity, with a current address, to which notice shall be given pursuant to this subsection.
- (7) An inspection and renewal permit fee for water quality basins, as specified in the Fee Schedules adopted by ordinance or resolution, shall be paid at the time of development approval.

(d) Inspection and Renewal Permit.

- (1) At least once each year the City shall inspect the premises of each water quality control required to be maintained by the owner.
- (2) Any person or entity owning or operating commercial development in the City or ETJ shall obtain and maintain in force an annual renewal permit for the required water quality controls, unless the owner and the City have entered into a contractual agreement whereby the controls will be maintained by the City. A water quality control renewal permit shall be granted or renewed after:
 - (A) the applicant has filed with the City a maintenance plan in accordance with the City of Austin Environmental Criteria Manual, as amended.
 - (B) the applicant has illustrated compliance with Section 4.402(d)(2)(A) above.
 - (C) the applicant has paid the permit fee as established by City Ordinance and supplied the necessary information to verify that the controls are in proper operating condition.
- (3) Upon transfer of ownership of a commercial or multi-family development, the new owners/operators shall obtain a new permit, accept responsibility for the water quality controls at the time of transfer of the development, and document the transfer of the permit on a form provided by the City on or before the date of transfer of the development.
- (4) No permit shall be granted or renewed until or unless the permit fee has been paid and the facility is in operating condition as designed. The City shall inspect and accept a report from a registered engineer verifying that the water quality control is in operating condition as designed. The fee shall be paid simultaneously with the filing of the application. No refund or rebate of a permit fee shall be allowed based on denial of the permit, suspension or revocation of the permit, or discontinuance of use of a water quality control. The permit fee shall be sufficient to cover the cost of inspection and review of the report from owner.
- (5) Quarterly, beginning with the 3-month anniversary of the issuance of the water quality control facility operating permit, permittee must submit documentation that the facility is in proper operating condition, including photographs of the facility. The photos should be

dated, and should show, at a minimum, the inlet structure, outlet structures and the condition of any vegetation. The fourth quarter documentation should be submitted together with the annual report required for permit renewal.

(e) Fiscal Security.

- (1) Fiscal security shall be required for development in the City and the ETJ to ensure that the water quality controls required are functioning properly. Fiscal shall be based on an estimate prepared by the developers engineer and reviewed and approved by the City. The estimate shall include, but is not limited to, the cost to construct the temporary and permanent water quality control facilities for the particular site development.
- (2) The fiscal security shall be returned to the applicant no earlier than one year after completion of the development, and only upon the receipt of a certified engineering concurrence letter verifying that the controls are constructed in conformance with the approved design as verified after inspection by the City.
- (3) In the event the annual inspection required under this Chapter reveals that the water quality controls are not being properly maintained or repaired, fiscal security shall be required in connection with the issuance of the next annual inspection and renewal permit. The amount of the fiscal security shall be ten percent (10%) of the amount which had been required for the initial construction of the water quality control facilities. This fiscal security shall be retained by the City for a minimum of two (2) years to a maximum of five (5) years; however, the City retains the right to extend or reimpose the requirement for fiscal security at any time inspections reveal that the water quality controls are not being maintained or repaired.

Sec. 4.403 Additional Pollution Reduction Requirements

All development shall include the following additional pollution reduction techniques:

- (a) No untreated run-off arising from development shall be allowed to flow over critical environmental features that are recharge features.
- (b) No untreated run-off arising from development, shall be allowed in defined channels containing recharge features provided that for single family residential lots adjacent to Transition Zones, untreated run-off may be discharged through the transition zone provided that the Transition Zone meets the criteria in the City of Austin Environmental Criteria Manual, as amended, for vegetative filter strips.
- (c) Developments must provide detention for the 2 year storm, unless it is determined by the City that the development is a participant in a regional stormwater detention facility, or centralized detention facility, or control of the 2 year storm will result in identifiable adverse flooding as determined by a Registered Professional Engineer and confirmed by the City engineer.
- (d) Commercial development shall also include two of the following four pollution reduction measures:
 - (1) Xeriscape with a fertilizer reduction element and an Integrated Pest Management Plan;
 - (2) A street sweeping program or covered parking with parking drainage isolated from stormwater;
 - (3) Construction restricted to 0-10% slopes;

(4) The design includes separation of roof run-off from other filtered run-off volumes and reirrigates this on the site.

Sec. 4.404 Landscape

(a) Landscape shall be preserved in its natural state to the greatest extent feasible and shall comply with the requirements this Code.

(b) Proposed structures and landscaping shall relate harmoniously to the terrain, to the natural landscape, and to existing buildings and roads in the vicinity that have a visual relationship to the proposed structure.

Sec. 4.405 Ecological Considerations

Development shall comply with provisions of this Code that provide for:

(a) Minimal impairment of the regenerative capacity of aquifers and other ground water and surface water supplies; and

(b) Minimal adverse impact upon critical areas, such as streams, slopes greater than fifteen percent (15%), highly erodible soils and mature stands of native vegetation.

(c) No proposed structure shall impair creek flow or cause lateral back up of water.

Sec. 4.406 Violations

(a) It shall be unlawful for any person to operate a water quality control facility subject to the requirements of this Division without first obtaining an annual operating permit.

(b) Any person to whom a water quality control facility operating permit has been granted commits a violation of this Division if such person fails to observe and perform any term or condition stated in the permit, approved maintenance plan, or in any other document submitted in order to secure the permit.

(c) The owner of any land or water quality control facility where anything in violation of this Division is constructed or operated, and any architect, builder, contractor, agent, laboratory, independent inspector, or any other person employed in connection therewith commits a violation of this Division if he or she knowingly aids, assists, or contributes to the commission of such violation.

Division 4.5: Drainage

Sec. 4.500 Adopting Drainage Criteria Manual

(a) The Drainage Criteria Manual, First Edition, January, 1977, and amendments thereto, as published by the City of Austin, Engineering Department is hereby designated and adopted as the drainage criteria and policy of and for the City of Sunset Valley and within all areas subject to the City of Sunset Valley's Extra-Territorial Jurisdiction.

(b) The following listed portions of the Drainage Criteria Manual are deleted and shall not become a part of the drainage criteria and policy of the City of Sunset Valley: Paragraph IX, p. 3 is deleted, and the Appendix shall be and hereby is deleted.

(c) Whenever the standards and specifications of this Chapter conflict with another provision of the Land Development Code or city ordinance, the most stringent or restrictive provision shall govern.

Sec. 4.501 General

- (a) The interpretation of the requirements set forth in this Chapter shall be made by the City's engineer or designate, unless specified otherwise by the Council. The developer shall be responsible for the conveyance of all storm drainage flowing through or abutting the subject property, including drainage directed to the property by prior development as well as that naturally flowing by reason of topography.
- (b) Where new drainage improvements are required along the boundary of a site, the owner proposing development shall be responsible for designing and constructing all the required improvements at or before the time of development, including the dedication of all necessary rights-of-way or easements necessary to accommodate the improvements. Where the developer proposes to develop only a portion of the property, only the drainage improvements for the portion being developed shall be required to be installed, except as drainage improvements outside the portion being developed are deemed necessary by the city for proper drainage of the portion being developed.

Sec. 4.502 Overland Flow

- (a) Drainage patterns should be designed to prevent erosion, maintain infiltration and recharge of local seeps and springs, and attenuate the harm of contaminants collected and transported by stormwater. Overland sheet flow and natural drainage features and patterns shall be maintained to the greatest extent reasonably possible and the dispersion of run-off back to sheet flow shall be the primary objective of drainage design where possible, depending on volumes and velocities of run-off for the development, as opposed to concentrating flows in storm sewers and drainage ditches.
- (b) Construction of enclosed storm sewers and impervious channel linings are permitted only when the City on the basis of competent engineering evidence, concludes that such storm sewers or impervious linings are protective of water quality.
- (c) If storm sewers are deemed necessary as specified above, the applicant shall design the drainage system to mitigate its harmful impact on water quality by using structural devices or other methods to prevent erosion and dissipate discharges from outlets wherever practicable, and by loading discharges to maximize overland flow through buffer zones or grass line swales.

Sec. 4.503 Drainage Facilities

- (a) The responsibility of the developer shall extend to the provision of adequate off-site drainage facilities and improvements to accommodate the full effects of the development of said property.
- (b) When the developer certifies by affidavit that a bona fide attempt to acquire property rights to meet off-site drainage requirements was not successful, the City may assist at its discretion in the acquisition of necessary property rights to provide for the construction of off-site drainage improvements. In such cases, the developer shall make adequate guarantees that he will stand the full cost of acquiring said property rights and constructing the off-site improvements and facilities.

Sec. 4.504 Design Criteria

- (a) Unless otherwise specified herein, the design of all storm drainage facilities shall be in accordance with the minimum provisions of the City of Austin, Drainage Criteria Manual, as amended.
- (b) Computation of runoff shall be based on a fully developed drainage area, or watershed, in accordance with the minimum provisions of the City of Austin drainage criteria. The drainage system shall be designed to convey the theoretical two (2), ten (10) and twenty-five (25) year storm as predicted in the Drainage Criteria Manual, as amended. The design shall further provide for

system overflows from larger storms up to the intensity of the one-hundred (100) year storm without increasing the risk of flood damages to development.

- (1) Critical Environmental Features located in the uplands zone shall have a standard setback of 150 feet around said feature. An administrative variance may be granted by the City engineer for a 50 feet setback on the downstream side only of said feature.
- (2) The rate of runoff after construction shall not exceed the site's runoff rate prior to construction. Rate of runoff shall be computed on a two (2), ten (10) and twenty-five (25) year storm peak flow using the City of Austin Drainage Criteria Manual, as amended.
- (3) Surface drainage channels shall be designed to reduce velocity, minimize potential erosion and to maximize the bottom width to flow depth ratio, in accordance with the following criteria:
 - (A) Channel cross-sections shall be trapezoidal in configuration.
 - (B) Side slopes of channels shall be no steeper than four (4) horizontal to one (1) vertical.
 - (C) For a six-month design storm assuming wet antecedent conditions, channel bottom flow depth shall not exceed four (4) inches and design flow velocity shall be two and one-half (2½) feet per second.
 - (D) All constructed and altered drainage channels shall be stabilized and vegetated immediately after final grading.
 - (E) The City Council may allow exceptions to the design flow velocities or depths in the following situations:
 - (i) On lands with greater than fifteen percent (15%) slope, or less than two percent (2%) slope; provided that the design flow velocity shall never be greater than three (3) feet per second or design depth greater than six (6) inches.
 - (ii) In limited transitional channel sections (such as culverts, culvert entries and exits, drop sections, sharp bends, and water quality control entries).

Sec. 4.505 Easements

Public drainage easements shall include all drainage at least to the limits of the twenty-five (25) year flood as indicated on the flood plain maps or as determined on the basis of the Drainage Criteria Manual, as amended. All drainage easements across private property shall contain the necessary language to permit the required unobstructed water flow, require maintenance of vegetation by the property owner(s), and permit the necessary access by City officials for inspection and repairs. The minimum drainage easement width shall be twenty-five (25) feet. All easements, twenty-five (25) and one hundred (100) year flood plain boundaries and water quality zones shall be clearly shown on drainage plans and the site plan.

Sec. 4.506 Roadway Drainage

- (a) As a general rule, drainage carried in roadside channels shall be minimized and off-roadway locations shall be used as the primary drainage network whenever practicable.
- (b) When roadside channels are required, they shall be contained within a dedicated right-of-way or right-of-way easement. Channel sideslopes shall be no steeper than four:one (4:1), except for

curves and transitions where slope stabilization acceptable to the City's engineer may be allowed. Roadways shall be designed for fordable driveway approaches whenever practical. All driveways shall be designed such that drainage flow from a one hundred (100) year storm shall not exceed a depth of twelve (12) inches on any portion of the driveway. Should driveway culverts be required, the culvert design, capacity, and general location shall be shown on the construction plans. Minimum driveway culvert diameter shall be twelve (12) inches. In no case shall driveway approaches constitute a blockage of roadway drainage.

Sec. 4.507 Maintenance and Compliance

- (a) All drainage facilities located in the street rights-of-way shall be maintained by the appropriate jurisdiction. All drainage facilities located on private property shall be maintained by the property owner.
- (b) Duly authorized inspectors of the City shall have the right of entry on the land or premises where property owners are required to maintain drainage facilities or detention facilities, at reasonable times, for the purpose of inspection of the maintenance required. Where noncompliance is found, the City shall request in writing that the property owner comply. This notice shall describe the measures required to be taken. If, within three (3) months of the notice the maintenance required is not accomplished, the City shall either:
 - (1) Cause the necessary restoration to be accomplished and assess the property owner for the City's actual cost; or
 - (2) Bring an action for mandatory injunction to require the property owner to accomplish the necessary maintenance.
- (c) The required maintenance by private landowners and the power of the City shall be noted on the plat.

CHAPTER 5: FLOOD LOSS CONTROL

Division 5.1: Statutory Authorization, Findings of Fact, Purpose, and Methods

Sec. 5.100 Statutory Authorization

The Legislature of the State of Texas has in Texas Revised Civil Statutes Annotated, Article 1011 et seq. delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Sunset Valley, Texas, does ordain as follows:

Sec. 5.101 Findings of Fact

- (a) The flood hazard areas of the City of Sunset Valley 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.
- (b) 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 hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

Sec. 5.102 Statement of Purpose

It is the purpose of this Chapter 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:

- (a) Protect human life and health;
- (b) Minimize expenditure of public money for costly flood control projects;
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) Minimize prolonged business interruptions;
- (e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in floodplains;
- (f) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (g) Insure that potential buyers are notified that property is in a flood area.

Sec. 5.103 Methods of Reducing Flood Losses

In order to accomplish its purposes, this Chapter uses the following methods:

- (a) 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;
- (b) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

- (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (d) Control filling, grading, dredging and other development which may increase flood damage;
- (e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

Division 5.2: General Provisions

Sec. 5.200 Lands to Which this Chapter Applies

This Chapter shall apply to all areas of special flood hazard within the jurisdiction of the City of Sunset Valley.

Sec. 5.201 Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report, entitled "Flood Insurance Study for Travis County and Incorporated areas, Volumes 1 thru 6," dated June 16, 1993, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto, and those areas of special flood hazard identified by the Federal Emergency Management Agency through the National Flood Insurance Program as shown in the Flood Insurance Rate Map 48453C0210E, panel 210 and 255 of 410 dated June 16, 1993, and any revisions thereto, are hereby adopted by reference and declared to be a part of this Code and are subject to the floodplain management regulations of the City of Sunset Valley as set forth herein.

Sec. 5.202 Establishment of Development Permit

A Development Permit shall be required to ensure conformance with the provisions of this Chapter. This system will consist of a city-wide application review procedure and the issuance of permits only for those developments located within the identified flood hazard areas. Developments located outside of identified flood hazard areas will be issued a Development Permit Exemption Certificate stating that the proposed development is not located within an identified flood hazard area and that the construction standards required in this Chapter are not applicable to the proposed development.

Sec. 5.203 Compliance

No structure or land located in the incorporated areas of the City shall hereafter be located, altered, or have its use changed without full compliance with the terms of this Chapter and other applicable regulations.

Sec. 5.204 Abrogation and Greater Restrictions

This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 5.205 Interpretation

In the interpretation and application of this Chapter, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the City; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

Sec. 5.206 Warning and Disclaimer of Liability

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Chapter 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 Chapter 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 Chapter or any administrative decision lawfully made thereunder.

Sec. 5.207 Development Permit Application Form, Development Permit Form and Development Permit Exemption Certificate

The Development Permit Application Form, Development Permit Form and Development Permit Exemption Certificate Form which shall be used to implement this Chapter are available at the City's municipal office. The Sunset Valley City Council with the assistance of the Administrator may promulgate any additional forms as may be necessary for the implementation of this Chapter.

Sec. 5.208 Establishment of Fees

The Sunset Valley City Council with the assistance of the Administrator shall establish fees commensurate with the service rendered by the City.

Division 5.3: Administration and Procedures

Sec. 5.300 Designation of the Administrator

The Mayor is hereby appointed the Administrator to administer and implement the provisions of this Chapter and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to flood plain management.

Sec. 5.301 Duties & Responsibilities of the Administrator

Duties and responsibilities of the Administrator shall include, but not be limited to, the following:

- (a) Maintain and hold open for public inspection all records pertaining to the provisions of this Chapter.
- (b) Review permit application to determine whether proposed building sites will be reasonably safe from flooding.
- (c) Review, approve or deny all applications for development permits required by adoption of this Chapter.
- (d) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (e) 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 Administrator shall make the necessary interpretation.

- (f) Notify, in riverine situations, adjacent communities and the State Coordinating Agency, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (g) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (h) When base flood elevation data has not been provided in accordance with Section 5.302, the Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of this Chapter.
- (i) When a regulatory floodway has not been designated, the Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A and AE on the City'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.

Sec. 5.302 Permit Procedures

- (a) A completed Development Permit Application Form must be submitted to the City Administrator prior to the start of construction of development within the corporate limits of the City of Sunset Valley, Texas.
- (b) The Administrator will review all Applications to determine whether such construction or other development is proposed within the identified flood hazard areas of the City of Sunset Valley. If a proposed development is not within the identified flood hazard area, then the Administrator will issue a Development Permit Exemption Certificate to the applicant.
- (c) Application for a Development Permit shall be presented to the Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
 - (1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - (2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 - (3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of this Chapter;
 - (4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 - (5) Maintain a record of all such information.
- (d) Approval or denial of a Development Permit by the Administrator shall be based on all of the provisions of this Chapter 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 flood waters 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 comprehensive plan for that area.

Sec. 5.303 Variance Procedures

- (a) The Appeal Board which consists of the Sunset Valley City Council shall hear and render judgment on requests for variances from the requirements of this Chapter.
- (b) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Administrator in the enforcement or administration of this Chapter.
- (c) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision to the courts of competent jurisdiction.
- (d) The Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Recorded Texas Historic Landmarks, without regard to the procedures set forth in the remainder of this Chapter.
- (f) 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 relevant factors in this Chapter have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (g) Upon consideration of the factors noted above and the intent of this Chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Chapter.
- (h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

- (i) Prerequisites for granting variances:
 - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (2) Variances shall only be issued upon, (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws, code provisions, or ordinances.
 - (3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (j) Variances may be issued by the City of Sunset Valley for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Section 5.302(d)(1-10) are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Division 5.4: Provisions for Flood Hazard Reduction

Sec. 5.400 General Standards

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- (a) 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;
- (b) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (c) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (d) 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;
- (e) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (f) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- (g) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Sec. 5.401 Specific Standards

In all areas of special flood hazard where base flood elevation data has been provided as set forth in (i) Chapter 5, section 5.201, (ii) Chapter 5, section 5.301(h)(8), or (iii) Chapter 5, section 5.402(c), the following provisions are required:

- (a) **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to a minimum of one foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Administrator that the standard of this subsection is satisfied.
- (b) **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or, 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. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Administrator.
- (c) **Enclosure** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that 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:
 - (1) A minimum of two openings 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.
 - (2) The bottom of all openings shall be no higher than one foot above grade.
 - (3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (d) **Manufactured Homes** - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, and other similar vehicles.
 - (1) Require that all manufactured homes to be placed within Zone A, shall be installed using methods and practices which minimize flood damage. For the purpose 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.
 - (2) All manufactured homes shall be in compliance with Section 5.401(a) of this Chapter.
 - (3) Require that all manufactured homes to be placed or substantially improved within Zones A, AH and AE on the community's FIRM be elevated on a permanent foundation such that

the lowest floor of the manufactured home is at or above the base flood elevation; and be securely anchored to an adequately anchored foundation system.

Sec. 5.402 Standards for Subdivision Proposals

- (a) All subdivision proposals including manufactured home parks and subdivisions shall be consistent with Findings, Purposes and Methods of Reducing Flood Losses upon which these regulations are based.
- (b) All proposals for the development of subdivisions including manufactured home parks and subdivisions shall meet Development Permit requirements of Chapter 5, Section 5.202; Chapter 5, Section 5.302; and Chapter 5.
- (c) Base flood elevation data shall be generated for subdivision proposals and other proposed development including manufactured home parks and subdivision proposals and other proposed development including manufactured home parks and subdivisions which are greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Chapter 5, Section 5.201 or Chapter 5, Section 5.301(h).
- (d) All subdivision proposals including manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals including 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.

Sec. 5.403 Standards for Areas of Shallow Flooding (AO/AH Zones)

Located within the areas of special flood hazard established in Chapter 5, Section 5.201 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (a) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the City's FIRM (at least two feet if no depth number is specified).
- (b) All new construction and substantial improvements of nonresidential structures:
 - (1) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the City's FIRM (at least two feet if no depth number is specified); or,
 - (2) 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.
- (c) A registered professional engineer or architect shall submit a certification to the Administrator that the standards of this section are satisfied.
- (d) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

Sec. 5.404 Floodways

Floodways: Located within areas of special flood hazard established in Chapter Section 5.201 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- (a) Encroachments are prohibited, including fill, new construction, substantial improvements and other development unless certification by a professional registered engineer is provided demonstrating that encroachments shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge and approved by the City Council.
- (b) If Subsection 5.404(a) of this Chapter is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Chapter.

Sec. 5.405 Nuisance

Any construction, modification, improvement, land cut or fill violation of this Chapter is hereby declared a public nuisance and the continuation of such activity may be enjoined by a court of competent jurisdiction.

CHAPTER 6: BUILDING AND CONSTRUCTION PERMITS

Division 6.1: General Provisions

Sec. 6.100 Purpose

This Chapter requires the issuance of a building or construction permit by the City Council before the commencement of construction of whatever nature within the City of Sunset Valley.

Sec. 6.101 Permits - Required; Application

- (a) No person shall erect, construct, enlarge, alter, repair, move, remove, convert or demolish any building, structure or improvement of any nature whatsoever in the City, or cause same to be done without first obtaining a separate building permit for each building, structure or other improvement. For purposes of this Chapter, only one building permit need be obtained for one building and parking lot(s) and driveways serving such building.
- (b) Construction permits shall be obtained in the manner prescribed below. Except as provided in subsection (c) of this section, no construction of any type whatsoever, including utilities, shall be commenced without obtaining a construction permit from the City Council.
- (c) No permit shall be required for minor improvements or roof repair or replacement made with the same materials with which the affected building or structure is constructed; provided, that not more than twenty-five per cent of the roof covering of any building or structure can be replaced unless the entire roof covering is made to conform with the requirements of this Code for new buildings and structures.

New roofing meeting the requirements of this Code may be placed over existing roofing when the existing roofing and roof framing is such as to permit the new roofing to be properly supported and securely fastened.

- (d) To obtain a permit the applicant shall first file an application therefor, in writing, on a form furnished for that purpose. Every such application shall:
 - (1) Identify and describe the work to be covered by the permit for which application is made.
 - (2) Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work or route.
 - (3) Show the use of occupancy of all parts of the building.
 - (4) With each application for a building or construction permit, present two sets of plans and specifications.
 - (5) State the valuation of the proposed work.
 - (6) Indicate the location of all driveways or access points from the proposed building site to any public street, road or alley.
 - (7) Be signed by the permittee, or his authorized agent, who may be required to submit evidence to indicate such authority.
 - (8) Give such other information as reasonably may be required by the City Council.

- (9) A tax certificate showing no delinquent taxes shall be provided in case the building is to be moved or demolished.
- (10) If any of the foregoing requirements set out in (1) to (9) supra shall be inapplicable to a specific project, the City Council may, at its discretion waive the requirement.
- (e) Plans and specifications shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that it will conform to the provisions of this Chapter and all relevant laws, ordinances, rules and regulations. The first sheet of each set of plans shall give the building and street address of the work and the name and address of the owner and persons who prepared them. Plans shall include a plot plan showing the location of any proposed building or construction, including all structures, parking lots, driveways and any other improvements, and of every existing building or construction on the property. In lieu of detailed specifications, the City Council may approve references on the plans to a specific Section or part of this Code or other Ordinances and laws.

Computations, stress diagrams and other data sufficient to show the correctness of the plans, shall be submitted when required by the City Council.

- (f) All expenses for installation or extension of utilities, including water or sewer lines to the proposed development shall be borne by the applicant for a building permit.

Sec. 6.102 Permit Issuance

- (a) The application, plans and specifications filed by an applicant for a building permit or construction permit shall be reviewed by the City Council. Such plans may be reviewed by other departments of the City to check compliance with the laws and ordinances under their jurisdiction. If the City Council is satisfied that the work described in an application for permit and the plans filed therewith conform to the requirements of this Chapter and other pertinent laws and Ordinances, they shall issue a permit therefor to the applicant. The City Council must approve or disapprove an application for permit on or before forty five (45) days after the application, plans and specifications were filed.
- (b) When the City Council issues the permit, the Council shall endorse, in writing or stamp, on both sets of plans and specifications "APPROVED." Such approved plans and specifications shall not be changed, modified, or altered without authorization from the City Council and all work shall be done in accordance with the approved plans. The City Council shall have the right to cause to be inspected all buildings or structures being erected or altered as frequently as may be necessary to insure compliance with this Code and other city Ordinances.
- (c) Building permits shall be acted upon by the City Council of the City of Sunset Valley at a City Council meeting. However, when necessary, the Mayor of Sunset Valley is granted the authority to approve those permit applications submitted for minor repairs, re-roofs, accessory buildings less than 100 square feet, demolitions, swimming pools and fences on any given day of each month provided that each application has been submitted for review and approved by the City's inspection firm.
- (d) The City Council may issue a permit for the construction of a part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved; provided that adequate information and detailed statements have been filed complying with all pertinent requirements of this chapter. The holder of such permit shall proceed at his own risk without assurance that the permit for the entire building or structure will be granted.

(e) The issuance of the building permit by the City Council shall be done by the Mayor after a majority of the Council members have individually approved the application therefor by noting their approval on the application in writing

Sec. 6.103 Construction Permits in Newly Annexed Areas Which Have Temporary Zoning

(a) On any parcel which does not have permanent zoning, no building or structure within any territory annexed to the City shall be altered, remodeled or constructed without a permit as required by this section.

(b) No permit for the alteration, remodeling or construction of a building or structure on which work has not commenced on the date of annexation shall be issued by the City on a parcel which has temporary zoning other than a permit which will allow the construction of a building permitted to be constructed in a "SF" (Single Family Residential) Zoning District.

(c) An application for any structure in an annexed area temporarily classified as SF (Single Family Residential) for any other use than Single Family Residential shall be made only after the parcel on which it is proposed has received permanent zoning in accordance with the provisions of this Code.

(d) If the City prior to annexation has not issued any permits authorizing the project, the owner, lessee, or any other person, firm or corporation owning, controlling, constructing, supervising or directing construction, alteration or remodeling of any building or structure in an annexed area which is incomplete on the date the land on which such building or structure is located is annexed into the City shall, before proceeding any further with such construction, alteration or completion, apply to the City Council for a permit authorizing further work on said building or structure and shall attach to the application form plans and specifications relating to the construction of said building or structure in accordance with applicable provisions of this Code regulating building permits. The application for the building permit shall be accompanied by a fee and shall be promptly referred, if required, to the Zoning Commission for consideration. The Commission shall promptly thereafter file with the City Council its recommendations as to granting, modifying, or rejecting the permit. The Zoning Commission's recommendations shall be advisory. Construction work shall be suspended until a permit has been issued by the City Council, or until permanent zoning regulations have been adopted which permit the construction, use and occupancy of the structure or building.

Sec. 6.104 Approval by Mayor

Building permits shall be acted upon by the City Council of the City of Sunset Valley at a City Council meeting. However, when necessary, the Mayor of Sunset Valley is granted the authority to approve those permit applications submitted for minor repairs, re-roofs, accessory buildings less than 100 square feet, demolitions, swimming pools and fences on any given day of each month provided that each application has been submitted for review and approved by the City's inspection firm.

Sec. 6.105 Retention of Plans

(a) One set of approved plans, specifications and computations shall be retained by the City Council for a period of not less than ninety days from the date of completion of the work covered therein, and one set of approved plans and specifications shall be returned to the applicant, which set shall be kept on such building or work site at all times during which the work authorized thereby is in progress; provided, that plans and specifications need not be kept on such building or work site involving residences.

(b) Plans, submitted for checking, for which no permit is issued, and on which no action is taken by the applicant for ninety days, shall be returned to the last known address of the applicant.

Sec. 6.106 Validity of Permits

- (a) The issuance or granting of a permit of approval of plans and specifications shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Chapter. No permit presuming to give authority to violate or cancel the provisions of this chapter shall be valid, except insofar as the work or use which it authorizes is lawful.
- (b) The issuance of a building or construction permit based upon plans and specifications shall not prevent the building official or the City Council from thereafter requiring the correction of errors in such plans and specifications or from preventing building operations being carried on thereunder when in violation of this Code or of any other Ordinance of the City of Sunset Valley.

Sec. 6.107 Expiration and Extension of Permit

Every permit issued by the City Council under the provisions of this chapter shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within ninety days from the date of such permit, or if the building or construction authorized by such permit is suspended or abandoned for a period of thirty days at any time after the work is commenced. Before such work can be recommenced, a new permit shall be first obtained, and the fee for such permit shall be one-half the amount normally required for a new permit for such work; provided that no changes have been made or will be made in the original plans and specifications for such work; and that the suspension or abandonment has not exceeded 180 days.

Sec. 6.108 Suspension or Revocation

The City Council may, in writing, suspend or revoke a permit issued under the provisions of this Chapter whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of this Code.

Division 6.2: Fees

Sec. 6.200 Minimum Fees

A separate fee for each building permit application shall be paid with each application in accordance with a schedule of minimum fees set by City ordinance.

Sec. 6.201 Additional Fees

In addition to the minimum building permit fees, additional inspection fees may be required by the City.

Sec. 6.202 Septic System Permit Fees

A septic system permit fee shall be paid with each application in accordance with a schedule of fees set by City ordinance.

Division 6.3: Building Official

Sec. 6.300 Appointment of Building Official

There are hereby created the positions of building official and alternate building official, both of whom shall be appointed by the City Council for terms of two (2) years, to commence on May 15th of each even numbered year.

Sec. 6.301 Duties

- (a) It shall be the duty of the building official to see to the enforcement of all Code provisions relating to buildings or zoning and cause to be inspected all buildings or structures being erected or altered, as frequently as may be necessary to insure compliance with the Land Use Code and other city Ordinances. The building official shall review all applications for building or construction permits and make recommendation thereon to the City Council prior to the issuance of such permits by the City Council.
- (b) The building official shall be responsible for designating qualified persons to perform the actual inspections of the particular type of work involved, such as plumbing, mechanical, etc. All inspections are to be made on a prompt and timely basis, and normally within twenty-four (24) hours following a request therefore by the owner or contractor.
 - (1) Upon completion of a particular residential unit or individual retail unit within a larger project, and after all inspections have been completed and approved by the building official, a Certificate of Occupancy shall be issued by the City to evidence that construction has been inspected for each unit and meets the building construction requirements of the City of Sunset Valley.
 - (2) Upon completion and occupancy of seventy five percent (75%) of the total square footage of a particular commercial project, a Site Certificate of Occupancy shall be requested by the developer. Upon inspection, a notice of any and all applicable deficiencies shall be submitted to the developer. Said notice shall be mailed certified, return receipt requested, by U.S. Mail and state a reasonable time frame for the deficiencies to be corrected. Upon the correction of said deficiencies, a Site Certificate of Occupancy shall be issued by the City to evidence that all work has been inspected for the project and satisfies the requirements of the site plan, Code and Ordinances of the City of Sunset Valley.
- (c) The alternate building official shall perform the duties of building official when the building official is unavailable or otherwise unable to perform his duties.

Sec. 6.302 Stop Order

The Building Official shall have the power to order all work stopped on construction or alteration or repair of buildings in the City when such work is being done in violation of any provision of any Code or Ordinance relating thereto, or in violation of the zoning for the property. A Stop Order shall be on an official form as prescribed by the City Council, and shall be signed by the building official. A Stop Order shall be presented to and explained to the Job foreman or other responsible individual on the work site, provided that if at the time of delivery of the stop order by the building official, there is no job foreman or other responsible individual present at the work site, then the stop order shall be attached or affixed in a conspicuous place at the particular work area which is the subject of the stop order. Work shall not be resumed after the issuance of such an order except on the written permission of the building official, or upon written permission of the City Council upon an appeal of such stop order to the City Council. The property owner or contractor shall have the right to appeal any stop order, or any other decision or ruling of the building official, to the City Council which shall have the authority to overrule any stop order or other decision or ruling of the building official.

Sec. 6.303 Permanent Certificate of Occupancy

No person or persons shall use or occupy any building or structure for which a permit has been granted by the City of Sunset Valley until a permanent Certificate of Occupancy has been issued. A permanent Certificate of Occupancy shall be on an official form as prescribed by the City and signed by the Building Official. The City Council reserves the right to grant approval to use or occupy any building or structure under the issuance of a Temporary Certificate of Occupancy providing the building inspector finds that the

building or structure meets all building codes as adopted and that no substantial hazard shall result from occupying same. Such approval shall only be granted upon written appeal to the City Council and upon the written permission of same based on the nature and circumstances surrounding the appeal.

Division 6.4: Uniform Building Code

Sec. 6.400 Uniform Building Code Adopted

Except as provided in section 6.401 below, the Uniform Building Code, 1991 Edition, as published by the International Conference of Building Officials and the One and Two Family Dwelling Code 1995 as published by the Council of American Building Officials is hereby designated and adopted as the building code of and for the City of Sunset Valley, Texas.

Sec. 6.401 Modifications to the Uniform Building Code

Section 204 of the Uniform Building Code is hereby modified as adopted by the addition of the following paragraph:

The Board of Appeals shall be and is hereinafter the Board of Adjustments for the City of Sunset Valley.

Sec. 6.402 Additional Provisions

The adoption by reference of the Uniform Building Code as provided in section 6.401 of this Chapter is made subject to and modified by the addition of the following provisions:

- (a) No person or persons shall use or occupy any building or structure of any classification for which a permit has been granted by the City of Sunset Valley until a Certificate of Occupancy has been issued by the building official.
- (b) On all construction projects (within the City and in its extraterritorial jurisdiction) in which trench excavation will exceed a depth of five (5') feet, the permit application shall contain Plans and Specifications for trench safety systems that meet Occupational Safety and Health Administration Standards. Bid documents and contracts shall contain these plans and specifications for trench safety systems and shall also include a pay item for these same safety systems.

Division 6.5: Uniform Mechanical Code

Sec. 6.500 Uniform Mechanical Code Adopted

Except as provided in section 6.501 of this Chapter, the Uniform Mechanical Code, 1991 Edition, as published by the International Association of Plumbing and Mechanical Officials in 1991 and its amendments as published is hereby designated and adopted as the mechanical code of and for the City of Sunset Valley, Texas.

Sec. 6.501 Modifications to the Uniform Mechanical Code

Section 203 of the Uniform Mechanical Code is hereby modified as adopted by the addition of the following paragraph:

The Board of Appeals shall be and is hereinafter the Board of Adjustments of the City of Sunset Valley.

Sec. 6.502 Additional Provisions

The adoption by reference of the Uniform Mechanical Code as provided in section 6.500 of this Chapter is made subject to and modified by the addition of the following provision:

No person or persons shall use or occupy any building or structure of any classification for which a permit has been granted by the City of Sunset Valley until a Certificate of Occupancy has been issued by the building official.

Division 6.6: Uniform Plumbing Code

Sec. 6.600 Uniform Plumbing Code Adopted

Except as provided in section 6.601 and 6.602 of this Chapter, the Uniform Plumbing Code, 1991 Edition, as published by the International Association of Plumbing and Mechanical Officials in 1991 and its amendments as published is hereby designated and adopted as the plumbing code of and for the City of Sunset Valley, Texas.

Sec. 6.601 Modifications to the Uniform Plumbing Code

Section 20.14 of the Uniform Plumbing Code is hereby modified as adopted by the addition of the following paragraph:

The Board of Appeals shall be and is hereinafter the Board of Adjustments for the City of Sunset Valley.

Sec. 6.602 Additional Provisions

The adoption by reference of the Uniform Plumbing Code as provided in section 6.600 of this Chapter is made subject to and modified by the addition of the following provision:

No person or persons shall use or occupy any building or structure of any classification for which a permit has been granted by the City of Sunset Valley until a Certificate of Occupancy has been issued by the building official.

Division 6.7: Uniform Fire Code

Sec. 6.700 Uniform Fire Code Adopted

The Uniform Fire Code and Uniform Fire Code Standards, 1991 Edition, as published by the International Association of Building Officials and the Western Fire Chiefs Association is hereby designated and adopted as the fire code of and for the City of Sunset Valley, Texas.

Division 6.8: Release and Vacation of Public Rights-of-Way and Easements, Alteration of Streets; Trench Safety

Sec. 6.800 Vacation of Streets and Other Public Ways

(a) All persons desiring to have the City Council exercise its powers under Article 1016 of the Revised Civil Statutes of the State of Texas regarding abandoning, altering, closing and vacating streets, alleys and other public ways and portions thereof, shall file their Petition with the City, in writing, directed to the City Council. Such Petition shall contain a description by metes and bounds as surveyed on the ground of the street, alley, or portion thereof, as the case may be, and attached to said Petition shall be a list of all owners abutting said street, alley or portion thereof, as the case may be, together with the last known addresses of all such owners. In the event that all abutting

property owners do not join in said Petition, a statement shall be attached to said Petition showing the reason for nonparticipation of those who have not signed.

- (b) Upon the filing of such Petition with the City as provided in Section 6.800(a), an administrative fee shall be deposited with the City Secretary in an amount established and fixed by the City Council sufficient to cover the expense of administering the procedure outlined in this Chapter, and the cost of preparing and mailing notices and release forms to all abutting property owners. Such fee is non-refundable.
- (c) Upon the filing of such Petition and fee as provided in Sections 6.800(a) and (b), the City shall mail notices of said Petition and release forms by certified mail, return receipt requested, to all abutting property owners who have not joined in the Petition.
- (d) The proposed action by the City shall be placed on the agenda for the next regular meeting of the City Council after the filing of the Petition or such called meeting as the City Council may set, provided that at least ten (10) days have elapsed from the date said request is filed until the date of said meeting in order to allow sufficient time for the mailing of notices and release forms to the abutting property owners and, provided further, that the notice provisions of the open meeting laws of the State of Texas are complied with. The City Council shall not act on such Petition until such time as the City Administrator has received an executed release form from each of the abutting property owners listed in the Petition. Such Petition, if not acted upon at the first public meeting at which it appears on the agenda, may be continued on the agenda to subsequent Council meetings if it is in the best interests of the parties and the public as the City Council of the City of Sunset Valley, Texas, may in its sole discretion determine.

Sec. 6.801 Permit Required for Any Alteration in Any Street or Public Way

It shall be unlawful for any person to dig any trench or make any excavation or opening or any other alteration in or under any street, alley, public highway, right-of-way or easement of the City of Sunset Valley, Texas without first having obtained a permit to do so.

Sec. 6.802 Application for Permit to Alter Street

The application for a permit to dig any trench or make any excavation or opening or any other alteration in any of the streets, alleys, public highways, rights-of-way, or easements of the City shall be made to the City and state clearly the name of the street or highway or location of easements or rights-of-way in which it is proposed to make such opening; the purpose of making the opening; the name of the person or entity who proposes to make such excavation or opening; and any other information required under the provisions of this Chapter.

Sec. 6.803 Performance Bond and Public Liability Insurance Required

- (a) The City shall estimate the probable cost of repairing such street, right-of-way, easement, or highway; and shall require the applicant to file a written bond in an amount sufficient to cover such cost, with two (2) or more sufficient sureties, conditioned that the street, right-of-way, easement, or highway shall be restored to as good or better condition than it was before the excavation or alteration was made. Such bond shall be approved by the City. If the applicant elects to do so, he may make a cash deposit of such sum as may have been fixed by the City in lieu of the written bond. Such bond shall contain a provision for at least fifteen (15) days notice to the City in case of cancellation.
- (b) The conditions of the bond required in Section 6.803(a) shall not be considered to have been complied with until the City shall have accepted the street, highway, right-of-way, or easements as being restored in good condition. In the event that the person making the opening shall fail to leave the highway, street, right-of-way, or easement in a good state of repair, satisfactory to the

City, then the City shall call upon the sureties to pay for the cost of repairing such highway; provided however, that in the event of a cash deposit instead of a bond, the City may proceed to have the street, other highway, right-of-way, or easement, put in good condition, paying for same out of the deposit made by him, and if there be any remainder of said deposit after paying for such work, such remainder shall be refunded to the person making the deposit.

(c) Before a permit may be issued hereunder, the applicant must comply with all provisions of this Chapter pertinent to the issuance of such a permit, including but not limited to Section 6.807 hereof, if applicable. Also before a permit may be issued, in addition to the performance bond required in Section 6.803, the applicant must take out and maintain, at its own expense, comprehensive general liability insurance included but not limited to premises-operations and completed operations coverage, covering the obligations assumed by the applicant in not less than the following limits:

General Liability

Two Million Dollars (\$2,000,000.00) each occurrence
Two Million Dollars (\$2,000,000.00) aggregate

Property Damage

Five Hundred Thousand Dollars (\$500,000.00) each occurrence
Five Hundred Thousand Dollars (\$500,000.00) aggregate

(d) Any policy providing for the above-required insurance shall name the City as an additional named insured and shall contain a provision that the policy may not be cancelled, terminated or modified without fifteen (15) days written advance notice thereof to the City.

(e) Cancellation of insurance will automatically cause the suspension of the permit for thirty (30) days unless reinstated insurance is furnished. Suspended permits shall be automatically canceled at the end of thirty (30) days.

(f) When the bond or deposit and insurance required by this Chapter shall have been accepted by the City, and all other applicable provisions relevant to the granting of permits have been satisfied, the City shall issue a permit for the excavation set out in the application, and the applicant may then proceed with the work in the exact location named in its application, and in no other place.

Sec. 6.804 Approval; Closing of Streets; Barricades, Warning Lights, and Watchmen

(a) All the work of trenching, excavating or making any character of opening in any of the streets, alleys, highways, rights-of-way, or easements of the City, shall at all times require the approval of the City.

(b) The entity doing such work shall obtain the City's approval for the closing of streets, alleys, highways, rights-of-way, or easements to the end that the streets, highways, rights-of-way, or easements of the City shall not be unduly disturbed and traffic thereon obstructed.

(c) The Permittee shall erect and maintain warning signs, barricades and sufficient safeguards around all excavations, embankments, and obstructions; shall provide yellow warning lights on or near the work and keep them lighted at night or other times when visibility is limited; and shall employ such watchmen as may be necessary for the protection of the public.

Sec. 6.805 Duties upon Completion of Work

After the trenching, excavation or opening shall have been made, the Permittee shall backfill the excavation with such materials and in such manner as the City may require, and leave the street, highway, right-of-way, or easement in at least the same or better condition than it was before the opening was made.

Sec. 6.806 Certificate of Final Inspection

After the making of such tests and inspections as may be necessary or desirable by the City, and the satisfactory completion of the backfill and restoration of the street, highway, alley, right-of-way, or easement along with an approved final inspection report, the City shall certify that the work has been completed in accordance with the provisions of the permit and issue a Certificate of Final Inspection. The issuance of the Certificate of Final Inspection shall not operate to release the applicant or his sureties of any obligations under or upon this permit or the performance bond.

Sec. 6.807 Trench Safety Systems

- (a) For purposes of this Section, the term "trench" shall have the meaning assigned that term in the standards promulgated by the Occupational Safety and Health Administration.
- (b) On all construction projects for the City within the boundaries of the City or in its extraterritorial jurisdiction, which are subject to the provisions of this Division and/or any other City Ordinance or section of this Code pursuant to which a construction or building permit is required and in which trench excavation will exceed a depth of five (5) feet, the bid documents provided to all of the bidders and the contract shall include:
 - (1) a reference to the Occupational Safety and Health Administration's standards for trench safety that will be in effect during the period of construction of the project;
 - (2) a copy of any special shoring requirements imposed by the City with a separate pay item for any such special shoring requirements based upon the square feet of shoring used;
 - (3) a copy of any geotechnical information that was obtained for use by the contractor in the design of the trench safety system; and
 - (4) a separate pay item for trench excavation safety protection based on the linear feet of the trench excavated.
- (c) On all construction projects within the boundaries of the City or in its extraterritorial jurisdiction, which are subject to the provisions of this Division and/or any other City Ordinance or section of this Code pursuant to which a construction or building permit is required and in which a contractor is employed and the trench excavation will exceed five (5) feet, the owner and the contractor must execute a written contract concerning trench safety. The project bid documents, if bids are used, and the written contract must include:
 - (1) a reference to the Occupational Safety and Health Administration's standards for trench safety that will be in effect during the period of construction of the project;
 - (2) a copy of any special shoring requirements imposed by the City, with a separate pay item for any such special shoring requirements based upon the square feet of shoring used;
 - (3) a copy of any geotechnical information obtained by the owner for use in the design of the trench safety systems; and
 - (4) a separate pay item for trench excavation safety protection based on the linear feet of the trench excavated.
- (d) Each applicant for a permit on a project subject to the provisions of subsection 6.807(c) above shall certify in writing to the City that the bid documents, if bids are used, and the written contract satisfy the requirements set forth in said subsection. In addition to or in lieu of requiring the filing of such certification, the City may, in its discretion, require the applicant to produce for inspection

or to file with the City a copy of the contract that complies with said subsection. In addition to any other grounds authorized by City Code or Ordinance on which the City may refuse to issue a construction, building or excavation permit, the City shall refuse to issue a permit to an applicant who fails to comply with the provisions of this subsection.

- (e) It shall be the duty and responsibility of the contractor and all of its subcontractors to be familiar and comply with all of the requirements of federal and state laws, including the Occupational Safety and Health Act of 1970 (OSHA) and all amendments thereto, and to enforce and comply with all the provisions thereof.
- (f) The contractor shall have a competent person or persons as required under the Occupational Safety and Health Act on site to inspect the work and to supervise the conformance of the contractor's operation with federal regulations. The contractor shall make daily inspections of the trench safety systems to ensure that the systems meet OSHA requirements. Daily inspections are to be made by a competent person provided by the contractor.
- (g) The contractor shall indemnify and hold harmless the City, its employees and agents, from any and all damages, costs (including, without limitation, legal fees, court costs, and the cost of investigation), judgments or claims by anyone for injury or death to persons resulting from the collapse or failure of the trenches constructed under a permit issued by the City.
- (h) The contractor acknowledges and agrees that this indemnity provision provides indemnity for the City in case the City is negligent either by act or by omission in providing for trench safety, including, but not limited to inspections, failure to issue stop work orders, and the hiring of the contractor, if hired by the City.
- (i) The requirements of this Division do not apply to persons or entities subject to the safety standards adopted under TEX. REV. CIV. STAT. ANN. art. 6053-1 and the administrative penalty provisions of TEX. REV. CIV. STAT. ANN. art. 6053-2.
- (j) The requirements of Sections 6.803-6.807 of this Division do not apply to a contract governed by TEX. REV. CIV. STAT. ANN. art. 601b or TEX. REV. CIV. STAT. ANN. art 2368a.6.

Sec. 6.808 Extending Utilities Under Any Street or Public Way

- (a) An applicant that proposes to alter an existing paved street, road, or alley for the purpose of extending any utilities under such street, road or alley shall be required to burrow under the street, road or alley for such purpose. No alteration of the surface of a paved street, road or alley shall be permitted for the purpose of extending any utility lines.
- (b) Notwithstanding subsection (a), in the event that the City Council determines that the pavement on the affected street, road or alley is of insufficient depth, quality or condition to justify any additional expense shown to be made necessary by the requirement of burrowing, the City Council may authorize an alteration of the surface of a road, street or alley for the purpose of extending utility lines.

CHAPTER 7: UNDERGROUND STORAGE FACILITIES

Division 7.1: General Provisions

Sec. 7.100 Authority and Short Title

This Chapter, which is adopted under the authority of the Constitution and laws of the State of Texas, shall be known as the Underground Storage Tank Regulations of the City of Sunset Valley, Texas.

Sec. 7.101 Purpose and Scope

The purpose of these regulations is to protect the public health, life, property, natural resources and environment, to further the City's water pollution control and abatement program, to protect ground and surface water and the City's drinking water supply from contamination, to ensure fire prevention and to safeguard the health and lives of fire, police and emergency service personnel through the regulation of the construction of underground storage facilities and the handling and storage of the hazardous materials contained therein.

Sec. 7.102 Relationship to Law and Regulations

The provisions set forth in these regulations are intended to be consistent with and supplemental to the provisions of the Texas Water Code and the regulations adopted pursuant thereto relative to standards for the design, construction, installation or operation of underground storage facilities, and provisions of the Texas Health and Safety Code and the regulations adopted pursuant thereto relative to the storage, handling and use of flammable liquids at retail service stations.

Division 7.2: Special Provisions

Sec. 7.200 Compliance with Zoning Restrictions

No land or property in the City of Sunset Valley shall be developed, used or operated as a retail service station, fuel outlet or other facility at which hazardous materials regulated by this Code are stored in underground storage tanks, and no such station, outlet or facility shall be constructed within the City, except in those districts in which such stations, outlets or facilities are authorized pursuant to the City's zoning regulations.

Sec. 7.201 Compliance with Code Required

No land or property in the City of Sunset Valley shall be developed, used or operated as a retail service station, fuel outlet or other facility at which hazardous materials regulated by this Code are stored in underground storage tanks, and no such station, outlet or facility shall be constructed or substantially modified or repaired within the City, except in exact compliance with the provisions of this Code and all other applicable local, state and federal laws and regulations, or before all necessary approvals and permits have been granted or issued by the City Council and any other regulatory body from which an approval or permit must be obtained pursuant to any applicable law or regulation.

Sec. 7.202 Construction Permit Required

No person may construct or install or substantially modify or repair an underground storage facility, tank system or component part thereof for the storage of hazardous materials regulated by this Code unless the property owner and/or operator of the facility or tank system or any part thereof has made application to the City for and has been issued a construction permit in conformity with the provisions of this Chapter. No construction permit shall be issued or approval granted by the City unless the requirements and standards set forth or referred to herein have been complied with in full. These requirements and

standards are considered the minimum necessary to protect the public health, safety, welfare and environment.

Sec. 7.203 Storage Permit Required

No person may store, either temporarily or permanently, any hazardous material regulated by this Code in an underground storage facility or tank system unless the property owner and/or operator of the facility or tank system has made application to and received approval from the City for an underground storage tank storage permit in conformity with the provisions of this Chapter. No storage permit shall be issued or approval granted by the City unless the requirements and standards referred to herein have been satisfied or complied with in full. These requirements and standards are considered the minimum necessary to protect the public health, safety, welfare and environment.

Sec. 7.204 Utilities

The City shall not sell or supply any water or sewage service or authorize the connection of gas or electricity to any property for which the necessary permits required by this Chapter have not been secured nor with respect to which the requirements and standards contained or referred to herein have not been complied with in full.

Division 7.3: Materials Required

Sec. 7.300 Regulated Liquids

Any liquids with a toxicity, flammability, reactivity or contact hazard rating of two (2) or above as defined by Appendix C of this Code, which are stored or contained in an underground storage facility or tank system, shall be regulated by this Chapter.

Sec. 7.301 Mixtures

Mixtures shall be regulated based on the rating criteria in Appendix A of this Chapter.

Division 7.4: Permit Procedures

Sec. 7.400 Applicants

- (a) The owner of the property on which the underground storage facility or tank system is to be installed or constructed shall apply for and sign the construction permit application required by this Chapter. If the facility or system is to be owned or operated by a person other than the owner of the property on which the facility or system is located, the construction permit application shall also be signed by the person who will own and/or operate the facility or system.
- (b) If the application is for the substantial modification or repair of an existing facility, tank system or component part thereof, and the facility or system is owned and/or operated by a person other than the owner of the property on which the facility or system is located, the construction permit application shall also be signed by the person who owns and/or operates the facility or system.
- (c) The owner of the property on which the underground storage facility or tank system is located and in which hazardous materials are to be stored shall apply for and sign the storage permit application required by this Chapter. If the facility or system is owned and/or operated by a person other than the owner of said property, the storage permit application shall also be signed by the person who owns and/or will operate the facility or system.

Sec. 7.401 Contents of Application

- (a) An application for a construction permit or storage permit required by this Chapter shall be filed on application forms provided by the City and shall contain all the information called for therein.
- (b) An application for a construction permit must be accompanied by the following:
 - (1) Address and legal description of property;
 - (2) Name and address of owner of property;
 - (3) Name and address of owner and/or operator of the underground storage facility or tank system, if different from owner of property;
 - (4) A statement indicating the intended contents of the tank(s) and the projected life design of the system(s);
 - (5) A reference key for all symbols and abbreviations used;
 - (6) A site plan, drawn to an appropriate scale, showing the following:
 - (A) The location of the proposed tank installation on the site;
 - (B) The location of any structures adjacent to the tank installation;
 - (C) The location of other underground tanks, septic systems, waste oil sums, etc., within 500 feet of the tank installation;
 - (D) The location of all utility service lines within 500 feet of the tank installation sewer, water, electrical, air, etc;
 - (E) The location and depth and a description of any existing and proposed supply, observation or monitoring wells on or adjacent to the site;
 - (F) The location of the oil-water separator required pursuant to Section 7.601(d)(1) of this Chapter.
 - (G) The location of all permanent or casual surface water bodies on or adjacent to the site; and
 - (H) All information and plans required by the Texas Water Commission under the "Edwards Rules", Tex. Water Comm'n., 31 TEX.ADMIN. CODE § 313.1 through § 313.27, including but not limited to:
 - (i) floodplain boundaries and drainage plan;
 - (ii) geologic survey of the site and all areas adjacent thereto;
 - (iii) recharge features mapped within a 500-foot radius of the site; and
 - (iv) geology and recharge features for a distance of at least one-mile downstream of the property or to the boundary of the recharge zone.
 - (7) Plan elevation and cross-section drawings and specifications in sufficient detail to allow the reviewer to evaluate the following design and installation parameters:

- (A) Tank description - including capacity, dimensions, product compatibility, corrosion resistance, etc;
- (B) Installation practices - excavation, tank placement, backfilling, ballasting, final cover, etc;
- (C) Piping, fittings, pumping and dispensing systems;
- (D) Secondary and tertiary containment systems;
- (E) Leak detection monitoring systems;
- (F) Overfill protection and transfer spill prevention systems;
- (G) Oil-water separator required pursuant to Section 7.601(d)(1) of this Chapter; and
- (H) Tank, piping and secondary and tertiary containment integrity testing specifications and procedures.

- (8) The non-refundable application fee established by the City;
- (9) Facility design plans and specifications which are stamped by a registered professional engineer in accordance with subsection (3) of this section;
- (10) The Materials Management Plan required by Division 7.5 of this Chapter; and
- (11) Name and address of installer or on-site supervisor for storage tank and/or system and state license number of such person(s);

(c) An application for a storage permit required by this Chapter shall be filed upon completion of construction of the underground storage facility or tank system and shall include the following:

- (1) Name and address of the facility and business phone number;
- (2) Name of operator;
- (3) Name, title, mailing address and business phone number of responsible official;
- (4) Name and emergency telephone number of primary emergency response persons;
- (5) A facility storage map showing the following:
 - (A) The location of all underground hazardous materials storage and use areas and access to such facilities;
 - (B) The location of all emergency equipment related to each facility (monitor wells, alarm box, absorbent); and
 - (C) The maximum hazardous materials storage capacity of hazardous materials stored;
- (6) A Hazardous Materials Inventory showing the following:
 - (A) The name of each type of hazardous material stored;
 - (B) The capacity of each underground storage tank;

- (C) The toxicity, reactivity and/or flammability rating of each hazardous material to be stored; and
- (D) The installation date of the underground storage tank; and

(7) The Materials Management Plan required by Division 7.5 of this Chapter.

(d) The City may require such additional information as it deems necessary to properly evaluate the construction or storage permit application and whether or not the applicant and the underground storage facility or tank system satisfy the requirements of this Chapter.

(e) All underground storage facility or tank system design plans and specifications shall bear the stamp and certification of one or more professional engineers, registered in the State of Texas, attesting to such as, but not limited to, the following: structural soundness, seismic safety, compatibility of construction materials with the surrounding environment and the hazardous materials being contained, corrosion protection, mechanical compatibility with the structural elements and conformity with minimum design and installation plans, standards and specifications set forth in this Chapter. The certification shall bear the signature, seal and registration number of said engineer(s).

Sec. 7.402 Permit Approval

(a) A permit shall be granted after:

- (1) The applicant has filed with the City a permit application which includes all information called for by this Chapter;
- (2) The applicant has submitted proof acceptable to the City that the applicant is in compliance with all applicable state and federal statutes and regulations and has been granted all permits and approvals required thereunder.
- (3) The City, upon review of the application, has determined that the applicant has fully complied with the provisions of this Chapter and all other applicable City Codes and Ordinances;
- (4) The applicant has paid the non-refundable application or renewal fee as established by the City;
- (5) The storage tank excavation and trenches have been inspected and approved by the Barton Springs/Edwards Aquifer Conservation District; and
- (6) If the application is for a storage permit, the underground storage facility or tank system has been inspected and approved by the City engineer.

(b) The continued use of, and permit approval for, any underground storage facility or tank system is subject to review and modification by the City whenever the City has reason to believe that the provisions of this Chapter have been violated or whenever there has been any leak or release from the underground storage tank system or any part thereof and each time the permit is renewed. The permit is subject to modification, suspension, revocation or termination by the City in accordance with Division 7.12 of this Chapter.

Sec. 7.403 Renewal

(a) A construction permit is valid for a period of six months.

(b) A storage permit is issued for a term of two (2) years. Every application for the renewal of a storage permit shall be made no later than thirty (30) days before expiration of the permit and shall be accompanied by payment of the appropriate renewal fee as established by the City. However, if an underground storage facility or tank system or any part thereof is substantially modified or repaired, the owner and/or operator of the facility or system must renew the storage permit upon completion of the modification or repairs. The existing permit shall remain effective until the City makes a final decision either to grant or deny the pending application for renewal. The City shall notify the permit holder of the expiration date no later than ninety (90) days before the permit expires. No renewal shall be granted unless the City finds that the record of the permit holder's compliance with the provisions of this Chapter and with the relevant rules and regulations of the Texas Water Commission and other State, federal and local agencies warrants renewal, that the physical condition of the facility, tank system and all parts thereof meet the minimum standards imposed by this Chapter, the Water Commission, and other State, federal and local agencies.

Sec. 7.404 Transfer

A construction or storage permit may be transferred to a new owner or operator of the same business at the same location only if the new owner or operator signs the permit, accepts responsibility for all obligations under this Chapter at the time of the transfer of the business, and documents the transfer and acceptance on a form provided by the City, no later than thirty (30) days after transfer of ownership or operation of the business. All permit transfers shall be subject to the approval of the City.

Sec. 7.405 Fees

No construction or storage permit shall be granted, renewed or continued in effect until or unless the non-refundable fee established by the City has been paid. The fee shall be paid at the time an application is filed. No refund or rebate of the fee shall be allowed.

Sec. 7.406 Amendment

Any information required to be submitted by this Ordinance shall be amended or supplemented no later than thirty (30) days after the occurrence of any event that would render the information contained therein untrue, misleading or incomplete.

Sec. 7.407 Appeal

(a) An applicant or permit holder aggrieved by any decision of the City except a decision to modify, suspend or revoke a permit granted pursuant to the provisions of this Chapter, shall have the right to appeal the decision to the City Council. The appeal shall be perfected by giving written notice containing the following information to the City Secretary no later than ten (10) days after receipt of notification of the City's decision:

- (1) The name and address of the person making the appeal;
- (2) The facts surrounding the particular ruling;
- (3) The ruling of the City; and
- (4) The technical reasons why the ruling should be set aside.

(b) As soon as practicable after the filing of the complete notice of appeal, the City Council shall hear the appeal and make a decision either affirming, modifying or reversing the decision. The person requesting the appeal shall be notified of the decision in writing. The notification shall be accompanied by a statement of the reasons for the decision.

(c) The procedures set forth in Division 7.12 of this Chapter shall govern the modification, suspension or revocation of a permit granted pursuant to the provisions of this Chapter.

Division 7.5: Materials Management Plan

Sec. 7.500 Materials Management Plan Required

No construction or storage permit shall be granted unless and until the applicant has filed with and received approval of the City of a materials management plan, which plan shall include the information required by this Chapter.

Sec. 7.501 Maintenance Plan

The materials management plan shall include a plan for regular maintenance of the underground storage facility and tank system and all parts thereof.

Sec. 7.502 Monitoring Plan

The materials management plan shall include a monitoring plan which describes in detail the methods and procedures used at the facility to prevent and detect the release of any hazardous materials from the underground storage facility or tank system and any part thereof. The plan shall be based on the properties of the materials being stored, the type of containment system used and the monitoring method involved and, at the very least, shall include:

- (a) A description of the facility's or tank system's storage and dispensing systems;
- (b) A description of the facility's inventory control system, including a copy of the inventory record forms and a description of how and when reconciliations are performed;
- (c) A description of the tank and line leak monitoring and detection system(s) used at the facility; and
- (d) With respect to equipment that can and will be visually inspected, a description of the equipment being inspected and detailed explanation of what the inspector will be looking for to ascertain if a release has occurred.

Sec. 7.503 Closure Plan

The materials management plan shall include a detailed closure plan which describes procedures for terminating the storage of hazardous materials at the underground storage facility or tank system and any part thereof, by either closure in place or removal, in a manner that:

- (a) Minimizes the need for further maintenance;
- (b) Eliminates the threat to public health, safety or the environment from residual hazardous materials at the facility;
- (c) Demonstrates that hazardous materials that were stored in the underground storage tanks will be removed, disposed of, neutralized or reused in a manner which is permissible under applicable federal, state and local laws;
- (d) Provides that soil and/or water sample(s) from areas likely to have the maximal amounts of contamination shall be obtained and analyzed for residual hazardous materials by an independent laboratory acceptable to the City and that information pertaining to the intended location of samples, sampling methods and test procedures, as well as the test results, be provided to the City in a timely manner; and

(e) Provides for the removal or decontamination of the facility and the environment in order to minimize present and future hazards to public health, life, property or the environment.

Sec. 7.504 Contingency Plan

The materials management plan shall include an emergency release or leak response plan which describes the procedures which must be followed in response to any unauthorized discharge, spill or release of hazardous materials. Simplified emergency procedures, which include a list of who to contact should the leak detector or alarm be tripped or if an employee has reason to believe a discharge or release has occurred and what measures are to be immediately taken, shall be provided each employee at the facility and posted at conspicuous locations at the facility.

Division 7.6: Containment Specifications

Sec. 7.600 Compliance Required

No permit or approval for installation or construction of an underground storage facility or tank system or any part thereof or for the substantial modification or repair of any such facility, system or part thereof shall be granted unless and until the applicant has submitted a permit application and demonstrates to the satisfaction of the City by the submission of appropriate plans and other information that the design, construction and operation of the underground storage facility or tank system in all respects complies with the specifications contained in this Chapter.

Sec. 7.601 Specifications for Underground Storage Facilities

No person shall construct or install any underground storage facility tank system or make any substantial modification or repair thereto, except in accordance with the following requirements:

(a) **MONITORING CAPABILITY.** All underground storage facilities and tank systems must be equipped with monitoring systems and be monitored in accordance with the following requirements:

- (1) All underground storage facilities, including tanks and tank systems, intended to be used or used for the storage of hazardous materials shall be designed, constructed and operated with a continuous monitoring system and an instant alert capable of detecting that the hazardous material stored in the primary containment has entered the secondary containment. If water could intrude into the secondary containment, a means of continuous electronic monitoring for water intrusion shall also be provided unless water within the secondary containment is part of the system design. The monitoring system shall be capable of differentiating between water and the hazardous material contained;
- (2) An automatic telephone dialer or an audio-visual alarm system designed to be activated by a release from the primary containment shall be installed with alarm terminals at the underground tank site and at the Sunset Valley City Hall;
- (3) A minimum of three observation wells constructed of non-conductive material, with a minimum diameter of four (4) inches, shall be installed within each underground storage tank excavation. The wells shall extend to a depth of at least twelve (12) inches below the level of the bottom of the tank(s) and shall be lined with electronic hydrocarbon vapor sensors or be perforated in a manner so as to be capable of detecting the presence of floating contaminants over the entire length of the wells. At least one additional observation well shall be installed in a location outside of and downdip of each storage tank excavation, and shall be at least four feet deeper than the pit liner;
- (4) Manways shall surround all turbine pumps and fill tubes to allow inspection of fittings and to facilitate the containment of leaks or spills. All manways shall be sealed to the storage

tank in order to contain any leaks or spills. Electronic sensors shall be located in the manways to monitor for the presence of hydrocarbons and alert the operator of possible problems;

- (5) Electronic hydrocarbon sensors, located at several locations along the delivery piping, shall be installed to monitor the interstitial space and to alert the operator of possible problems;
- (6) Monitoring devices shall be installed between double-walled delivery piping and the synthetic liner to monitor releases or leakage from the piping;
- (7) Monitoring systems and/or observation wells, and all component parts thereof, shall be installed in accordance with any applicable codes and shall be operated and maintained in good working order;
- (8) Testing of monitoring equipment and emergency shut-off valves shall be conducted by a certified technician at least once a year; the certification record shall be maintained at the facility at all times and a copy thereof provided the City within seven (7) days of the annual certification.
- (9) The permit holder shall conduct such self-monitoring inspections and tests as the City may require and shall file reports attesting to the date and time of each such inspection or test. These reports shall also contain a description of the inspection or test performed, the results of each inspection or test and the printed name and title and the initials of the inspector. Failure to comply with the City's request pursuant to this section shall constitute a violation of this Chapter.

(b) CONTAINMENT REQUIREMENTS. Primary, secondary and tertiary levels of containment shall be required for all underground storage tank systems. Such systems shall meet the following specifications:

- (1) All tanks or containers shall be highly resistant to the hazardous materials they are designed to contain and shall also be resistant to the particular environment in which they are stored and any physical handling they may be subject to for their projected design life;
- (2) All tanks or containers must bear labels certifying adherence to appropriate specified construction methods and factory pressure testing for tank integrity, and must be installed by a licensed underground storage tank installer according to the manufacturer's specifications;
- (3) All primary containment shall be product-tight;
- (4) All secondary containment shall be external to and separate from the primary containment and all tertiary containment shall be external to and separate from the secondary containment. All secondary and tertiary containment shall be constructed of materials of sufficient thickness, density and composition so as not to be structurally weakened as a result of contact with any discharged hazardous material and so as to be capable of containing any hazardous material discharged from a primary container and preventing its release into the environment for a period of time longer than the maximum anticipated time sufficient to allow recovery of the discharged hazardous material;
- (5) In the case of an underground storage tank with one primary container, the secondary and tertiary containment shall be large enough to contain at least one hundred ten percent (110%) of the volume of the primary container;

- (6) In the case of an underground storage tank with multiple primary containers, the secondary and tertiary containment shall be large enough to contain one hundred ten percent (110%) of the volume of the largest primary container placed in it, or fifty percent (50%) of the aggregate internal volume of all primary containers in the storage tank, whichever is greater;
- (7) At least two (2) feet of high plasticity, low permeability compacted clay soil, compacted to maximum field density and placed in 6 inch lifts, shall serve as the floor of the tank(s) excavation;
- (8) All tank excavation pits shall be equipped with liners which come at least 3 feet up the sidewalls of the excavation, if the excavation is in clay, and come at least to the top of the storage tanks if the excavation is in limestone. The liners shall be of such design and material so as to be impervious to and non-reactive with hydrocarbons and may be a custom-fitted polyliner;
- (9) An underground storage tank with a double-walled primary container with a complete double shell shall be deemed to meet the primary and secondary containment requirements set forth in this section if the outer shell is constructed primarily of non-earthen materials, including but not limited to concrete, steel and fiberglass, which provide structural support, and an electronic leak detection system is located in the interstitial space (between the shells) which is continuously monitoring the space for the entry of hazardous substances from the inner container to the space and for the detection of water intrusion into the space from the outer shell;
- (10) Appropriately sized catch pans shall be installed under all delivery pumps;
- (11) All underground delivery piping must be of double-walled fiberglass construction which provides secondary containment of any fuel releases from the primary piping, and shall be surrounded by synthetic lining; and
- (12) In the case of readily visible portions of underground storage tank piping, no secondary or tertiary containment is required, provided that it is being regularly and periodically visually inspected in an approved manner.

(c) OVERFILL PROTECTION AND TRANSFER SPILL PREVENTION. An approved means of overfill protection and transfer spill prevention shall be required for all underground storage facilities. At a minimum:

- (1) An overfill prevention device shall be connected to the vent line to restrict flow into an underground storage tank when the tank is ninety percent (90%) full;
- (2) An overfill containment device shall surround the fill tube to collect any residual drainage from the delivery hoses;
- (3) A pressure loss indicator shall be installed on turbine pumps to automatically shut the pumps down should a loss in pressure occur;
- (4) A line leak detector shall be installed on submersible pumps to automatically shut the pumps down in the event of a leak or release;
- (5) The piping trench shall slope backwards to the line tank pit at an angle sufficient to insure that any released or escaped hazardous materials flow towards the tank pit;
- (6) Collection pans shall be installed beneath each dispenser to collect any small leaks or spills occurring during maintenance of the dispensers; and

- (7) Underpump emergency valves shall be installed on each fuel delivery line beneath the dispensers to automatically shut off fuel flow in the event of damage to the dispensers from collision, fire or any other cause.
- (d) **DRAINAGE AND SUMPAGE REMOVAL.** Drainage of precipitation and sumpage from within an underground storage tank shall be controlled and disposed of in accordance with all applicable state, federal and local laws and regulations for the containment and disposal of hazardous liquids so as to prevent hazardous materials from being released into the environment in an unapproved manner. No drainage or sumpage removal system shall be approved unless the said system meets the following minimum requirements:
 - (1) Site surface drainage shall be designed so that runoff from the areas around the pump islands and the storage tanks is collected and routed to an oil-water separator. The separator shall be designed to provide two (2) feet of submergence for the outlet pipe and sized to contain one-half (1/2) inch of runoff above the separator outlet. In addition, the separator shall be equipped with a sensor that will alert the operator when the oil in the separator has accumulated to a depth of one (1) foot, at which time the contents of the separator shall be entirely removed; and
 - (2) The oil-water separator will be a double-walled steel tank. The interstitial space between the tank walls will be monitored continuously with an electronic hydrocarbon sensor to alert the operator of a possible problem or that the level is such that removal is necessary.
- (e) **FLAMMABLE LIQUIDS.** In addition to any other requirements of this Chapter, no person shall construct or install any new underground storage tank intended for the storage of flammable liquid or make any substantial repair or addition to or modification of an existing underground storage tank system containing flammable liquid, unless and until said tank system is designed and constructed to meet, at a minimum, the standards provided by the State of Texas "Rules for the Safe Storage, Handling, and Use of Flammable Liquids at Retail Service Stations." (28 TAC 27,601-27.620)

Sec. 7.602 Replacement of Tanks

Each underground storage tank shall be replaced every ten years from the date on which its initial installation was approved by the City.

Division 7.7: Testing Regulations

Sec. 7.700 New Underground Storage Facilities

- (a) Upon receipt of any underground storage tank at the site, and prior to lifting the tank into the tank excavation, each tank shall be soap tested in accordance with Section 2-7 of the Flammable and Combustible Liquids Code, adopted by the National Fire Protection Association (NFPA 30).
- (b) After installation of the underground storage tank into the tank excavation and before being completely covered, each tank shall be air tested with a gauge pressure not to exceed 5 pounds per square inch. Product piping shall also be tested, but with a minimum gauge pressure of 30 pounds per square inch. Any primary piping shall be tested at a minimum gauge pressure of 30 pounds per square inch. Any secondary or tertiary containment piping shall be tested at a minimum gauge pressure of 5 pounds per square inch. If the underground tank meets the requirements of the air test then the tank shall be ballasted with water or fuel until placed into service.
- (c) Manual monitoring of secondary and tertiary containment shall begin when tanks are ballasted. Continuous monitoring shall begin when tanks are placed in service. Results of all monitoring prior to placing tanks in service shall be submitted to the City before or during final inspection.

A precision test may be used in lieu of manual monitoring, if accomplished before the tanks are placed into service.

(d) The owner of the tank may elect to not ballast underground storage tanks with water upon installation if the tank is air tested when installed and backfilled, and, prior to being placed into service, the tank is tested in the operating condition using the precision test defined by the National Fire Protection Association Pamphlet 329, "Recommended Practices for Handling Underground Leakage of Flammable Combustible Liquids," as amended, for proving the integrity of an underground storage tank.

Sec. 7.701 Existing Underground Storage Facilities

(a) **STORAGE TANKS.** The tank shall be tested using a precision test which is capable of measuring a quantitative leak rate and which controls, eliminates, measures or otherwise takes into account changes in the coefficient of expansion of the liquid due to temperature changes, containment system deformations due to pressure changes, evaporative losses, and other relevant variables during the course of the test, as discussed in the National Fire Protection Association Pamphlet 329, "Recommended Practices for Handling Underground Leakage of Flammable and Combustible Liquids," as amended. Such testing shall prove the integrity of an underground storage tank according to the following schedule:

<u>TANK AGE</u>	<u>TEST FREQUENCY</u>
0 to 5 years old	On the 5th year
6 to 10 years old	Every 2 years

(b) **PIPING.** The piping shall be tested using a precision test method capable of detecting both pressure and volume changes during testing and in accordance with the following:

- (1) Suction and gravity flow piping systems shall be tested using a precision test method capable of detecting a leak rate of at least .05 gallons per hour;
- (2) Pressure pumped piping systems fitted with approved continuous line pressure leak sensors capable of restricting the flow of product in the delivery system when a leak is detected shall be precision tested on the same schedule as the tank to which they are attached. Pressure pumped piping systems shall be tested using a precision test method capable of detecting a leak rate of at least .01 gallons per hour; and
- (3) Pressure pumped piping systems fitted with approved continuous line pressure leak sensors capable of completely shutting down the delivery system when a leak rate of at least .05 gallons per hour is detected shall be precision tested every three (3) years. Pressure pumped piping systems shall be tested using a precision test method of detecting a leak rate of at least .01 gallons per hour.

Sec. 7.702 Conduct of Tests

(a) The permit holder shall insure that any precision test required by this Chapter is performed by a testing company licensed by the Texas Natural Resource Conservation Commission or its successor and which is not the owner, operator or employee of the facility to be tested.

(b) Installation tests, air tests and precision tests required by this Chapter shall be conducted only in the presence of an inspector from the City. No such test shall be conducted unless and until a complete permit application is on file with the City. The fact that a required test result is not filed with the City shall constitute *prima facie* evidence that such test was not performed.

(c) No later than twenty (20) working days after any test required by this Chapter is performed, the underground storage facility or tank owner, permit holder, and/or testing company shall provide copies of the results of such test(s) to the City. In the event a system or component part thereof fails such a test, this information shall be provided to the City by the owner, permit holder, and/or testing company no later than three (3) days after the date of the test(s).

Division 7.8: Specifications for Out of Service Facilities and Underground Storage Tank Closure

Sec. 7.800 General

(a) No underground storage tank system or part thereof shall be abandoned.

(b) Underground storage facilities which are temporarily out of service, and are intended to be returned to use, shall be safeguarded in an approved manner and must continue to be monitored and inspected.

(c) Any underground storage tank which is not being monitored and inspected in accordance with this Chapter must be closed or removed in a manner approved by the City as provided for herein and as specified in the materials management plan.

Sec. 7.801 Application for Approval

The permit holder shall apply for approval to close an underground storage tank and pay the closure fee as established by City Council no less than thirty (30) days before closing the facility. Such closure shall be performed by a person holding a current license as an underground tank installer or on-site supervisor in accordance with the applicable rules and regulations of the Texas Water Commission or its Successor, and shall be in accordance with the closure plan included in the materials management plan for the facility, unless an addition to or modification of the closure plan is necessary, in which case the application for closure shall contain such addition(s) or modification(s). This thirty (30) day period may be waived by the City for good cause. The final stage of the underground storage tank closure shall be witnessed by an inspector from the City. If reinspection is necessary due to improper closure, a reinspection fee as established by City Council shall be paid.

Sec. 7.802 Soil Contamination

If the soil and/or water samples required by the closure plan indicate soil or subsurface contamination, the permit holder shall be required to demonstrate to the City that the condition no longer presents a threat of harm to the public health, life, property or the environment as a condition of approval to close the facility.

Sec. 7.803 Observation Wells

The City may require the installation of an observation well in the tank pit backfill area prior to the taking of any closure action.

Division 7.9: Leaks

Sec. 7.900 Prevention of Leaks, Releases, Spills and Overspills

All owners, operators and/or permit holders of underground storage tank facilities, systems and/or component parts thereof shall ensure that the facilities, systems and component parts are constructed, operated, maintained and managed in a manner that will prevent releases of hazardous materials regulated by this Chapter, and further, that spills and overfills of such materials do not occur.

Sec. 7.901 Initial Response to Leaks or Releases

Upon discovery or identification of any leak or release, the owner, operator and/or permit holder of the underground storage tank facility or system shall take immediate action to prevent any further release into the environment of the hazardous material regulated by this Chapter, including shutting down the leaking underground storage tank system or any component part thereof as determined necessary.

Sec. 7.902 Reporting of Leaks or Releases

- (a) Any leak or release from the primary containment which the storage permit holder is able to clean up within eight hours, and which does not escape from the secondary containment, does not increase the hazards of fire or explosion, and does not cause any deterioration of the secondary containment, shall be recorded on the permit holder's monitoring reports and reported to the City within seven (7) days of its occurrence.
- (b) Any leak or release from the primary containment which increases the hazard of fire or explosion, or causes any deterioration of or escapes from the secondary containment, shall be reported by the storage permit holder to the City Fire Department or Police Department immediately upon detection. The reporting party shall provide information relating to the ability of the permit holder to contain and dispose of the hazardous material, the estimated time required to complete containment and disposal operations and the type and degree of hazard created.

Sec. 7.903 Required Testing and Corrective Action

If there has been a leak or release from an underground storage facility or tank system or any part thereof which presents a potential threat to public health, safety or the environment or where there is any suspicion of soil or subsurface contamination, soil and/or groundwater samples from areas likely to have maximal amounts of contamination shall be obtained and analyzed for residual hazardous materials by an independent laboratory in a manner acceptable to the City. Information pertaining to the location of samples, sampling methods, test procedures, and test results shall be provided to the City no later than fifteen (15) days after the testing is completed. If there is any indication of soil or subsurface contamination, the permit holder shall be required to immediately initiate cleanup or decontamination operations and to demonstrate to the City that the condition no longer presents a threat of harm to the public health, safety or environment. If test results indicate the material is a hazardous waste, the matter will be referred to the Texas Natural Resource Conservation Commission and the City may take such other action as is authorized by this Chapter or any other regulation or statute.

Sec. 7.904 Corrective Action for Unknown Sources of Pollution

- (a) When an unknown source of pollution from the release of materials regulated by this Chapter is discovered, the owner or permit holder of any underground storage tank determined by the City to be a potential source of the release shall, upon written request from the City:
 - (1) Submit inventory records for the preceding twelve (12) month period to the City for review;
 - (2) Submit records of repairs performed on the facility for the preceding three (3) years to the City for review;
 - (3) Cause each facility to be precision tested within five (5) days of receipt of the written request from the City. The underground storage facility owner, permit holder or testing company shall provide copies of the results of the tests to the City no later than ten (10) working days after the date the tests were performed;
 - (4) If an underground storage tank fails the above mentioned precision test(s), the owner or permit holder shall install one or more approved monitoring wells adjacent to the

underground storage tank and shall have an independent laboratory acceptable to the City perform analyses on soil, core and/or water samples extracted from these wells to determine if any contamination exists. The City and/or its designated agent, including but not limited to the Barton Spring/Edwards Aquifer Conservation District, shall determine which samples shall be extracted from these wells. The results of these analyses shall be provided to the City no later than ten (10) working days after the date the tests were performed; and

- (5) All costs for such precision tests, well installations, sampling, and lab analyses shall be borne by the owner or permit holder of the underground storage tank system.

Sec. 7.905 Permit Review

The City shall review the storage permit when there has been a leak or release or when it determines that an underground storage tank system or any part thereof is unsafe, and may modify, suspend or revoke the permit in accordance with the provisions of Division 7.12 of this Chapter. In determining whether to suspend, terminate or modify the permit, the City shall consider the age of the underground storage tank system or part thereof, the condition of the primary, secondary and tertiary containment, the leak detection monitoring methods employed, the feasibility of any required repair or modifications, the concentration of the hazardous materials involved, the severity of any potential leaks or unauthorized releases and the suitability of any other long term preventative measures which meet the requirements of this Chapter.

Sec. 7.906 Corrective Action by City

- (a) The City may undertake corrective action in response to a release or threatened release if:
 - (1) The owner or operator of the underground storage tank facility, system or component part is unwilling or unable to take the corrective action necessary to protect the public health or safety and/or the environment;
 - (2) The owner or operator cannot, after reasonable attempts to do so by the City, be located; or
 - (3) The City determines that immediate action is necessary to protect the public health and safety and/or the environment.
- (b) In the event the City undertakes corrective action in response to a release or threatened release as authorized by Subsection (a) above, the City may charge the owner or operator for the reasonable costs incurred in connection therewith, and may use all legal means to secure payment of said costs. Nothing herein is intended to limit or preclude the City from taking any other action authorized by law or this Chapter to secure compliance with the terms hereof or to preserve and protect the public health and safety and the environment.

Sec. 7.907 Repairs

- (a) If there has been a leak or release of hazardous materials from an underground storage facility or tank system or any part thereof not under pressure, the owner or permit holder may repair the tank once by an interior coating process if the tank meets all of the following criteria:
 - (1) An inspector qualified to check tank interiors for possible damage shall enter the tank and inspect the entire surface and certify that the shell will provide structural support for interior lining;
 - (2) The material used to repair the tank by an interior coating process is approved by the City as compatible with the hazardous materials to be stored in the tank;

- (3) The material used to repair the tank by an interior coating process is applied by a person holding a valid underground tank installer or on-site supervisor license issued by the State of Texas and in accordance with nationally recognized engineering practices, such as American Petroleum Institute Publication #1631;
- (4) Each interior lined steel tank shall be protected from corrosion through the use of an engineered, properly maintained and installed cathodic protection system;
- (5) Before the tank is placed back in service following the repair, the tank is tested in operating condition using a precision test method. The precision test shall not be performed by the owner or operator of the tank or by an employee of the owner or operator; and
- (6) The permit holder shall notify the City of his or her intent to interior line an underground storage tank and shall apply for authorization on forms provided by the City. No work shall commence prior to the City's approval of such application. The permit holder shall submit documentation of interior lining and cathodic protection to the City no later than thirty (30) days after the tank has been interior lined.

- (b) If there has been no leak or release from an underground storage tank containing hazardous materials not under pressure, the permit holder may line the interior of the tank as a preventative measure in accordance with the requirements in subsection (c)(6) above.
- (c) Damaged piping shall not be repaired, but shall instead be replaced.

Division 7.10: Records

Sec. 7.1000 Maintenance of Records

Copies of the construction or storage permit applications, the permits, inspection check sheets, monitoring logs, inventory records and all other records required by this Chapter shall be maintained by the permit holder for a period of not less than three (3) years. Said records shall be made available to the City during normal working hours and on reasonable notice.

Sec. 7.1001 Public Records

- (a) The permit, permit application, materials management plan, and any other documentation maintained pursuant to this Chapter are public records except as provided in section 7.1002. Any request for a public record hereunder shall be submitted in writing to the City Secretary.
- (b) In the event of an emergency, the City may disclose pertinent information maintained pursuant to this Chapter to appropriate fire, police and emergency medical services personnel. Said fire, police and emergency medical services personnel shall protect the disclosure of such information coming into their possession from release to the public.

Sec. 7.1002 Confidential Information

In the event that any information required by this Chapter constitutes a trade secret, or if its disclosure would give advantage to competitors, or if for any other reason its disclosure is not required under the Texas Open Records Act, Article 6252-17a V.A.T.S., that information shall be identified in a coded manner (with key) such that it cannot be revealed to any person other than City personnel, provided that the applicant requests that of such information be kept confidential in accordance with section 7.1003.

Sec. 7.1003 Confidential Information Procedures

- (a) The City shall protect from disclosure any and all information required to be so protected under the Texas Open Records Act. Permit applicants or permit holders are encouraged but not required to comply with the following procedures to assist the City in maintaining confidentiality:
 - (1) At the time such information is submitted in writing to the City, a written claim of confidentiality should be simultaneously submitted, specifying each piece of information for which confidentiality is claimed. An assertion of confidentiality for the entire document shall not be sufficient;
 - (2) The confidential information sought to be protected should be submitted to the City on a separate form or forms, clearly and conspicuously marked or labeled as containing confidential information; and
 - (3) A letter or legal memorandum, signed by legal counsel for the permit holder or permit applicant, supporting the asserted confidential status and setting forth the reasons why each piece of information should be given confidential status under the Texas Open Records Act, should accompany each piece of information for which a claim of confidentiality is asserted.
- (b) The City shall not protect from disclosure any information which in the written opinion of the City Attorney or the Attorney General of Texas is required to be disclosed under the Texas Open Records Act.
- (c) Nothing in this Chapter shall be construed to require any person to disclose to the City any information the disclosure of which would violate any Federal law or contract with the United States Government.

Division 7.11: Miscellaneous

Sec. 7.1100 City Inspection

- (a) The City shall conduct inspections for the purpose of ascertaining compliance with this Chapter and causing to be corrected any conditions which would constitute any violation of this Chapter.
- (b) No new underground storage tank, or substantial modification or repair of an existing underground storage facility or tank system or any part thereof, shall be covered without approval by an inspector from the City and/or the Barton Springs/Edwards Aquifer Conservation District to confirm compliance with the applicable provisions of this Chapter.
- (c) Nothing in this Chapter shall be construed to hold the City or the Barton Springs/Edwards Aquifer Conservation District or any officer, employee, or representative thereof, responsible for any damage to persons or property by reason of making or failing to make an inspection required or authorized by the provisions of this Chapter.

Sec. 7.1101 Right of Entry

- (a) Whenever necessary for the purpose of investigating or enforcing the provisions of this Chapter, or whenever any officer of the City or his or her designate, including but not limited to, an inspector from the Barton Springs/Edwards Aquifer Conservation District, has reasonable cause to believe that there exists at any underground storage tank system conditions which constitute a violation of this Chapter, said officer may enter such facility at all reasonable times to inspect the facility or to perform any duty imposed on any of said officers by law; provided that if such facility be occupied, the officer shall first present proper credentials and request entry, and further provided that if such facility is unoccupied, the officer shall first make a reasonable effort to

contact a responsible person from such facility and request entry. If entry is refused, the officer seeking entry shall have recourse to every remedy provided by law to secure entry, including fines and excavation, if necessary.

- (b) Any permit applicant shall agree in writing to allow entry by an officer of the City or his or her designee to the facility or underground storage tank system which is the subject of the application for the purpose of inspection of conditions during the approval stage and during construction.
- (c) Any permit holder shall agree to allow entry to the facility or underground storage tank system which is the subject of the permit for the purpose of inspection by City officials or their designees.

Division 7.12: Permit Modification, Suspension, and Revocation

Sec. 7.1200 General

If the City determines that there has been a failure to comply with any term or condition of the permit and associated documents, or with any provision of this Chapter, or if there has been a leak or release or the City has determined that an underground storage tank system or any part thereof is unsafe, the City may modify, suspend or revoke the permit in accordance with the procedures set forth herein.

Sec. 7.1201 Noncompliance

- (a) For purposes of this Chapter, non-compliance shall mean and include any one or more of the following:
 - (1) The failure of the permittee to comply with the provisions this Chapter;
 - (2) The failure of the permittee to comply with the provisions of any relevant City code or ordinance other than the Underground Tank Storage Regulations, or with any applicable rule, regulation or law of any other federal, state or local agency;
 - (3) The failure to the permittee to comply with any term or condition imposed by the City in connection with the issuance of the permit;
 - (4) The making of any material misrepresentation or false or misleading statement by the permit applicant or one acting on his behalf in connection with or on the permit application;
 - (5) The failure of the permittee to timely commence the work required or authorized by the permit as approved by the City; or
 - (6) The failure of the permittee to timely complete the work required or authorized by the permit as approved by the City.

Sec. 7.1202 Modification, Suspension and Revocation of Permit

- (a) A permit may be modified, suspended or revoked for:
 - (1) Non-compliance as that term is defined in section 7.1201;
 - (2) The occurrence of any leak or release from the underground storage tank system or any component part thereof;
 - (3) The hazardous or unsafe condition of the underground storage tank system on any component thereof; or

(4) Any other reason allowed by law.

(b) In determining whether a permit should be modified, suspended or revoked, the City shall consider, among other factors, those matters identified in section 7.905 of this Chapter.

(c) If the City determines that a permittee is in noncompliance, as that term is defined herein, or that a permit should be modified, suspended or revoked for any other reason set forth in section 7.1202(a), the City shall give written notice by certified mail, return receipt requested, to the permittee and, if not the same person, the property owner, which notice shall:

- (1) State the nature of the noncompliance or other condition warranting modification, suspension or revocation;
- (2) Direct the specific action be taken to correct the noncompliance or other condition warranting modification, suspension or revocation within thirty (30) days of the receipt of the notice;
- (3) Advise that a hearing may be requested before the City Council to determine whether or not the permittee is in noncompliance, and whether or not the permit should be modified, suspended or revoked;
- (4) Advise that to request a hearing, a written application therefor must be filed with the City Secretary within ten (10) days of receipt of the notice provided for herein; and
- (5) Advise that if no hearing is requested within said ten (10) days, and if the required corrective work is not completed within the thirty (30) day period specified in the notice, the permit shall be modified, suspended or revoked as appropriate.

(d) If no hearing is requested and if the required corrective action is not completed within the time specified by the City, the permit shall be modified, suspended or revoked, and no work shall be done on or hazardous materials stored or handled in the facility, system or a component part thereof except as thereafter expressly directed or authorized by the City.

(e) If a hearing has been requested within ten (10) days of receipt of the notice by the filing of a written application therefor with the City Secretary, the City Council shall, no later than thirty (30) days after receipt of said request, hold a hearing to determine whether the permittee is in noncompliance or if some other reason exists which would warrant the modification, suspension or revocation of the permit and whether such action should be taken. Written notice of the date, time and place of the hearing shall be given to the permittee and, if not the same person, the owner of the property.

(f) If, after hearing, the City Council determines that the permittee is in noncompliance or that such other condition exists that would warrant modification, suspension or revocation of the permit, and that the permit should be modified, suspended or revoked, it shall order, if appropriate, that the necessary corrective action be completed within such time as the Council directs. If the work is not so completed, the permit shall be modified, suspended or revoked, and no further work shall be done or hazardous materials stored or handled except as thereafter expressly directed or authorized by the City.

Division 7.13: Acts Prohibited: Enforcement

Sec. 7.1300 Violations

(a) It shall be unlawful for any person owning the property on which an underground storage tank facility or tank system or part thereof is located, or any person owning or having physical control

of an underground storage tank system or part thereof, to receive, produce or store, or to allow the receipt, production, or storage of, any material or materials regulated by this Chapter without first obtaining and having a current hazardous materials underground storage permit and except in strict compliance with the terms of this Chapter.

- (b) It shall be unlawful for any person to construct, install or substantially modify or repair any underground storage tank facility, system or component part thereof subject to the requirements of this Chapter without first obtaining a construction permit and except in strict compliance with the terms of this Chapter.
- (c) It shall be unlawful for any person owning the property on which an underground storage facility or tank system or any part thereof is located or any person having physical control of an underground storage tank facility or system or any part thereof to close or to allow closure of such facility, system or part thereof without first obtaining approval from the City pursuant to section 7.503.
- (d) Any person to whom a hazardous materials underground facility construction or storage permit has been granted commits a violation of this Chapter if such person fails to observe and perform any term or condition stated in the permit, materials management plan, or in any other document submitted in order to secure the permit.
- (e) The owner of any land or underground storage tank where anything in violation of this Chapter is constructed, installed, placed or used, and any architect, builder, contractor, agent, laboratory, independent inspector, or any other person employed in connection therewith commits a violation of this Chapter if he or she knowingly aids, assists, or contributes to the commission of any such violation.

Sec. 7.1301 Remedies

Nothing in this Section shall limit in any manner the authority of the City to seek any other relief, including, but not limited to, injunctive or other civil relief available under the law.

Sec. 7.1302 Recovery of Costs

- (a) The City may, upon notice to the permittee, retain such experts, including but not limited to engineers, hydrologists and attorneys, to advise and represent the City in connection with its determination that a permittee is in non-compliance, or that such other condition exists that would warrant modification, suspension or revocation of the permit. In the event that the City does determine that action should be taken with respect to the permit, the permittee shall reimburse the City for the reasonable costs incurred in connection with the retention of such experts.
- (b) In addition to any other method allowed by law pursuant to which the City can recover the costs it incurs in connection with the permit modification, suspension or revocation proceedings, including those authorized by subsection (a) above, the City may, at its discretion, collect on any bond or letter of credit required of the permittee.
- (c) Nothing in this section is intended to limit the remedies available to the City.

CHAPTER 8: UNDERGROUND UTILITY LINES

Sec. 8.100 Authority

This Chapter is adopted under the authority of the Constitution and laws of the State of Texas, including particularly, but not limited to, The Texas Local Government Code § 212.002. This Chapter is adopted pursuant to the provisions of the general laws of the City.

Sec. 8.101 Purpose

The purpose of this Chapter of the Code is to require builders and owners, when developing any tract of land which is subdivided into four or more lots or when developing any property zoned for commercial, office or multifamily uses after February 11, 1992, to place all utilities underground.

Sec. 8.102 Variances

All requests for variances must be submitted in writing to the City Council. The City Council may authorize a variance from these regulations when in its opinion, undue hardship will result from requiring strict compliance.

Sec. 8.103 Utility Line Placement

When any new development takes place on any property within the City which either: (a) has been subdivided into four or more lots after February 11, 1992 or (b) is zoned for commercial, office or multifamily use; the owner or developer of any such lot shall refrain from constructing poles and installing overhead wires and associated structures, and, instead shall place all utility lines underground in accordance with sound engineering practices and in conformance with all uniform building codes adopted by the City.

Sec. 8.104 Intervening Property or Intervening Right-of-Way

Whenever it shall be necessary for an owner or developer of property described in Section 8.103 of this Chapter to obtain an extension of existing utility lines across any intervening property not described in Section 8.103 of this Chapter, or any intervening right-of-way in order that such utility lines extend to the owner or developer's property, the requirements of Section 8.103 of this Chapter shall apply to the placement of all poles, overhead wires, associated structures and utility lines across such intervening property or intervening right-of-way.

Sec. 8.105 Responsibility for Payment of Installation Costs

All expenses for installation of utilities and for construction costs related to placing utility lines underground shall be borne by the developer or lot or utility easement owner.

Sec. 8.106 Utility Lines

All utility lines that pass under a street or alley shall be installed before the street or alley is paved. When it is necessary that utility lines pass under the street or alley pavement, they shall be installed to a point at least three (3) feet beyond the edge of the pavement.

CHAPTER 9: WATER AND WASTEWATER

Division 9.1: General Provisions

Sec. 9.100 Rules Governing

The Rules and Regulations of the Texas Natural Resource Conservation Commission as published and adopted shall govern the installation and regulation of wastewater systems in the City of Sunset Valley, Texas.

Sec. 9.101 Design

Such installations shall be designed by a Licensed Professional Engineer or a Registered Sanitarian. The engineer or sanitarian shall supply the City of Sunset Valley, Texas with a letter certifying that the completed construction of the wastewater system meets the minimum State and county standards. Whenever the standards and specifications of the State of Texas and Travis County conflict, the most stringent or restrictive provision shall govern.

Sec. 9.102 Inspection, Certificate of Occupancy and Appeal

- (a) The Inspector for the City of Sunset Valley shall inspect the system before it is covered with soil. The inspector shall have authority to approve or disapprove the wastewater system.
- (b) In the case of new construction of residential or commercial buildings the Certificate of Occupancy shall not be granted until the letter certifying that the wastewater system is constructed according to the minimum standards of the State of Texas and the minimum standards of Travis County, Texas, whichever are more restrictive, is received by the City, and the inspector for the City has approved the system.
- (c) An appeal may be made to the City Council of a decision by the inspector for the City to reject a request for a Certificate of Occupancy within ten days of the rejection of a certificate request. The appeal will be acted upon at a meeting of the Sunset Valley City Council.

Sec. 9.103 Permits

- (a) A permit for the construction of wastewater systems shall be required.
- (b) Three (3) copies of the plans for the system including a plat showing the location of the system shall be required. The plans shall show the seal of the engineer or the sanitarian responsible for the design.

Sec. 9.104 Fees

A fee shall be required as shown in the City of Sunset Valley Permit Fee Schedules adopted by ordinance or resolution the time the application for the permit is made.

Division 9.2: Connection to City's Wastewater Collection System Required

Sec. 9.200 Connection Requirement

- (a) An owner of improved real property within the zoning jurisdiction of the City of Sunset Valley shall insure that every domestic sewage facility on the property is connected with the City's wastewater collection system on or before the date the property is sold to a new owner.

(b) An owner of improved real property within the zoning jurisdiction of the City of Sunset Valley shall insure that every domestic sewage facility on the property is connected with the City's wastewater collection system on or before any water service is extended and connected to serve an accessory structure.

Sec. 9.201 Waiver

An owner of improved real property is excused from compliance with this Chapter if the owner has received a written determination from the City Council that it is not feasible for the domestic sewage facilities on the owner's property to be connected with the City's wastewater collection system.

Division 9.3: On-Site Sewage Facilities

Sec. 9.300 Nuisances and Abatement of Nuisances

(a) Any and all of the following conditions are hereby specifically declared to be nuisances dangerous to the public health:

- (1) All sewage, human excreta, wastewater, garbage, or other organic wastes deposited, stored, discharged, or exposed in such a manner that makes it a potential instrument or medium in the transmission of disease to or between a person or persons;
- (2) Any vehicle or container used in the transportation of human excreta or other organic material which is defective and allows leakage or spilling of contents;
- (3) Any overflowing septic tank or similar device, including surface discharge from or groundwater contamination by a component of a private on-site sewage facility or a blatant discharge from such a facility;
- (4) The maintenance of any open or over-flowing private on-site sewage facility which permits access to waste by insects or other possible carriers of disease;
- (5) The deposit, storage, discharge, or disposal of sewage in a manner that emits noxious odors; or
- (6) The failure to promptly investigate and pump out or repair any private on-site sewage facility after its warning device, alarm or monitoring system has been activated or has indicated that the facility is likely to overflow or is leaking or malfunctioning.

(b) Every person possessing any place in or on which there is a nuisance shall, as soon as its presence comes to his knowledge, proceed at once and continue to abate said nuisance.

(c) Nothing in this Chapter shall prohibit the City from taking appropriate action to abate any nuisance that poses a threat to public health, safety or welfare as authorized by state law or other City Ordinance.

Sec. 9.301 Applications for Permits

(a) All applications for permits under this Chapter shall be upon forms provided by the City, which forms shall be available at City Hall.

(b) The application form shall be completed, verified by the applicant and filed with the City Secretary. The applicant shall provide such information, statements and representations and execute such agreements as may be required by the City.

- (c) All permit fees shall be collected by the City at the time the application is filed.
- (d) The City may, by ordinance, establish permit fees to cover the cost of applications, inspection and other costs incurred by the City in the administration of this Chapter.

Sec. 9.302 Permit for Construction or Installation of New Private On-site Sewage Facilities

- (a) Permit Required.
 - (1) Any person desiring to install, construct, operate or maintain a new private on-site sewage facility within the City of Sunset Valley shall be required to obtain a permit from the City before any construction work is begun. In no event shall the installation or construction of a new private on-site sewage facility be initiated within the City until a construction permit therefor has been issued.
 - (2) No permit shall be issued until an application for a permit to install or construct a new private on-site sewage facility has been filed and approved by the City.
 - (3) No permit shall be issued for the installation or construction of a new private on-site sewage facility unless the proposed facility is one expressly authorized under the provisions of Section 9.303 of this Chapter.
- (b) The City may require such additional tests and inspections as it considers appropriate to determine whether the proposed installation or construction will comply with the provisions of this Chapter. It shall require that the proposed installation or construction and the private on-site sewage facility as installed or constructed be approved by the City. All tests and inspections shall be at the expense of the owner.
- (c) The City shall have the right to select and engage sanitarians and engineers, or engineers, or any combination thereof, to conduct investigations, tests, examine plans and specifications, present evidence, advise and represent the City, and assist the applicant in the development of a private on-site sewage facility in accordance with and to comply with the provisions of this Chapter, and the applicant shall be required to reimburse the City for reasonable costs of such services.
- (d) The City shall have access to the property during the installation or construction of any new private on-site sewage facility for the purpose of verifying compliance with this Chapter. After the installation or construction is completed, but before the facility is buried, a final inspection shall be made by a City Inspector. The inspector shall inform the City whether or not the facility is in compliance with this Chapter.
- (e) No permit shall be issued to install or construct a private on-site sewage facility within the City unless the City finds, on the basis of such tests, inspections, and reports as it deems appropriate, that the nature of the soil and the drainage of the property will permit the use of and is appropriate for the proposed facility. In making such determination, the City shall consider the following:
 - (1) the location of the property;
 - (2) the location (or proposed location) of the private on-site sewage facility on the property;
 - (3) the nature of the use (or proposed use) of the property;
 - (4) the total proposed maximum area of impervious surfaces;
 - (5) the probable population density of the development and the adjacent area;

- (6) the anticipated sewage load (daily sewage flow per capita);
- (7) the soil absorption capacity;
- (8) the location of intermittent springs;
- (9) if applicable, the proposed subsurface system;
- (10) the depth of and characteristics of subsurface impervious strata;
- (11) the ground water table;
- (12) the quantitative geologic description of soil and rock encountered by core tests;
- (13) topographic or ground slope and drainage characteristics in the area of the proposed facility;
- (14) the volume of soil removed or relocated during construction;
- (15) the holding or septic tank capacity and whether the proposed facility requires one or more compartment tank(s);
- (16) the distance from flood plains, wells, lakes, creeks, aquifers, faults, and water lines;
- (17) the possible contamination of streams, lakes, creeks, aquifers, ground water, or water lines;
- (18) the land usable and available for the primary and any alternate absorption fields;
- (19) whether alternative methods would be more suitable; and,
- (20) other relevant factors.

(f) Upon satisfactory evidence that a new private on-site sewage facility has been properly constructed in compliance with this Chapter, and that all other applicable federal and state laws and local regulations have been complied with, the City shall issue a final permit to maintain and operate said facility, and if appropriate, authorize the connection of the property to the City's water distribution system.

(g) Should ownership of any property served by a private on-site sewage facility installed or constructed under the provisions of this Chapter be transferred, the new property owner, within thirty (30) days of the change of ownership, shall renew either the construction permit or the maintenance and operation permit; the terms and conditions of said permits shall be binding upon all successors in interest to the property.

Sec. 9.303 Authorized Systems

(a) The installation or construction of any new private on-site sewage facility of a type not expressly authorized by Section 9.303(b) of this Chapter is hereby prohibited.

(b) The installation and construction of new private on-site sewage facilities is limited to the following:

- (1) **Evapotranspiration System.** A facility utilizing an evapotranspiration system that:
 - (A) is designed, constructed, installed, operated and maintained in accordance with the standards and specifications of the State of Texas governing the construction of on-

site sewage systems in effect at the time the construction permit is issued by the City;

- (B) is designed and sealed by a registered professional sanitarian authorized to practice in the State of Texas;
- (C) is equipped with impervious liners approved by the City;
- (D) has a separate monitoring system approved by the City installed in each bed in a manner that will facilitate the collection and sampling of effluent leakage from a ruptured liner, and which is designed to detect liner failure through periodic sampling; the entire monitor system must be assembled and ready for approval during a single inspection, and no sand shall be put in place as a cushion until the monitor system has been inspected and approved by the City; and
- (E) has been found by the City to be appropriate for its proposed use and for the nature of the property on which it is to be located.

(2) Holding Tank System. A facility consisting of a holding tank or tanks that:

- (A) is designed and sealed by a registered professional sanitarian authorized to practice in the State of Texas;
- (B) is equipped with an alarm system approved by the City that will give notice when the tank or tanks need to be emptied, and that has sufficient capacity to prevent overflow after the alarm activates, as may be determined by the City, on the basis of the size of the tank and its proposed use;
- (C) is located, designed, sized and installed in accordance with specifications approved by the City; and
- (D) has been found by the City to be appropriate for its proposed use and for the nature of the property on which it is located.

(3) Pressure Dosing System. A facility utilizing a pressure dosing system that:

- (A) is located, designed, constructed, installed, operated and maintained in accordance with the standards and specifications of the State of Texas governing the construction of on-site sewage systems in effect at the time the construction permit is issued by the City;
- (B) is designed and sealed by a registered professional sanitarian authorized to practice in the State of Texas;
- (C) is equipped with a high water alarm, on an electric circuit separate from the pump, and has an effluent holding tank with a remaining capacity of at least 500 gallons, if serving a single family residence, and at least 1,000 gallons, if serving a commercial or other user, after the alarm activates; and
- (D) has been found by the City to be appropriate for its proposed use and for the nature of the property on which it is located.

(c) Each unit of a multiple unit residential structure must be served by a separate private on-site sewage facility as follows:

- (1) if the facility consists of an evapotranspiration system or a pressure dose system, each residential unit must have its own septic tank(s) and evapotranspiration bed(s) or soil absorption bed; and
- (2) if the facility consists of a holding tank, each residential unit must have its own tank(s).

Sec. 9.304 Restrictive Covenant and Other Conditions

- (a) In connection with and as a condition for the issuance of a permit for the installation or construction of one of the private on-site sewage systems authorized by Section 9.303 of this Chapter, the property owner shall execute an agreement with the City, entitled "Restrictive Covenant," to be filed among the Property Records of the Travis County Clerk, wherein the property owner covenants and agrees that:
 - (1) Within ninety (90) days of the date on which the City notifies the property owner in writing that the City wastewater collection line or any extension thereof runs within three hundred (300) feet of the property line, the owner shall, at his expense, connect his sewer line to the City system;
 - (2) If the property owner fails to connect his sewer line to the City's wastewater collection system as provided above, the property owner agrees that the City may perform any work necessary to accomplish the connection; in this regard, the owner agrees that the City's employees, officers and agents, upon reasonable notice to the property owner and presentation of proper credentials, are authorized to enter upon his property and complete the connection;
 - (3) If the City performs the connecting work described above, the property owner agrees to pay the reasonable costs thereof and a reasonable administrative fee, which expenses, if not paid as directed by the City, shall constitute a lien upon the property to be established in accordance with State Law; and
 - (4) The covenant shall be binding upon the property owner and any successors in interest to said property.
- (b) In connection with and as a further condition for the issuance of a permit for the installation or construction of one of the private on-site sewage facilities authorized by Section 9.303 of this Chapter, the property owner shall agree that, in the event an alarm or monitor required under the provisions of Section 9.303 indicates that the facility should be emptied or is leaking or otherwise malfunctioning, the property owner shall promptly have the facility pumped out to avoid any overflow or agrees to take whatever corrective action is necessary to remedy the malfunction or leakage, and that, should the property owner fail to do so, the property owner agrees that:
 - (1) he will cause the disconnection or interruption of his water service until such time as the necessary corrective action has been taken;
 - (2) if he fails to disconnect or interrupt his water service, after due notice and an opportunity for hearing, the City may:
 - (A) disconnect said service;
 - (B) perform the necessary corrective work and bill the property owner for the reasonable costs thereof and a reasonable administrative fee, which expenses, if not paid, shall constitute a lien upon the property to be established in accordance with State law;

- (C) prosecute the property owner for violation of this Chapter; or
- (D) take any other action authorized by state law or local ordinance.

(c) In connection with and as a further condition for the issuance of a permit for the installation or construction of one of the private on-site sewage facilities authorized by Section 9.303 of this Chapter, the property owner agrees that, should ownership of the property be transferred, the property owner has a duty to and shall advise the person to whom ownership is transferred of the terms and conditions of any permit or agreement required or entered into pursuant to this Chapter.

(d) The terms and conditions set forth in subsections (a), (b) and (c) above, and any agreements required to be executed thereunder, shall be incorporated into and made a part of the maintenance and operation permit issued by the City.

(e) The City may impose such other reasonable restrictions and conditions in connection with the issuance of a permit required hereunder as it deems necessary for the protection of the public health, safety and welfare.

Sec. 9.305 Revocation of Permit

- (a) A permit may be revoked for failure to comply with the requirements for the issuance of such permit.
- (b) If it is determined that a permittee is not in compliance, the City shall notify the person(s) in possession and/or the property owner of the nature of the non-compliance.
- (c) The permittee shall have thirty (30) days after notice of non-compliance to correct the defects except as provided herein. If the permittee has made a reasonable effort to correct the defects within the 30-day period, but fails to complete the work, the City may extend the period for a period or periods not to exceed an additional 30 days.
- (d) If non-compliance has not been corrected within the period allowed for its correction, the City shall revoke the permit and notify the property owner in writing.
- (e) A permit which has been revoked is void and of no effect as if the permit had never been issued.

Sec. 9.306 Responding to Alarms

- (a) In addition to any other duty imposed by this or any other Code provision or state or federal statute or regulation upon a property owner to maintain a private on-site sewage facility in good working order and in such a manner that no nuisance is created or permitted, it shall be the duty of any owner whose facility is equipped with a warning device, alarm or monitoring system to promptly pump-out or repair his facility after the warning device, alarm or monitoring system has been activated or has indicated that the facility is likely to overflow or is leaking or malfunctioning.
- (b) Should a property owner fail to promptly cause his private on-site sewage facility to be pumped out to avoid any overflow or to take whatever corrective action is necessary to remedy the leakage or malfunction, the City shall give him notice, which notice shall comply with the provisions of Section 9.308 of this Chapter, directing him to perform the necessary pumping or take the necessary corrective action.
- (c) If the property owner fails to comply with the notice and fails to request a hearing in accordance with the provisions of this Section 9.307 of this Chapter, the City may:
 - (1) disconnect or interrupt the owner's water service;

- (2) perform the necessary corrective work and bill the property owner for the reasonable costs thereof and a reasonable administrative fee, which expenses, if not paid, shall constitute a lien upon the property to be established in accordance with state law;
- (3) prosecute the property owner for violation of this Chapter; or
- (4) take any other action authorized by state law or local Ordinance.

Sec. 9.307 Appeal

An owner may appeal the rejection of an application for a permit, the denial of a permit, the revocation of a permit, a determination of non-compliance or a directive to pump out or repair his system by filing a written request for hearing with the City within ten (10) days of receipt of the notice. The City shall provide such hearing within a reasonable time after receipt of the request.

Sec. 9.308 Notice

- (a) Notice under this Chapter shall be written notice delivered by personal service or by registered or certified mail, return receipt requested, to the property owner. Each notice shall identify the violation or non-compliance and advise the property owner of the corrective action he is required to take, the time within which said action must be taken, his rights to appeal the directive and the possible consequences should he fail to act.
- (b) When the action or inaction of the property owner may result in the imposition of a lien upon the property, notice shall also be given to any lienholders of record.
- (c) Notice shall be deemed given when deposited in the United States mail.

Sec. 9.309 Repair of Existing Systems

Nothing herein shall prevent the repair, extension or alteration of any existing private on-site sewage system which was installed or has received a permit from the City prior to the effective date of this Code; provided, however, that in the event the cost of the repair, extension or alteration to any existing system exceeds \$500.00, the City may, in its discretion, require the property owner to install one of the three private on-site sewage systems authorized herein and to otherwise comply with the provisions hereof.

Sec. 9.310 Offenses

A person commits an offense if he knowingly:

- (a) installs or constructs a new private on-site sewage facility without a permit;
- (b) operates or maintains a private on-site sewage system installed or constructed under the provisions of this Chapter without having been issued a maintenance and operation permit by the City;
- (c) permits sewage and/or effluent to flow on adjoining public or private property;
- (d) possesses a premises on which there is a nuisance and fails to abate the nuisance within a reasonable time after notice.

CHAPTER 10: PARKING AND FIRE LANES

Division 10.1: Parking

Sec. 10.100 Parking Regulations, in General

These regulations require off-street parking and loading facilities proportional to the need created by each use in order to ensure functionally adequate, aesthetically pleasing, and secure off-street parking and loading facilities. Development regulations and design standards are intended to ensure the usefulness of parking and loading facilities, protect the public safety, and, where appropriate, to mitigate potential adverse impacts on adjacent land uses.

Sec. 10.101 Basic Regulations - Vehicle Parking

- (a) Off-street parking facilities shall be provided for any new building constructed and for any new use established. Off-street parking facilities shall be provided for any addition or enlargement of an existing building or use, or any change of occupancy or manner of operation that would result in additional parking spaces being required, provided that the additional parking shall be required only for such addition, enlargement, or change.
- (b) Existing facilities being used for off-street parking shall not be reduced in capacity to less than the number of spaces then required by this Code, or altered in design or function to less than the minimum standards then prescribed by this Code.
- (c) Parking facilities constructed or substantially reconstructed, whether or not required, shall conform to the Design Standards in effect at the times as set forth in Section 10.108 as amended from time to time.
- (d) All required parking facilities shall be maintained for the duration of the use requiring such areas. Such facilities shall be used exclusively for the temporary parking of passenger automobiles, motor vehicles, or light trucks not exceeding one ton in capacity, and shall not be used for the sale, display, or storage of merchandise, or for the storage or repair of vehicles or equipment.
- (e) All required parking facilities shall be located on the same site as the use for which such facilities are required.
- (f) No use shall be required to provide more spaces than prescribed by these regulations.
- (g) Except for residential areas, head-in parking adjacent to a public street or driveway is prohibited. In addition, head-in parking shall be prohibited where, in the judgment of the City, it may endanger the public health, safety and welfare.
- (h) Overnight on-street parking shall be prohibited in all districts unless prior authorization is given by the City Police Department.
- (i) No parking facility shall be located and no parking shall be permitted between the front and side of the building and the front and side setback lines on property located in an O-Neighborhood Office District.

Sec. 10.102 Schedule of Off-street Parking Requirements

- (a) Parking facilities for each use shall be provided in accord with the minimum requirements prescribed in Table 1.

- (1) Where the application of Table 1 results in a fractional requirement, a fraction of 0.5 or greater shall be resolved to the higher whole number.
- (2) For purposes of this Section, requirements shall be based on gross floor area, but shall not include enclosed or covered areas used for off-street parking or loading.
- (3) Where requirements are established on the basis of seats or person capacity, the Uniform Building Code provisions applicable at the time of determination shall be used to define capacity.

TABLE 1
OFF STREET PARKING REQUIREMENTS
(All requirements based on gross square feet)

ZONING DISTRICTS	MINIMUM OFF-STREET PARKING
SF	2 Spaces per dwelling unit plus $\frac{1}{2}$ parking space per bedroom
O	1 space per 300 square feet of floor area
NC and HC except medical-related services, veterinary services, restaurants, and day care facilities	1 space per 250 square feet of floor area
Medical-related services	1 space for each 300 square feet of floor area
Day Care Services	1 space per teacher, administrator and day care support and staff
Veterinary services	1 space per 500 square feet of floor area
Restaurants	1 space per 3 person capacity
GUI: Government building	1 space per 300 square feet of floor area
Schools	1 space per teacher, administrator, and support staff
Churches	1 space per 3 person capacity

Sec. 10.103 Parking for Compact Cars

In each parking facility of 30 or more spaces, a maximum of 10 percent (10%) of the spaces may be designed and reserved for small or compact cars. Spaces for compact vehicles shall be located in a manner affording desirability and use ability equivalent to standard spaces. Compact parking spaces shall be located in groups of not less than 5 contiguous spaces, and shall be identified by appropriate directions and markings.

Sec. 10.104 Handicapped Facilities

In each parking facility, a portion of the total parking spaces should be specifically designed, located, and reserved for vehicles licensed by the State for use by the handicapped, according to the following schedule:

<u>Total Spaces</u>	<u>Minimum Number of Handicapped Spaces Required</u>
19 or less	1
20-50	2
51-100	3
101-150	4
151 or greater	2% of total in excess of 50 or ADA requirements, whichever are more restrictive

Sec. 10.105 Bicycle Parking

- (a) Off-street parking for bicycles for each use except residential shall be provided with a minimum 5% of vehicle parking spaces.
- (b) Type, Size and Location of Spaces.
 - (1) Bicycle spaces shall be racks or lockers anchored so that they cannot be easily removed. Each space allocated for this kind of parking shall be a minimum of 2 feet wide and 6 feet long. Bicycle parking facilities shall be a bike rack with the ability for the user to lock one wheel and the frame, with the user providing the chain and lock.
 - (2) The location of the bicycle facility shall be at least as convenient as the most convenient auto parking and as close to the desired entrances as possible without interfering with pedestrian traffic.

Sec. 10.106 Basic Regulations - Off-street Loading

- (a) Off-street loading facilities shall be provided for any new building constructed and for any new use established. Off-street loading facilities shall be provided for any addition or enlargement of an existing use, or any change of occupancy or manner of operation that would result in additional loading space being required, provided that the additional loading space shall be required only for such addition, enlargement, or change.
- (b) Facilities being used for off-street loading on the date of this Chapter is adopted shall not be reduced in capacity to less than the number of spaces prescribed, or altered in design or function to less than the minimum standards prescribed.
- (c) All required loading facilities shall be maintained for the duration of the use or building requiring such facility, and shall be used exclusively for the purpose of loading and unloading goods, materials, and supplies, and shall not be used for the sale, display, or storage of merchandise, or for the storage or repair of vehicles or equipment.

Sec. 10.107 Schedule of Off-street Loading Requirements

- (a) Off-street loading facilities for each use shall be provided in accord with the minimum requirements prescribed in Table 2.

TABLE 2

<u>Sq. Feet Floor Area</u>	<u>Off Street Loading Spaces (min. 12 X 45)</u>
Under 10,000	0
10,000 - 50,000	1

- (1) For purposes of this Section, requirements shall be based on gross floor area, but shall not include enclosed or covered areas used for off-street parking or loading.
- (2) Where mixed uses or multiple occupancies are located in the same building, or are situated on the same site in such a manner that all uses can be equally and conveniently served by a common loading space, the schedule may be applied to the entire building and to the combination of buildings or uses so situated, in lieu of application of the schedule to each individual use or occupancy. For this purpose, the schedule applicable to the use having the greatest requirement shall be utilized.
- (3) For purposes of this Section, each two square feet of exterior site area used by commercial uses shall be considered equivalent to one square foot of enclosed area.

Sec. 10.108 Design Standards

- (a) Standards. Design standards are established by this Section to set basic minimum dimensions and guidelines for design, construction, and maintenance of parking and loading facilities.
- (b) Parking and loading space dimensions. The following basic dimensions shall be observed for parking spaces and loading spaces.
 - (1) Each standard parking space shall consist of a rectangular area not less than 9.0 feet wide by 18.5 feet long. Each compact parking space shall consist of a rectangular area not less than 7.5 feet wide by 15.0 feet long. Each space shall have a vertical clearance of not less than 7.5 feet. Each space shall be independently accessible.
 - (2) Each parking space designated for use by the handicapped shall consist of a rectangular area not less than 13.0 feet wide by 18.5 feet long, with a vertical clearance of 7.5 feet, shall be located in an area not exceeding a 2-percent slope, and shall be located near and convenient to a level or ramped entrance accessible to handicapped persons. Parking spaces for the handicapped shall be signed and restricted for use by the handicapped only.
 - (3) Each off-street loading space shall consist of a rectangular area not less than 12 feet wide and 45 feet long, with a vertical clearance of not less than 15 feet.
 - (4) Each parking and loading space shall have adequate drives, aisles, and turning and maneuvering areas for access and usability, and shall at all times have access to a public street or alley.
 - (5) Each loading zone shall have a minimum design outside turning radius of 45 feet and a minimum inside turning radius of 19 feet and 2 inches.
- (c) Parking facility design. Minimum parking facility design standards are illustrated in Table 3. Additional supplemental guidelines and standards for parking facility design, internal layout,

acceptable turning radii and pavement slope, vehicular and pedestrian circulation, and other design features may be adopted by ordinance of the Council.

TABLE 3
MINIMUM PARKING FACILITY STANDARDS

A	B	C	D	E	F
Angle of Parking (Degrees)	Width of Stall	Depth of Stall 90 Degrees to Aisle	Width of Aisle	Width of Stall Parallel to Aisle	Module Width
Standard Parking Spaces					
30	9.0	17.3	12.5	18.0	47
30	9.5	17.8	12.5	19.0	48
30	10.0	18.3	12.5	20.0	49
45	9.0	17.5	12.5	12.7	48
45	9.5	17.5	12.5	13.4	48
45	10.0	17.5	12.5	14.1	48
60	9.0	19.0	16.0	10.4	54
60	9.5	19.0	15.0	11.0	53
60	10.0	19.0	15.0	11.6	53
75	9.0	19.5	23.0	9.3	62
75	9.5	19.5	22.0	9.8	61
75	10.0	19.5	22.0	10.3	61
90	9.0	18.5	26.0	9.0	63
90	9.5	18.5	25.0	9.5	62
90	10.0	18.5	25.0	10.0	62
Compact Parking Spaces					
30	7.5	14.0	12.5	15.0	41
45	7.5	15.9	13.0	10.6	45
60	7.5	16.7	18.0	8.7	52
75	7.5	16.4	18.0	7.8	51
90	7.5	15.0	18.0	7.5	48
Parallel Parking Spaces					
0	8.5	8.5 (width)	12.5	22.0	30 (length)

(d) **PARKING FACILITY STANDARDS:** In accordance with the landscaping provisions of this Code, planting zones shall be provided which utilize design and landscaping concepts within the area where vehicles are parked to enhance the visual attractiveness of the parking area and to reduce the amount of heat and other adverse conditions which occur in parking lots.

(e) **PARKING LOTS:**

- (1) For Districts zoned O, NC, or HC, all parking lots for 10 or more cars shall provide for safe pedestrian access from car to destination, and vice versa. Parking lots shall be designed and constructed with origin-destination routes and sensible pedestrian pathways. Parking areas up to 2 parking bays (maximum of 10 cars per bay) deep shall be located perpendicular to the final destination. If additional parking bay sets (up to 2 bays per set) are required, they shall be positioned at an angle (minimum of 20 degrees) to adjacent bays. Sidewalks shall be installed between parking bays.
- (2) All parking lots for 10 or more cars shall have sidewalks or planter strips to lead pedestrians from their cars to shopping or business areas. Sidewalks or planter strips shall be placed in front of all parking spaces.
- (3) If sidewalks are provided, they shall be a minimum of 5.5 feet wide or meet minimum ADA requirements, whichever are more restrictive, and allow for auto overhang of 15-inches on each side. Parking bay sidewalks shall contain attractive bench or seating/resting areas (minimum of one bench or seating/resting area per 50 parking spaces). Bench or seating/resting areas shall contain shade trees or other vegetation meeting the City's Landscape Code. Bench/seating areas shall contain litter receptacles and shall be continuously maintained by the owner.
- (4) In lieu of parking lot sidewalks, planter strips shall be provided as informal pedestrian walkways and to shade and screen cars. Planter strips shall be a minimum of 5.5-feet wide, shall be planted with trees meeting the landscape provisions of this Code, and shall contain bench or seating/resting areas (minimum of one bench or seating/resting area per 50 parking spaces).
- (5) Parking lot sidewalks and planter strips shall be designed to integrate with lighting requirements to provide for pedestrian safety and visual appearance.

Parking Illustration. See Table 1.

(f) Paving and drainage. The following basic standards shall be observed:

- (1) In all districts, parking and loading facilities shall be surfaced and maintained with asphaltic concrete, or other permanent hard surfacing material sufficient to prevent mud, dust, loose material, and other nuisances. Materials may be pervious.
- (2) All parking and loading facilities shall be graded and provided with permanent storm drainage facilities, meeting the construction specifications set by the City. Surfacing, curbing, and drainage improvements shall be sufficient to preclude free flow of water onto adjacent properties or public streets, and to provide adequate drainage.

(g) Safety features. Parking and loading facilities shall meet the following standards:

- (1) Safety barriers, protective bumpers or curbing, and directional markers shall be provided to assure safety, efficient utilization, protection to landscaping, and to prevent encroachment onto adjoining public or private property.
- (2) Visibility of and between pedestrians, bicyclists, and motorists shall be assured when entering individual parking spaces, when circulating within a parking facility, and when entering and exiting a parking facility.
- (3) Internal circulation patterns, and the location and traffic direction of all access drives, shall be designed and maintained in accord with accepted principles of traffic engineering and traffic safety.

(h) Lighting. Lights provided to illuminate any parking facility or paved area shall, to the maximum extent feasible, be designed to reflect away from any residential use. See Table B following section 51 of this Code.

(i) Fencing and Screening. A parking facility in any nonresidential district which adjoins or abuts property in a residential district shall have a wall or fence or vegetation screen not less than 4 feet in height located for the length of the common boundary.

(j) Noise. Areas used for primary circulation, for frequent idling of vehicle engines, or for loading activities shall be designed and located to minimize impacts on adjoining properties, including provisions for screening or sound baffling. See Table C following section 51 of this Code.

(k) Maintenance. All parking and loading facilities shall be maintained to assure desirability and usefulness of the facility. Such facilities shall be maintained free of refuse, debris, or other accumulated matter and shall at all times be available for the off-street parking or loading use for which they are required or intended.

(l) Adjustments. For a use or a site subject to Site Plan Review or a Special Use Permit, the minimum requirements of this Section may be adjusted in their application, provided such changes are determined by the Council to provide improved design, usability, attractiveness, and protection to adjoining uses, in a manner equal to or greater than the specific requirements of this Section.

Division 10.2: Fire Lanes

Sec. 10.200 Purpose

The requirement that Fire Lanes be established in certain parking areas and the enforcement of restrictions on parking in such Fire Lanes established in this Chapter are designed to ensure adequate access to commercial, office, multi-family, and other high density use facilities by fire-fighting and other emergency vehicles.

Sec. 10.201 Basic Regulations

- (a) A Fire Lane shall be provided in any off-street parking facility constructed or reconstructed subsequent to the effective date of this Chapter, when such parking facility is required by the zoning provisions of this Code to include five or more parking spaces.
- (b) Whenever a person or entity applies for a building or construction permit for construction that will necessitate the provision of a fire lane according to the terms of this Chapter, such person or entity shall include in all plans and specifications submitted to the City Council the location and dimensions of all proposed fire lanes required by this Chapter.
- (c) City Council approval of any proposed fire lane required by this Chapter shall be based on the adequacy of access to structures on the subject property provided by the proposed fire lane. A fire lane may be provided in an off-loading roadway on the subject property in lieu of providing a fire lane in a parking facility, if the City Council, in its discretion, determines that the off-loading roadway provides adequate access by emergency vehicles to structures on the subject property.
- (d) All required fire lanes shall be delineated by a red stripe on the pavement marking the outside boundary from the curb of the fire lane. In addition, signs shall be conspicuously placed along the curb nearest the fire lane indicating the existence of the fire lane, and indicating that parking therein is prohibited.

Sec. 10.202 Variances

All requests for a variance from the requirements of this Chapter must be submitted in writing to the City Council. The City Council may authorize a variance from the requirements imposed by this Chapter when, in its opinion, undue hardship will result from requiring strict compliance or when alternative compliance will satisfy the purpose of this Chapter.

CHAPTER 11: BLASTING PERMITS

Sec. 11.100 General

It shall be unlawful for any person to use explosives within the City limits for the purpose of preparing building sites, loosening rock, demolition of any building or structure and for other purposes without first obtaining a permit therefor from the Council or Council designate.

Sec. 11.101 Application for Permit

To obtain a blasting permit, the applicant shall first file an application therefor in writing. Each such application shall include the following:

- (a) Identify and describe the work to be covered by the permit for which application is made. The application shall designate the maximum capacity of the explosives to be used and number of charges to be set off at one time, the proposed date and time(s) of use, the location(s) where such explosives are to be used and stored, and a safety plan to protect property and lives.
- (b) Name of the licensed blaster who will engage in the use of explosives.
- (c) Applicant's signature, or authorized agent, who may be required to submit evidence to indicate such authority.
- (d) Other such reasonable information as may be required by the Council or Council designate.

Sec. 11.102 Approval by City

It is hereby determined that unsafe blasting is dangerous to life, health or property and that the public health, safety, and welfare requires regulation. Blasting Permits can only be approved by the City Council of Sunset Valley.

Sec. 11.103 Denial of Permit Which Endangers Life, Health or Property

- (a) When in the opinion of the Council or Council designate there exists the potential for danger to life, health, real property, personal property, water wells, roadways and/or utility lines or structures in the immediate area exposed to the blasting for which a permit has been requested or issued, said permit may be denied or revoked. Should Council or Council designate determine, however, that a reduced scope or blasting plan could be accommodated without the apparent potential for danger to life, health or property as described above, then Council or Council designate may request that said permit application be amended.
- (b) In no case shall a permit be granted or issued for any blasting activities to be located within the critical water quality zone (CWQZ) of any streams in the City as defined in the provisions of the Code regulating the City's watershed.
- (c) If said permit application is amended in accordance with the request and comments of the Council, then the amended permit may be approved and issued by Council.

Sec. 11.104 Comments from Adjacent Property Owners and Utilities

The Council or Council designate may request written comments on each permit application from the various affected utilities, adjacent property owners, or franchise holders. When in the opinion of the Council or Council designate, such utility or adjacent property owner or franchise holder has a valid objection to the issuance of a permit, no permit shall be approved until such objection has been resolved to the satisfaction of the Council.

Sec. 11.105 No Smoking in Vicinity of Blasting

No person shall smoke or carry matches, lighters or other such combustible materials while handling explosives or while in the vicinity thereof. "No Smoking" signs shall be posted in areas where explosives are being handled. The signs shall be visible for at least fifty (50) feet.

Sec. 11.106 Blasting Mat

When blasting is done in a congested area or in close proximity to a building, structure, highway, vehicle, conveyance or any other installation that may be damaged by material being thrown into the air, the blast shall be covered with an adequate blasting mat or shield. Proof that any such building structure, highway, vehicle, conveyance or other installation was damaged to any degree by material which was so thrown into the air shall raise a rebuttable presumption that said blast was not covered with an adequate blasting mat or shield. For purposes of this Section, an otherwise adequate blasting mat used improperly shall not be considered to be an adequate blasting mat or shield.

Sec. 11.107 Removal of Blasting Caps, Etc.

All exposed blasting cap lead wires in the ground from previous blasts shall be removed at the end of each working day.

Sec. 11.108 License Required

- (a) No person shall engage in the use of explosive materials within the City of Sunset Valley unless that person is a licensed blaster or is under the direct supervision of a licensed blaster.
- (b) Any person engaging in the use of explosives who is not a licensed blaster or working under the direct supervision of a licensed blaster shall be fined two hundred dollars (\$200.00).

Sec. 11.109 No Blasting on Holidays and Weekends

No blasting shall be permitted on Saturdays, Sundays, or legal holidays or before 9:00 a.m. or after 4:00 p.m. on any other day.

Sec. 11.110 Blasting

- (a) The applicant shall comply with all laws, codes, ordinances, applicable safety code requirements and regulations relative to the handling, storage and use of explosives and the protection of life and property.
- (b) The applicant shall be responsible for all damage caused by his blasting operations.
- (c) The applicant shall erect signboards of adequate size stating that blasting operations are taking place in the area and such signs shall be clearly visible at all points of access to the area. The applicant shall utilize a reliable audible warning system to ensure that any personnel in the area are forewarned of the impending detonation of explosives.
- (d) Appropriate precautions shall be taken during thunderstorms to prevent unintentional firing of charges due to static electricity.
- (e) The applicant shall space his production blasting drill holes and schedule the delays of caps so that all shots break toward a free-face. Lifters shall not be used.

(f) Controlled blasting shall be performed in such a manner as will result in a minimum of overbreakage. Excavation of the tunnel and faces of cut slopes through rock shall be performed by presplitting, cushion blasting, line drilling or other approved methods.

Sec. 11.111 Blasting Plan

A site specific blasting plan shall be prepared and submitted by a licensed blaster for any multiple charge blasting work. The proposed blasting plan shall show the location of shots relative to nearby structure(s) and water wells, type explosive used, number of holes, pounds per hole, depth of hole, and total pounds per shot.

Sec. 11.112 Safety of Persons and Property

(a) The applicant shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

- (1) All employees on the work and all other persons who may be affected thereby;
- (2) All the work and all materials and equipment to be incorporated therein, whether in storage or off the site, under the care, custody or control of the applicant or any of his subcontractors or sub-subcontractors; and
- (3) Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, fences, roadways, water wells, structures and utilities not designed for removal, relocation or replacement in the course of construction.

(b) The applicant shall comply with all applicable laws, codes, ordinances, rules, regulations and lawful orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. The applicant shall erect and maintain, as required by existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.

(c) When the use or transportation of explosives or other hazardous materials or equipment is necessary for the execution of the work, the Applicant shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel. No overnight storage will be permitted within the City limits of Sunset Valley or its ETJ.

(d) All blasting, including methods of transporting and handling explosives and highly inflammable materials, shall conform to federal, state, and local laws and ordinances. All City codes and ordinances shall be adhered to even though some or all of the blasting is done outside the City limits unless the applicable code provision or ordinance is in conflict with the law of the jurisdiction where the action is being taken.

Sec. 11.113 Blasting Records and Responsibility

The applicant shall maintain accurate records throughout the blasting operations showing the location of shots relative to nearby structure(s), type explosive used, number of holes, pounds per hole, depth of hole, total pounds per shot, date and time of blast and initials of the Inspector. Ground vibrations shall be measured by appropriate instrumentation adjacent to side of structures nearest the shot location and shall not exceed 1.0 inches per second peak particle velocity. The Applicant is fully responsible for all claims from the blasting operation and shall promptly repair or replace all items known to be damaged as a result of blasting.

Sec. 11.114 Insurance

- (a) Prior to the issuance of a permit for blasting and including activities requiring the above ground storage of explosive materials and/or products above ground, a general liability insurance policy shall be exhibited to said Council or Council designate in an amount of not less than one hundred thousand dollars (\$100,000.00); provided however, in the event in the opinion of the Council or the Council designate that a larger policy should be required by reason of the quantity and/or location for the proposed explosion, a larger policy amount may be required.
- (b) In the event explosives are to be used in an undeveloped area, the Council or Council designate may waive the requirement of the liability policy, and such fact may be noted on the permit.

Sec. 11.115 Policy

An applicant for a permit required by this Chapter shall deposit the amount set forth by the City Council by ordinance or resolution. If an independent review of the blasting permit and associated information is required by Council or Council designate to determine the merits of issuing or denying a permit, applicant shall reimburse the City for said independent review. Once issued, blasting permits shall be valid for a period of sixty (60) days from the date of issuance.

Sec. 11.116 Permit Issuance

In the event the Council or Council designate determines that such explosives can be used as specified in the application for a permit under the provisions of this Chapter with safety to property and lives, and upon the compliance by the applicant with all other provisions of this Chapter, the Council or Council designate shall issue the permit applied for to utilize such explosives as set forth in the application.

Sec. 11.117 Appeal

Any applicant whose application for a permit under the provision of this Chapter has been refused may appeal such refusal to the City Council.

CHAPTER 12: DISEASED TREES AND OAK WILT REGULATIONS

Sec. 12.100 Short Title

This Chapter shall be known and may be cited as the Oak Wilt Diseased Tree and Firewood Regulations.

Sec. 12.101 Purposes

The provisions of this Chapter are deemed to be necessary to promote the health, safety, and general welfare of the residents of the City of Sunset Valley, Texas

Sec. 12.102 Declaration of Public Nuisance

Any tree or part thereof (including but not limited to firewood) which is infected by a lethal communicable disease that is likely to spread to other trees is hereby declared to be a public nuisance.

Sec. 12.103 Duty of Owner to Remove or Control Nuisance

It shall be unlawful for any person, owner or occupant having supervision or control of any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the city to knowingly permit or maintain on any such lot, tract or parcel any tree or part thereof which is a nuisance, and it shall be the duty of such person, owner or occupant to promptly abate the nuisance or otherwise control such condition.

Sec. 12.104 Right of Entry by Urban Forester; Inspection

The Urban Forester is charged with enforcement of this Chapter. The Urban Forester may enter upon private property after making a reasonable effort to locate the owner or other persons who have charge or control of the premises and during normal business hours or by prearranged appointment made with the specific landowner. Entry shall be for purposes of inspecting trees or plants and parts thereof, and the Urban Forester may remove such specimens as are required for the purposes of analysis to determine whether the same are infected. In the event entry is refused, the Urban Forester or any authorized representative shall have recourse to every remedy provided by law to secure entry.

Sec. 12.105 Notice to Owner to Abate

The Urban Forester shall serve to the owner of the premises where a public nuisance as herein defined is found, written notice of the existence of such nuisance and an order detailing the requirements of abatement to be completed within a reasonable time to be specified in such notice. The requirements of abatement may include, but not be limited to, the use of cultural, mechanical, biological or chemical methods to abate the nuisance. In the case of oak wilt epidemics property owners may be required to participate in an Oak Wilt Management Program as described in Section 12.106 of this Code. The order shall advise the owner of a cost sharing program and fund availability offered by the City as described in Section 12.107 of this Code. The owner of the premises for purposes of this article means a person who has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than all but the titled owner. The notice of abatement shall be served by registered mail or personally on the owner. If such owner cannot be found, a copy of said notice shall be placed upon said infected tree or plant or part thereof. Failure of the owner to correct the violation within the specified time shall constitute a misdemeanor.

Sec. 12.106 Establishing an Oak Wilt Management Program

- (a) The City of Sunset Valley Environmental Services Division will establish an Oak Wilt Management Program consisting of three areas:

- (1) identification and assessment of oak wilt centers;
- (2) public education to inform citizens about oak wilt and to help identify diseased trees;
- (3) treatments to suppress oak wilt; and
- (4) diversified plantings to restore and mitigate damage to affected areas.

(b) The City Council shall establish funds each fiscal year to administer the program.

(c) A city wide treatment plan will be established by the Urban Forester in association with the Texas Forest Service and the City of Austin Forestry Department. Priority for management will be based on:

- (1) Available funding;
- (2) ability to control spread of disease centers;
- (3) tree sizes, values, and locations; and
- (4) size and location of disease centers.

Sec. 12.107 Cost Sharing Program

- (a) The City of Sunset Valley Environmental Services Division will establish a cost share program to reimburse property owners for costs to suppress oak wilt. The program will follow the guidelines of the Texas Forest Service (TFS) Cooperative Oak Wilt Suppression Project. Property owners will be eligible for reimbursement of costs for oak wilt suppression (fifty percent [50%] from the TFS and fifty percent [50%] from the City of Sunset Valley with a limit of ten thousand dollars [\$10,000] per legal parcel or property owner). In addition to costs for oak wilt suppression the City of Sunset Valley will reimburse property owners fifty percent (50%) of the costs for replacement trees purchased through the "Adopt a Tree" program and up to ten dollars (\$10.00) per tree for laboratory analysis to determine the presence of oak wilt.
- (b) Project priority and reimbursements will be:
 - (1) in accordance with the city wide treatment plan (Section 12.106);
 - (2) dependent upon available funding; and
 - (3) in accordance with the Texas Forest Service (TFS) guidelines.
- (c) Information regarding the Texas Forest Service Cooperative Oak Wilt Suppression Project operational policies and technical guidelines is available through the City of Sunset Valley Environmental Service Department and the Texas Forest Service.
- (d) The City of Sunset Valley Environmental Services Department shall maintain a ledger which will be an accounting of funds encumbered for projects awaiting Texas Forest Service plan approval and actual reimbursement payments made to each property owner. All unexpended funds due to cancellations or cost savings shall be returned to the Reimbursement Fund Balance and utilized to reimburse pending applications where possible.

Sec. 12.108 Tree Trimming Personnel

(a) A governmental entity, private, utility company or public works contractor, shall hire a person to supervise the trim or cut operation of oak tree species (*Quercus spp.*) which have the trunk and/or limbs in the public right-of-way, who is a registered, certified, or licensed Urban Forester or Arborist familiar with the identification and control of oak wilt disease. The trimming and cutting of oak trees (*Q. spp.*) shall be conducted in accordance with the provisions of this ordinance. The name, address, and telephone number of the above described person will be given to the City Administrative Section for record keeping purposes. The Urban Forester shall determine when an Urban Forester or Arborist is required for tree cut or trim operation. Factors to be used in this determination are:

- (1) Site location in relation to known areas of oak wilt;
- (2) Scope or size of trim or cut project - numbers of affected trees;
- (3) Economic, safety, or aesthetic welfare of owner;
- (4) Time of year - dormant versus growing seasons;
- (5) Current land usage at site; and
- (6) Urgency or justified deadline to complete the project.

(b) Residential property owners or renters are exempted from the requirement to utilize an Urban Forester or Arborist in the trim or cut operation on their land. However, they are encouraged to utilize the above six factors when contemplating the trimming of oak trees (*Q. spp.*). When in doubt, contact the Urban Forester for guidance.

Sec. 12.109 Time to Trim and Sealing of Wounds

The trimming or cutting of oak tree species (*Quercus spp.*) for purposes other than protecting public safety should not be conducted between February 1 and June 1 to avoid transmission of the disease by insects. The resulting cut shall be treated immediately with commercial pruning paint to seal the exposed surface from contamination. Any wounds, whether made by trimming, construction, or accident, shall be treated immediately with commercial pruning paint to seal the surface from contamination. The Urban Forester may conduct unannounced inspections to ensure compliance with all provisions of this Chapter.

Sec. 12.110 Disinfection of Equipment

Equipment used for pruning or cutting of oak species (*Quercus spp.*) in public projects will be disinfected after each tree is completely cut and before proceeding to the next tree. A solution of nine parts water to one part bleach is recommended for disinfection of all pruning and cutting equipment, however spray disinfectants or a solution of four parts water to one part isopropyl alcohol are also suitable. Tool surfaces that contact any part of the tree should be thoroughly coated with the disinfecting solution. On chain saws the drive sprocket and interior surfaces should also be disinfected. This disinfection procedure is highly recommended for private projects.

Sec. 12.111 Handling of Firewood

Wood from red oak varieties (Spanish Oak and Blackjack Oak), suspected of being infected with oak wilt should be disposed of properly by either removal to a sanitary landfill or by burying. Firewood from other trees known or suspected of being infected with oak wilt shall not be stacked near healthy trees, and shall be covered with clear plastic and edges held securely by soil.

CHAPTER 13: LANDSCAPING REGULATIONS

Division 13.1: General Provisions

Sec. 13.100 Title and Purpose

The following Sections in this Chapter shall be known as the Landscaping Regulations. The purpose of these provisions is as follows:

- (a) To provide guidelines for landscape harmonious with the local identity and master planned traditions. These traditions seek to sustain and indeed replenish native flora to protect and enhance Sunset Valley's nature-based values.
- (b) To protect and conserve our finite natural resources and ecological balance. Development is to be designed to cause the least degradation or disruption of the ground, water, air and Sunset Valley's natural cool, quiet ambience.
- (c) To enhance Sunset Valley's property values by protecting the local physical and aesthetic natural elements. This includes design which integrates elements of visual buffering from within and around a site.
- (d) To safeguard the guidelines and balance necessary for public health, safety, and the general welfare of the community.

Sec. 13.101 Application

- (a) The provisions of this Chapter shall apply to the following:
 - (1) Except as otherwise provided below, this Chapter shall apply to the owners of all land located within the corporate limits of the City of Sunset Valley. Such landscaping requirements shall become applicable as to each individual lot at such time as an application for a site plan or watershed development permit on such lot is made.
 - (2) A common development which includes more than one lot shall be treated as one lot for the purposes of satisfying the landscaping requirements of this Chapter. Split ownership, planning in phases, construction in stages, and/or multiple building permits for a project shall not prevent it from being a common development as referred to above. Each phase of a phased project shall comply with the requirements of this Chapter.
- (b) This Chapter shall not apply to the following:
 - (1) Building permits for single family residences where only one such structure is constructed per lot.
 - (2) Building permits for the substantial restoration within a period of twelve (12) months of a building which has been damaged less than 50 per cent by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.
 - (3) Building permits for remodeling as long as the exterior walls of the building remain in the same location.

Sec. 13.102 Procedures

- (a) Landscape Site Plan Information Requirements. When an application is made for a building permit on any land where the landscaping requirements of this Chapter are applicable, such

building permit application, including site plans, shall be accompanied by a landscape site plan containing the information listed in subsections (1) through (13) below. In the event that a preliminary building site plan is amended or finalized, an amended or finalized landscape site plan containing the information listed in subsections (1) through (13) below shall be submitted simultaneously with the amended or finalized building site plan.

- (1) The date, scale, north arrow, title and name of owner.
- (2) The location of existing boundary lines and dimensions of the tract.
- (3) The approximate center line of existing water courses; the approximate location of significant drainage features; and the location and size of existing and proposed streets and alleys, existing and proposed utility easements on or adjacent to the lot, and existing and proposed sidewalks adjacent to the street.
- (4) The location, size, species, type (tree, shrub, groundcover, or grass), spacing, and quantity of proposed landscaping in proposed landscaped areas; and the location and size of proposed landscaped areas.
- (5) The location and species of all existing trees having trunks six inches (2") or larger DBH and the approximate size of their crowns.
- (6) An inventory and location of the site's plant communities.
- (7) An indication of whether understory vegetation is present under the tree canopy of all existing trees, and the identity of all dominant species constituting such understory vegetation.
- (8) Information necessary for verifying whether the required minimum percent of landscaped area has been met under Section 13.200 and whether a particular area qualifies for 125% credit under Section 13.203 hereof.
- (9) An indication of how the applicant plans to protect the existing trees and understory vegetation, which are proposed to be retained, from damage during construction, including but not limited to: a showing of critical root zones, required work space, location of fences during construction, and permeable paving areas, if applicable. Protection during construction shall be provided by fencing. No storage of materials or vehicular traffic is to be permitted in this area in order to prevent compaction of soil.
- (10) The proposed irrigation system as required by Section 13.200(n) below.
- (11) The location, material used, and height of any walls or fences.
- (12) All plans necessary to show compliance with the applicable provisions of the sign provisions of this Code which are in effect at the time of submission of the landscape site plan.
- (13) The certification of a landscape architect, professional building designer, or certified landscape professional that the plans satisfy the requirements of this Chapter. Provided, however, that for a common development or project which is greater than one acre in size, such plans and certification shall be made by a landscape architect only.
- (14) Information necessary for verifying how landscape buffering is to be accomplished under Section 13.200(r).

- (15) The City Council approved plan shall specifically note in chart form elements which have been granted extra credit incentives.
- (b) **Plan Approvals.** Landscaping site plans approved by the City Council during the final site plan and landscape site plan review process shall not require further approval if the site plan approved contains all information listed in Section 13.102(a) above, unless the accompanying final site plan is later amended, in which case a landscape site plan, amended as necessary, shall be provided for the City Council's review and approval.
- (c) **Inspection Fee.** An inspection fee in an amount to be set by the City Council from time to time shall be collected at the time of submittal of landscape plan. Fees shall cover plan review, installation monitoring, initial inspection for Certificate of Occupancy, and a final inspection six (6) months after installation.
- (d) **Inspection/Fiscal Posting.** Fiscal posting is required prior to the issuance of the site development permit. All landscape installation must be completed prior to the landscape inspection. The City or its designated agent shall inspect each site to insure compliance with this Chapter. Prior to final landscape inspection, a sealed letter of concurrence shall be provided to the City from a licensed professional engineer, architect or landscape architect, which letter shall verify that the project has been implemented in accordance with the City approved plans. Calculation will be based on the criteria established in the landscape site plan application.

Sec. 13.103 Annual Inspection and Permit Renewal

On an annual basis the City or its designated agent shall inspect each site to insure continued compliance with the approved landscape plan. An inspection fee is an amount to be set by the City Council from time to time and shall be collected at the permit renewal.

Division 13.2: Requirements

Sec. 13.200 General Landscaping Requirements

- (a) The existing natural landscape character (especially native oaks, elms, pecan, cedar, and mesquite trees, native grasses, and geology) shall be preserved to the extent reasonable and feasible. In determining whether there is compliance with this subsection the City Council designate shall consider topographical constraints on design, drainage, access and egress, utilities, and other factors reasonably related to the health, safety and welfare of the public which necessitated disturbance of the existing natural landscape character; economic usefulness of the property without disturbance of its natural character; the nature and quality of the landscaping installed to replace it; and such other factors as may be relevant and proper. Indiscriminate clearing or stripping of the natural vegetation on a lot is prohibited.
- (b) **Xeriscape Principles.** It is the intent of this Chapter to assist the City in achieving water conservation through proper plant selection, installation and maintenance practices. The following Xeriscape principles serve as the primary means of achieving water conservation:
 - (1) Appropriate planning and design
 - (2) Limiting turf areas to locations where it provides functional benefits
 - (3) Efficient irrigation systems
 - (4) The use of soil amendments to improve water holding capacity of the soil
 - (5) The use of mulches, where appropriate

- (6) The use of drought-tolerant plants
- (7) Appropriate and timely maintenance

(c) Site Design Standards.

- (1) Creative site development concepts for water conservation: Creative site development concepts shall be used in order to promote water conservation. Water requirements may be reduced by providing for:
 - (A) The preservation of existing plant communities.
 - (B) The re-establishment of native plant communities.
 - (C) Limited amount of lawn grass areas.
 - (D) The use of site specific plant materials (see Definitions).
 - (E) The use of shade trees to reduce transpiration rates of lower story plant materials.
 - (F) Site development that retains storm water runoff on site.
 - (G) The use pervious paving materials.
 - (H) Site development that addresses the carrying capacity of the land in its present form.
 - (I) Other environmentally sensitive site development concepts.
- (2) Preservation of existing plant communities: When existing natural plant communities occur on a parcel of land to be developed, at least twenty (20) percent of the required landscape area shall be in the form of preserved natural plant communities.

(d) Lawn grass areas.

- (1) General: A major portion of water demand used for landscape purposes is required for the irrigation of lawn areas. Portions of landscaped areas that have been customarily designed as lawns should be designed instead as:
 - (A) Natural plant communities;
 - (B) Redeveloped native areas;
 - (C) Traditional mixes of trees, shrubs and groundcovers.

Properly managed non-grass landscape developments of site specific plantings will typically be able to survive on a reduced water requirement and survive drought conditions better than lawn areas.

- (2) Maximum Use Requirements for Allowable Lawn Grass: No more than 35% of the required landscape area shall be planted in lawn grass.

Turf Selection and Limitations

Proposed turf areas that receive more than six (6) hours of sunlight per day shall be planted with species from the Recommended Plant List.

(e) Required Management Plan.

(1) General: For all areas of preserved plant communities larger than one acre in area, the owner shall submit for the approval of the City, a narrative management plan indicating the manner in which the owner will preserve the native plant communities. The narrative shall include:

- (A) Whether or not the existing vegetation is to be preserved in the existing composition.
- (B) If applicable, the manner in which the composition of existing plant material is to be preserved (hand removal of invasion species, etc.).
- (C) The maintenance schedule for the removal of exotic species.
- (D) The maintenance schedule for the removal of debris.
- (E) Other information that may be required by the City that is reasonable and necessary to a determination that the management plan meets the requirements of this Chapter.

(2) Requirement for the Maintenance of Preserved Plant Communities. The owner shall maintain the preserved plant community in accordance with an accepted management plan.

(f) Ninety percent (90%) of the total species of the required vegetation shall be plants included in the Recommended Plant List available at the Sunset Valley City Hall. Should a plan approved plant not be available at time of installation, a plant within the same category in the Recommended Plant List may be substituted with the approval of the City Landscape Architect.

(g) Landscape Minimum. At least 25% of the area of the street yard shall be landscaped area. All of the required landscaped area shall be located in the street yard.

(h) Tree Requirements. For areas within the street yard, trees of not less than one and one-half inches (1½") in caliper and six (6) feet in height (either existing or planted) shall be required as per the following ratios: No more than 35% of planted trees will be from the same species within a specific genus. No more than 25% of planted trees will be from the same genus. A minimum of seventy-five percent (75%) of all required trees shall be shade trees.

- (1) In street yards less than 10,000 square feet, 2 trees per 1,000 square feet, or fraction thereof.
- (2) In street yards greater than 10,000 square feet, 2 trees per 2,500 square feet, or fraction thereof, of street yard area over 10,000 square feet is added to the requirement of 20 trees.

(i) Shrub Requirement. A maximum of 20% of the 25% required landscaped area in the street yard shall consist of shrub plantings and shall be more or less evenly distributed throughout the street yard so as to not create a geometric alignment. Hedgerows and straight lines of plantings are discouraged.

(j) Vegetative Setback Requirement. There shall be a vegetative buffer zone of twenty-five (25) feet next to the right-of-way lines of all streets and roadways. No improvements, including parking areas, shall be allowed in the vegetative setback zone. Except for clearing necessary to provide

utilities access and site line visibility to the site, no clearing of vegetation shall be permitted within the vegetative setback zone. In cases where the buffer area has previously been substantially disturbed, it shall be revegetated to provide a varied landscape buffer utilizing trees, shrubs, and grasses in accordance with the other provisions of this Chapter.

(k) **Existing Trees.** A surveyed or planted tree which is at least six inches (6") in diameter and at least fifteen feet (15') tall shall be considered as two trees for purposes of satisfying requirements of this subsection. Up to one third of the required trees may be *Juniperus Virginiana* or *Juniperus Ashei*, the native eastern and western cedars, respectively; and/or *Prosopis Chilensis*, the native mesquite.

The impervious cover within the area encompassed by the dripline of any tree in a required landscaped area may not exceed fifty (50) percent of such area if such area is to receive 125% credit under Section 13.203 below.

(l) **The Proposed Trees.** Newly planted trees of at least four inches (4") in diameter and at least twelve feet (12') tall shall be considered as 1½ trees for purposes of satisfying the requirements of this Section. All newly planted trees shall be planted in a permeable area whose minimum dimension is no less than fifteen (15) feet wide from the inside of the curb.

(m) **Parking Areas.**

- (1) Vehicular use areas, parking areas, service areas, parking lots and their parked vehicles shall have 1 buffer point of landscape buffering for each linear foot of required landscaping along the property line. If non-residential vehicular use areas, parking area, service area, or parking lot abut adjacent residential property, compatibility and buffering standards shall apply. These standards are separate and apart from the landscape Code Provisions requirements. Refer to the Land Development Code section entitled "Regulations for Adjoining District" for specific requirements.
- (2) A minimum total area of 180 square feet of landscaped islands, peninsulas and medians is required for each 16 parking spaces anywhere on the site, including the streetyard.
- (3) The number, size, and shape of islands, peninsulas, and medians in both street yards and non-street yards shall be at the discretion of the owner; however, no parking space shall be located further than 50 feet from a permeable landscaped island, peninsula, or median. This distance should be measured from the curb line of the landscaped island, median or peninsula and should encompass the entire parking space. All islands, peninsulas and medians required in the areas stated above, shall be more or less evenly distributed throughout such parking areas, respectively; however, the distribution and location of landscaped islands, peninsulas, and medians may be adjusted to accommodate existing trees or other natural features so long as the total area requirement for landscaped islands, peninsulas, and medians for the respective parking areas above, is satisfied.
- (4) Only landscaped islands, peninsulas, and medians in the street yard shall count toward fulfilling the requirements of Section 13.200(g) above, as applicable.
- (5) Each parking aisle shall be terminated with an end island whose minimum dimension is fifteen feet (15') from the inside of the curb.
- (6) **Special Provisions for Large Parking Lots.** The above paragraph (m)(3) does not apply if this subsection (m)(6) is required. For parking lots with more than three (3) parking modules, a 12 foot minimum width median (measured from inside of curb) will be required for every third parking module. Trees within the median must be located so that one (1) tree shall be located within 25 feet of each parking space adjacent to the median. No

additional islands shall be required to satisfy Section 13.200(m) except for end islands for each parking module. (See Figure A)

(7) A minimum 3' wide pedestrian walkway shall be provided within the boundaries of each twelve foot wide (minimum) median. The walkway shall provide pedestrian access connecting the parking lot and the commercial establishment's entry(ies).

(n) **Irrigation.** All irrigation systems shall be provided with anti-siphon devices satisfactory to the City Building Inspector. All required landscaping shall be irrigated by one of the following methods:

- (1) An underground sprinkling automatic irrigation system - either a conventional spray, bubblers, drip emitters, drip tubing, porous pipe or other similar system with turf zones separated from planting zones.
- (2) A hose attachment within 100 feet of all street yard required landscaped areas and plant materials where there is no road or parking pavement between the hose attachment and landscaped areas and the site plan area is no larger than 1.0 acre.
- (3) Landscape areas planted with native grasses and wildflowers may use a temporary and above ground irrigation system in accordance with the design criteria outlined herein and shall be required to provide irrigation only for the first two (2) growing seasons.

The irrigation methods used shall:

- (A) Provide a moisture level in an amount and frequency adequate to sustain growth of the plant materials on a permanent basis;
- (B) Be in place and operational at the time of the final landscape inspection unless an alternative method is approved under Section 13.204;
- (C) Be maintained and kept operational at all times to provide for efficient water distribution;
- (D) Be described in the landscape plans by a detail, a drawing or by specification in a note on the site plan, indicating the nature and location of the irrigation methods which will be used. The description should be specific enough to show that adequate irrigation will be provided to all required landscape areas and plant materials and that there is no disturbance to the critical root zones of existing trees.

(4) Automatic irrigation systems shall comply with the following guidelines. These guidelines (A - G) shall be noted on the Site Development Permit Submittal and shall be implemented as part of the landscape inspection.

- (A) Adjustable flow controls shall be required on circuit remote control valves. Pressure regulation component(s) shall be required where static pressure exceeds manufacturer's recommended operating range.
- (B) Valves and circuits shall be separated based on water use, so that turf areas can be watered separately from shrub and groundcover areas.
- (C) Sprinkler heads shall have matched precipitation rates within each control valve circuit.
- (D) Serviceable check valves shall be required where elevation differential may cause low head drainage adjacent to paving areas.

- (E) Sprinkler head spacing shall be designed for head-to-head coverage or heads shall be spaced as per manufacturer's recommendations and adjusted for prevailing winds. The system shall be designed for minimum run-off and minimum overspray onto non-irrigated areas (i.e., paving and structures).
- (F) All automatic irrigation systems shall be equipped with a controller capable of dual or multiple programming. Controllers shall have multiple cycle start capacity and a flexible calendar program, including the capability of being set to water every five days. All automatic irrigation systems shall be equipped with a rain sensor shut-off device.
- (G) Irrigation construction plans shall include a water budget. A laminated copy of the water budget shall be permanently installed inside the irrigation controller door. Water budgets shall include:
 - Estimated monthly water use (in gallons per application) and the area (in square feet) irrigated.
 - Precipitation rates for each valve circuit.
 - Monthly irrigation schedule for the plant establishment period (first three months) and recommended yearly watering schedule, including seasonal adjustments.
 - Location of emergency irrigation system shut-off valve.

Provided, however, that irrigation shall not be required for natural areas or existing trees which are not disturbed or affected by the proposed development.

- (o) Protection of Landscape. All landscaping which is in required landscaped areas and which is adjacent to pavement shall be protected with anchored concrete curbs or equivalent anchored barriers (such as car bumpers, railroad ties are prohibited) when necessary to protect landscaping.
- (p) Siteline Visibility. Landscaping in landscaped areas shall not obstruct the view between the street and the access drives and parking aisles near the street yard entries and exits, nor shall any landscaping which creates an obstruction of view be located in the radius of any curb return. A maximum mature plant height of three feet (3') will be permitted within fifteen (15) feet of the intersection of dedicated rights-of-way or the intersection of a driveway and a dedicated right-of-way.
- (q) Architectural Buffering Requirements.
 - (1) Compatibility and buffering are required wherever a property other than residential abuts adjacent residential property. The buffer shall comply with the requirements outlined in the Code entitled *Regulations for Adjoining Districts*.
- (r) Landscape Buffering Requirements.
 - (1) Non-Residential Property Adjacent to Residential Property
 - (A) Wherever a vehicular use area, parking area, service area, utility appurtenances, or parking lot serving a non-residential property abut adjacent residential property, the requirements outlined in this Land Development Code entitled "Regulations for Adjoining Districts" shall first apply.

(B) Landscape buffering requirements outlined under the requirements for "Non Residential Property" shall also apply if detention ponds, sedimentation ponds and filtration and utility appurtenances are located in such a manner that they are not effectively buffered under the requirements of "Regulations for Adjoining Districts."

(2) Non-Residential Property Adjacent to Non-Residential Property

(A) Landscape buffering of non-residential property adjacent to non-residential property is a site specific requirement that shall be evaluated by the City or its designated agent based on viewer distance and angle of view from the areas or site features requiring buffering. Such areas or site features requiring landscape buffering include, but are not limited to, vehicular use areas, parking lots and their parked cars, detention ponds, service areas, sedimentation ponds, and filtration and utility appurtenances. Buffer design shall also consider the amount of view obstruction required and the type and mixture of design elements used in the buffer.

(B) To be considered effective, a combination of buffering elements shall be used to provide a partial view obstruction of those items to be buffered (pavement, parked cars, etc.).

(C) Landscape buffers shall contain at least two (2) or more of the following elements:

Trees
Shrubs
Berms

(D) Plants and trees used as buffering elements shall be planted in a permeable landscape area at least fifteen feet (15') wide, measured from inside of curb or pavement to the property line. All plantings shall conform to the provisions of this Chapter.

(E) To determine the quantity of elements to be included in a buffer, the following point system, should be used. This system assigns a point value to each landscape element listed above.

BUFFERING POINT SYSTEM

<u>Buffer Description</u>	<u>Points</u>					
Plant Classification	1-1½ caliper		2-2½ caliper		3-3½ caliper	
	Recommended Species (R)/Other Species (O)					
	R	O	R	O	R	O
Large Tree	3 pts.	1 pt.	6 pts.	2 pts.	9 pts.	3 pts.
Small Tree	3 pts.	1 pt.	6 pts.	2 pts.	9 pts.	3 pts.
Plant classification	1 gallon		5 gallon		R	O
	R	O			R	O
Large Shrub	1 pt.	1/3 pt.			3 pts.	1 pt.
Medium Shrub	1 pt.	1/3 pt.			3 pts.	1 pt.
Small Shrub	½ pt.	1/6 pt.			2 pts.	2/3 pt.

No more than 35% of the trees or shrubs shall be from the same species within a specified genus. No more than 25% of planted trees, shrubs and groundcover shall be from the same genus.

Berm per linear foot (3 ft.

min. at no greater than

4:1)

1 pt.

For each linear foot of buffer area required, one (1) point of buffering element as listed above should be provided within the buffer area. The buffer area does not have to be planted at the same density throughout. However, the elements should be combined so that no more than 1/4 of the buffer area is absent of elements and no less than two (2) elements are used for more than 50 percent of the buffer length (see Figure 1).

- (s) All required landscaping must be accomplished within the boundaries of the site being developed. Landscaping accomplished in any dedicated right-of-way shall not be included in meeting the landscaping or buffering requirements imposed by this Chapter. Landscaping areas preserved or planted for the purpose of preserving or creating drainage ways, detention ponds, or sedimentation ponds shall not be included in satisfying the landscaping requirements provided by this Chapter, except that the top one-third (1/3) of the depth of such landscaped drainage way, detention pond, or sedimentation pond may be included in satisfying landscaping requirements.
- (t) All mowable turf shall be separated with edging from other landscaped areas in order to prevent encroachment from the adjacent grassed areas.
- (u) Fifty percent (50%) of proposed landscaped plantings must be conspicuous, *e.g.*, blooming material from the Recommended Plant List.

Sec. 13.201 Landscape Material Quality and Species Requirements

- (a) **Shrubs, Vines and Ground Cover.** Shrubs, vines and ground cover planted pursuant to this Chapter should be good, healthy nursery stock normally grown for or found growing in the Travis County area. Plant materials which are native or naturalized and have low water requirements are highly recommended. Shrubs must be, at a minimum, a one (1) gallon container size.
- (b) **Lawn Grass.** Traditional grass areas are not required in Sunset Valley. The City invites innovative and environmentally appropriate alternatives to turfgrass monocultures. Such areas may be established in native diverse species which have low water requirements. Grass areas using grass not listed on the Recommended Plant List are not credited as landscaped area. If shaded turf areas (areas that receive less than six hours of sunlight per day), St. Augustine grass may be used. Areas may be sodded, plugged, sprigged, or seeded except that solid sod shall be used in swales or other areas subject to erosion.
- (c) **Synthetic Lawns or Plants.** Synthetic or artificial lawns or plants shall not be used in lieu of plant requirements in this Chapter.
- (d) **Architectural Planters.** The use of architectural planters or impervious cover shall not be permitted in fulfillment of landscape requirements.
- (e) **Drainage.** Drainage ways shall be designed and maintained so as to maximize the use of native vegetation on the bottoms and sides.

Sec. 13.202 Installation and Maintenance

General Minimum Requirements: The following standards shall be considered the minimum requirements for the installation of all landscaping within Sunset Valley.

- (a) Installation requirements. All landscape materials shall be installed according to American Association of Nurserymen (AAN) standards. This requirement will be monitored by City Council designate.
- (b) Plant quality standards. Plants installed pursuant to this Chapter shall conform to or exceed the minimum standard as provided in the most current edition of American Standards for Nursery Stock recommended for general use and adoption by the American Association of Nurserymen, Inc. Another accepted standard may be used if it equals or exceeds the quality of the American Standards for Nursery Stock.
- (c) Plant ball sizes. Ball sizes on all transplanted plant materials shall conform to or exceed the minimum standards as noted in the most current edition of "Grades and Standards for Nursery Plants, Part I and II" prepared by the State of Texas Department of Agriculture and Consumer Services.
- (d) Anti-transpirants - General. In order to reduce the transpiration rate of plant material during the installation process, anti-transpirants shall be used. Anti-transpirants reduce the amount of water loss through the leaves of plant material during installation, thereby reducing the amount of water required for the survival of the plants. Anti-transpirants shall be used on all permitted landscape installation projects.
- (e) It shall be the responsibility of each private property owner to remove any dead, diseased or dangerous trees or shrubs, or parts thereof, which overhang or interfere with traffic control devices, public sidewalks, rights-of-way or property owned by the City. The City shall have the authority to order the removal of any such trees or shrubs.
- (f) Watering.
 - (1) General: All watering of planted areas shall be managed so as to:
 - (A) Maintain healthy flora.
 - (B) Make plant material more drought tolerant.
 - (C) Avoid excessive turf growth.
 - (D) Minimize fungus growth.
 - (E) Stimulate deep root growth.
 - (F) Minimize leaching of fertilizer.
 - (G) Minimize cold damage.
 - (H) Minimize runoff.
 - (2) Watering of St. Augustine Grass Lawns: All watering of St. Augustine grass lawn areas shall be accomplished on an as needed basis as indicated by turf wilt. The amount of water applied in each application shall be so as to promote deep root growth.
 - (3) Watering of other Grass Lawns: All watering of other grass lawn areas shall be accomplished on an as needed basis. Bermuda and Buffalo grass may not require watering even when wilting. Nothing in this Chapter shall be construed so as to preclude the withholding of water from grass beyond the stage of turf wilt.

- (4) **Promoting Deep Root Growth of Trees and Shrubs:** Watering of plants and trees should always be in a sufficient amount to thoroughly soak the root ball of the plant and the surrounding area, thereby promoting deep root growth and tolerance.
- (5) **Operation of Automatic Irrigation Systems:** Whenever possible, automatic irrigation systems should be operated between the hours of midnight and 6:00 A.M. or as designated by the City of Sunset Valley. Irrigating during these hours reduces fungus growth and loss of water due to evaporation.
- (6) **Maintenance of Irrigation Systems:** Irrigation systems shall be constantly maintained to eliminate waste of water due to loss of heads, broken pipes or misadjusted nozzles; to adjust controller program to reflect weather changes.
- (g) **Maintenance and Replacement of Dead Material.** The owner of the building, or the manager or agent of the owner, shall be responsible for the maintenance of all landscape appearance at all times and landscaping shall be kept free of refuse and debris. Ongoing maintenance shall include the replacement of all dead plant material if that material was used to meet the requirements of this Chapter. Should a tree die or be removed from which credit has been obtained pursuant to the terms of Section 13.203, a smaller tree with a minimum caliper of 2" that will have a mature crown similar to the tree removed must be substituted within six months and the planting area or pervious cover provided for the larger tree retained.
- (h) **Replacement Requirements.** Vegetation which is required to be planted or preserved by this Chapter shall be replaced with equivalent vegetation if it is not living within one year of issuance of a certificate of occupancy. Preserved trees for which credit was awarded which subsequently die shall be replaced by the requisite number of living trees according to the standards established in Section 13.200.
- (i) The required mulch layer shall be maintained on all landscape projects.

Sec. 13.203 Extra Credit for Dripline Preservation and Native Plants Code Provisions Incentives

- (a) **Dripline Preservation.** Each square foot of landscaped area which is permeable and within the area encompassed by the dripline of a surveyed tree of at least two inches (2") in trunk diameter, measured DBH, shall count as 1.25 square feet of landscaped area for the purposes of satisfying the requirements of Section 13.200 above provided that impervious cover in the dripline does not exceed 50%. The area for which credit is to be received shall be protected during construction. Trees for which extra credit is being applied shall be inspected prior to, during and at time of Final Inspection for healthiness and probability of survival. No storage of materials or vehicular traffic is to be permitted in this area in order to prevent compaction of soil.
- (b) The foregoing 125% credit shall be subject to the following limitations. Neither overlapping dripline areas nor areas contiguous to the dripline areas which overlap shall be counted twice. Moreover, a tree dripline area shall not qualify for credit under this subsection if (1) less than one-half of the dripline areas is permeable cover, (2) there have been any damaging changes in the original grade of the dripline under the tree, or (3) the total credit for the tree dripline exceeds the total footage within the dripline.
- (c) In no case shall the actual landscaped area in the street yard of a lot be less than eighty percent (80%) of the required minimum area, as applicable under Section 13.200 above.
- (d) **Use of Recommended Plants.** Landscape areas newly planted with a minimum of 90% of total species from the Recommended Plant List being native trees and shrubs will be given 5% additional credit toward square footage requirements. A list of native and naturalized plants is available at Sunset Valley City Hall. No more than 35% of planted trees, shrubs and groundcover

will be from the same species within a specified genus. No more than 25% of planted trees, shrubs and groundcover will be from the same genus.

(e) Landscape Maintenance Standards. Projects which voluntarily and perpetually comply with the City Landscape Maintenance Guidelines may reduce the shrub requirement by 50%.

- (1) Enhanced pavement material: When at least 50% of all outdoor vehicular pavement area on the site consists of enhanced pavement, 5% additional credit toward square footage requirements will be granted.
- (2) Pedestrian amenities: For each square foot of publicly accessible special pedestrian facilities and features such as plazas, covered walkways, fountains, lakes and decorative water ponds, seating areas and outdoor recreation facilities; such areas will reduce the amount of required landscaped area of the site by an equivalent square footage.
- (3) Berms: Landscape areas incorporating berms a minimum of three feet in height will be given 5% additional credit toward square footage requirements.

Sec. 13.204 Variances

(a) The City Council may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the council shall prescribe only conditions that it deems necessary to or desirable in the public interest. In making the findings hereinbelow required, the council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity. No variance shall be granted unless the Council finds:

- (1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of his land; and
- (2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
- (3) That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area;
- (4) **Alternative Compliance.** Notwithstanding all of the foregoing provisions of this Chapter a landscape site plan which is alternative to strict compliance with the various landscaping requirements of this Chapter may be approved by the City Council, if the Council finds that such plan is as good or better than a plan in strict compliance with the various landscaping requirements of this Chapter in accomplishing the purposes of this Chapter. Consideration should be given to preservation of large oak, elm and pecan trees which are not necessarily in required landscape areas. In no event, however, will landscaping or buffering within a dedicated right-of-way constitute alternative compliance with the requirements imposed by this Chapter, nor shall such landscaping or buffering be deemed to satisfy any requirement of this Chapter.

Alternative proposals should be clearly identified on the landscape plans and the site plan application should include a letter outlining the alternative proposal. Review of the alternative proposal will be in conjunction with the site plan review.

To establish some guideline equivalents for the major landscape requirements listed in Section 13.200, a list of alternative equivalent ratings are found below. These ratings assign relative values to the landscape elements of a design and should be used when formulating alternative proposals. Each basic requirement which cannot be achieved is assigned a negative point value and maybe compensated for with positive equivalents shown in the compensation list. An example using this concept is provided below:

These ratings are intended to provide guidance for proposing alternatives to strict compliance for unusual site specific conditions. However, other proposed equivalents may be accepted based on extremely unusual conditions, if approved by the City Council.

ALTERNATIVE EQUIVALENT RATINGS

Deficiencies

The following information should be used to formulate alternative proposals when a site design cannot conform to the basic landscape requirements as described in Section 189. Approved alternative compliance proposals must be used from the Recommended Plant List.

Landscape Area as a Percent of Street Yard	Negative Points
<20 percent	- 20
20 percent	- 15
21 percent	- 10
22 percent	- 8
23 percent	- 6
24 percent	- 4
25 percent	0

Landscape Area for Each 12 Parking Spaces	Negative Points
<60 square feet	- 10
60 square feet	- 5
90 square feet	0

Landscape Area for Each 12 Parking Spaces	Negative Points
<60 square feet	- 5
60 square feet	0

Landscape Islands, Medians or Peninsula Placement	Negative Points
within 100 feet of each space	- 10
within 75 feet of each space	- 5
within 50 feet of each space	0

Trees Installed in Parking Landscape Areas	Negative Points
within 100 feet of each space	- 10
within 75 feet of each space	- 5
within 50 feet of each space	0

ALTERNATIVE COMPLIANCE EQUIVALENT RATINGS

Deficiency Compensation

Trees:

Positive Points

All must be from Recommended Plant List.

Percent of Installed Street Yard Trees

2" caliper

3" or greater caliper

10%	1 pt.	1 pt.
20%	2 pts.	4 pts.
30%	3 pts.	6 pts.
40%	4 pts.	8 pts.
50% and greater	5 pts.	10 pts.

Buffer:

Positive Points

Buffer Increased Above Minimum

10%	1 pt.
20%	2 pts.
30%	3 pts.
40%	4 pts.
50%	5 pts.

Special Landscape Features:

Positive Points

- *Covered walkways not attached to buildings, arbors, gazebos or shaded seating areas for public benefit.
- *Sidewalks, trails or pedestrian paths outside the public right of way
- *Approved rain water storage and irrigation distribution system.
- *Sculpture, public art or ornamental water features
- *Herb or antique rose display gardens

Native Plant Credit:

Positive Points

All native plant materials

+5

Water Conservation:

The installation of an automatic conventional spray type irrigation system in compliance with Section 13.200, for all landscape areas will compensate for three (3) negative points.

The installation of an automatic water saving drip system for all landscaped areas and in compliance with Section 189, will compensate for four (4) negative points.

CHAPTER 14: SIGN REGULATIONS

Division 14.1: General Provisions

Sec. 14.100 Permits, Certificates and Approvals Required

It is unlawful for any person to erect, alter, or relocate within the City and its area of extraterritorial jurisdiction, any sign, as defined herein, without complying with the following requirements:

- (a) Completion of a sign application permit;
- (b) For any sign to be located along a highway, within the City and/or its area of extraterritorial jurisdiction, which is designated as being a portion of the Interstate Highway system or the Federal-aid Primary Highway system, the owner must have an outdoor advertising license from the State Department of Highways and Public Transportation, if applicable.
- (c) Review by the City Inspector;
- (d) Review and approval by the City Council; and,
- (e) Completion of certificate of sign inspection after final inspection by the City Inspector.

Sec. 14.101 Sign Maintenance, Repair, and Removal

- (a) **Violation-notice.** If the City Inspector finds that any sign is maintained in violation of the provisions of this Chapter, he shall give written notice of the violation by certified mail to the owner or person entitled to possession of the sign or the owner of the property where the sign is located.
- (b) **Failure to Comply-City Abatement.** If the person fails to alter or remove the sign so as to comply with this Chapter within ten (10) days after the receipt of the notice, the City Council may cause the sign to be altered or removed at the expense of the owner or person entitled to possession of the property or sign, and shall, upon the determination of the expenses, certify them to the City.
- (c) **Lien.** The City shall notify the owner or person entitled to possession of the sign or property of the total costs incurred for the alteration or removal and destruction of the sign, and if that person fails within thirty (30) days after the date of notification to pay the entire costs and expenses of the repair, alteration or removal, then the costs and expenses shall become a lien against the property.
- (d) **Costs.** The costs shall include the actual cost of repair or removal of the sign, plus fifteen percent (15%), and in addition thereto, shall include an amount equal to ten percent (10%), representing penalty and interest for the cost of collection, and reasonable attorney's fees.
- (e) **Maintenance Required-Enforcement.** All signs in the City shall be properly maintained at all times to the satisfaction of the City Council. The Council shall have the authority to order the painting, repair, or removal of a sign and accompanying landscaping which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence or abandonment. Notification shall be by certified mail. If within fifteen (15) days, the maintenance orders are not complied with, the City Council may order the sign removed at the owner's expense under the provisions of this Chapter.

Sec. 14.102 Exempted Signs

The provisions of this Chapter shall not apply to the following signs:

- (a) Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other metal;
- (b) Official governmental notices posted by governmental officers in the performance of their duties, governmental signs to control traffic or for other regulatory purposes, or to identify streets, or to warn of danger;
- (c) Works of fine art, as defined in this Code, which in no way identify or advertise a product or business;
- (d) Temporary decorations when they are clearly incidental to and are customarily and commonly associated with any national, local or religious holiday or celebration; provided, that such decorations are maintained in an attractive condition and do not constitute a fire or traffic or pedestrian hazard;
- (e) Temporary or permanent signs erected by public utility companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices; and
- (f) Signs displayed on trucks, buses, trailers or other vehicles which are being operated in the normal course of a business, indicating the name of the owner, business and location, (e.g. moving vans, delivery trucks, rental trucks and trailers and the like); provided, that the primary purpose of the vehicles is not for display of signs, and provided that they are parked in areas appropriate to their use as vehicles are normally used in the course of business and are in operable condition, carry a current and valid license plate and state inspection tag.

Sec. 14.103 Liability

The provisions of this Chapter shall not be construed as relieving or limiting in any way the responsibility or liability of any person, firm or corporation erecting or owning any sign from personal injury or property damage resulting from the placing of the sign, or resulting from the negligence or willful acts of such person, firm or corporation, its agents, employees or workmen, in the design, construction, maintenance, repair or removal of any sign erected in accordance with a permit issued under the provisions of this Chapter. Nor shall it be construed as imposing upon the City or its officers or employees, any responsibility or liability by reason of the approval of any signs, materials, or devices under the provisions hereof.

Division 14.2: Administrative Procedures; Enforcement

Sec. 14.200 Application Procedure

The procedures to be followed in fulfilling the intent of the sign provisions of this Code are as follows:

- (a) A sign application permit must be obtained from the City;
- (b) The sign application permit must be properly completed and returned to the City;
- (c) The City Inspector shall review and accept the properly completed sign application permit. The Inspector will then refer the application, signed and dated, to the City Council after having determined that the sign meets the general requirements of this Chapter of the Code. If the Inspector determines that the sign application does not meet the technical requirements, including but not limited to size, height, and number, of this Chapter, the Inspector may deny the application. Upon denial of an application by the Inspector, the applicant may resubmit a modified application, file an application for a variance, or file an appeal to the City Council within thirty (30) days following such determination. The Council shall consider an appeal as promptly as practicable at a subsequent meeting of which the applicant is given written notice. The Council

shall render a decision on the appeal within thirty (30) days after the hearing, unless additional time is required for good cause, and serve a copy of its decision on the applicant by mail to applicant's last known address;

- (d) The Council will review the sign application permit as soon as practicable;
- (e) The Council will approve, reject or approve upon condition consistent with the provisions of this Chapter, the sign application permit based upon its conformance with the provisions of this Chapter and its aesthetic value;
- (f) Upon the approval by the Council, the applicant will be duly notified of the Council's decision;
- (g) Upon the conclusion of the construction and erection of the approved sign, the applicant will apply for a certificate of sign inspection from the City Inspector;
- (h) The City Inspector will inspect the sign in its proper location and will, if the sign is found to be in compliance with the approval, issue the certificate of inspection completing the sign application procedures;
- (i) Upon rejection of the sign application permit by the Council, notification will be given in writing to the applicant defining the reason for disapproval and making recommendations to bring the sign into conformance with the provisions of this Chapter;
- (j) In the event an applicant's sign application permit is rejected, he has the option to appeal to the City Council within ten (10) days of notification. In the event of an appeal, the Inspector shall make recommendation to the Council.

Sec. 14.201 Sign Application Permit--Information Required

An application for a sign permit shall contain the following information.

- (a) Name, address, telephone number of the applicant and date of application;
- (b) Numerical location of building structure upon its lot; block and plat designation; and street address upon which the sign is to be located;
- (c) The Code section under which the application is being made;
- (d) Position of the sign on the building or on the ground in both plan view, drawn to scale, and elevation views, drawn to scale;
- (e) Two sets of scale drawings of the plans and specifications, including size and color of the sign and its various parts, the style of lettering, the message, lighting, type of material of which it is fabricated and the method of attachment to the building or to the ground and associated landscaping;
- (f) A color sketch or color photograph of the sign and building, as well as any contiguous street or building in order to display how they would appear in relation to one another;
- (g) Name of person or persons constructing or erecting the sign;
- (h) Written consent of the owner of the building, structure, or land to which or on which the sign is to be erected;
- (i) Signature of City Inspector stating that sign meets the general requirements of the title;

- (j) Signature of approval by the Mayor, after review;
- (k) If required by the City Inspector, a copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressures in any direction in the amount required by this and all other laws and ordinances of the City;
- (l) Lineal feet of frontage.

Sec. 14.202 Representations by Applicant

All representations, whether oral or written, made by the applicant or his agent on behalf of the application for a sign permit under this Chapter become conditions upon which a permit is issued. It shall be unlawful for the permittee to vary from such representation unless the permittee first makes application, as required by the provisions of this Chapter, to amend the permit and such amendment is approved by the proper authority.

Sec. 14.203 Certificate of Sign Inspection--Information Required

A certificate of sign inspection shall contain the following information:

- (a) Name, address, and telephone number of the applicant;
- (b) Numerical location of building structure upon its lot; block and filing designation; and the street address upon which the sign is to be attached; and
- (c) Signature and date of approval by the City Inspector.

Sec. 14.204 Permit Fees

At the time the City accepts the sign application permit, the applicant shall pay the required fee per sign application permit. An application may include all the signs for a single lot or tract.

Sec. 14.205 City Council Review

The City Council shall review the appearance, lighting, form, color, character, dimensions and materials of all signs required under this Chapter to obtain approval. The Council shall make such aesthetic judgments necessary to insure that all signs requiring approval under this Chapter are in conformance with the sign provisions of this Code and in harmony with the character of the City. The City Council may adopt from time to time such rules and regulations as it may deem necessary to perform its prescribed duties.

Sec. 14.206 Approval Required

- (a) The City Inspector, upon review and acceptance of a properly completed sign application permit, shall forward the application to the City Council.
- (b) Following receipt of the sign application permit, the Council shall consider the application at its next regular meeting, if time constraints allow the application to be placed on the agenda.

Sec. 14.207 Registration within Newly Annexed Areas

- (a) The owner or owners of signs within the City erected prior to the passage of Ordinance 850305 shall register such sign or signs within two (2) years from March 3, 1985, the effective date of that Ordinance. Signs within newly annexed territories shall be registered within one (1) year of their annexation. An applicant in order to register shall provide the information required in Section 14.201 of this Chapter. There shall be no registration fee.

(b) Upon registration the City Inspector will advise the applicant whether or not the sign meets the requirements of this Chapter and is a conforming or nonconforming sign.

Sec. 14.208 Non-conforming Signs

(a) A nonconforming sign shall be, on the effective date of this Chapter, any sign which:

- (1) Was erected prior to passage of Ordinance 780110; or was erected in the extraterritorial jurisdiction of the City of Sunset Valley prior to August 6, 1985, and does not comply with the provisions of this Chapter of the Code.
- (2) Was a nonconforming sign under the provisions of Ordinance 780110 and/or Ordinances 850305, 841204A, 850806A and 850806B.
- (3) Was in compliance with Ordinance 780110, and Ordinances 850305, 841204A, 850806A and 850806B, but due to the provisions of this Chapter is determined to be nonconforming;
- (4) Is located in newly annexed territory and is nonconforming with this Chapter.

(b) The following non-conforming signs shall be terminated immediately upon the occurrence of the event specified:

- (1) Any sign that was erected in violation of the local ordinances, laws or regulations applicable at the time of its erection;
- (2) A sign that, having been permitted to remain in place as a non-conforming sign, is required to be removed because the sign, or a substantial part of it, is blown down or otherwise destroyed or dismantled for any purpose other than maintenance operations or for changing the letters, symbols or other matter on the sign; for purposes of this subsection, a sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than 60% of the cost of erecting a new sign of the type at the same location;
- (3) A non-conforming sign that has been abandoned;
- (4) A non-conforming sign that has been discontinued for a continuous period of ninety (90) days; or
- (5) A non-conforming sign that has become obsolete or substandard under any applicable ordinance of the municipality to the extent that the sign becomes a hazard or danger.

Sec. 14.209 Acts Prohibited

It shall be unlawful for any person to do any of the following acts:

- (a) To post, paint, or otherwise exhibit any advertisement, poster, bill, or other notice or sign, on any property not owned or controlled by him, without the permission of the person owning or controlling said property.
- (b) To tear down, remove, or otherwise interfere with any notice, sign, advertisement, bill or poster erected by another, unless the same was placed or maintained on the property of the person removing the same, without permission previously given.
- (c) To paint, mark or write on, or to post or otherwise affix, any hand-bill or sign to or upon any sidewalk, crosswalk, curb, curbstone, street lamp post, hydrant, tree, shrub, tree stake or guard, railroad trestle, electric light or power or telephone or telegraph, wire pole or wire appurtenance thereof or upon any fixture of the fire alarm or police system or upon any lighting system, public

bridge, or lifesaving equipment, street sign or traffic sign. Any hand-bill or sign found posted, or otherwise affixed upon any public property contrary to the provisions of this Section may be removed by the police department or other department or individual so designated by the City of Sunset Valley. The person responsible for any such illegal posting shall be liable for the cost incurred in the removal thereof. The City Inspector is authorized to effect the collection of said cost.

- (d) To place or cause to be placed anywhere in the City, any poster, placard, handbill, or advertising material on any vehicle, or in any location, in such a manner that the same may reasonably be expected to be blown about by the wind. It shall be presumed that the person's name that appears on said poster, placard, handbill, or advertising material has knowledge of the location and manner that said item was placed. It shall be further presumed that if a large number of said items are found scattered about and being blown about by the wind that the items were placed in such a manner that they might reasonably be expected to be blown about by the wind.
- (e) To erect, maintain, or paint any sign, or other message or outdoor advertising upon a tree, rock, or other natural feature.
- (f) To erect within the city limits of the City of Sunset Valley or its extraterritorial jurisdiction, any sign, or other outdoor advertising, without having prior thereto obtained from the City a permit therefor, except as specifically exempted by the provisions of this Chapter.
- (g) To remove, alter, change, or obscure, without authorization of the City Inspector, any official tag or identification which was placed on any outdoor advertising material.

Sec. 14.210 Remedies for Violations

- (a) In the event any provision hereof is violated within the corporate limits of the City of Sunset Valley, or outside such corporate limits but within the area of the extraterritorial jurisdiction of the City, the City of Sunset Valley may institute any appropriate action or proceeding in the District Court or another court of competent jurisdiction to restrain and enjoin the violation of such Chapter.
- (b) The City Council or its designate, shall have the authority, and the duty, to remove or cause to be removed and impounded any sign, poster, handbill, banner, streamer or other outdoor advertising erected, placed, altered, maintained, or neglected in violation of this Chapter, if the same is located on, in, or above any public street, right-of-way or sidewalk area, or other public property.
- (c) The cost of any such removal or impoundment shall be chargeable to the person or persons, jointly and severally, who were responsible for or who caused the erection or placement of the offending sign or advertising, and their sureties.
- (d) Any item impounded by authority of this Section shall be held for a period of thirty (30) days and then disposed of in any manner designated by the City Council. During the thirty (30) days, the owner of said item upon proof of same may reclaim said item at the place of storage by paying to the City the actual cost of removal and impounding. This charge shall in any event be not less than twenty-five dollars (\$25.00).

Division 14.3: Design Review Guidelines

Sec. 14.300 Harmonious with City Scale

Sign location, configuration, design, materials and colors should be harmonious with the rural setting of the City.

Sec. 14.301 Not Dominating

The sign should not visually dominate the structure to which it belongs or call undue attention to itself.

Sec. 14.302 Materials

Sign materials should be predominantly natural, such as native stone, rough cedar, pine or other types of wood. Plastic or other synthetic materials shall not be used.

Sec. 14.303 Architectural Harmony

The sign and its supporting structure should be in architectural harmony with the surrounding structures.

Sec. 14.304 Colors

Natural colors (earth tones) should be favored and bright colors should be used only for accent.

Sec. 14.305 Landscaping

Landscaping is required and should be designed to harmonize with the building and surrounding natural landforms and native plants.

Sec. 14.306 Reflective Surfaces

Reflective surfaces are not allowed.

Sec. 14.307 Lighting

Lighting should be of no greater wattage than is necessary to make the sign visible at night. All lighting shall be indirect lighting as defined herein and all flood lights shall be shielded. No sign shall be erected which contains or is illuminated in whole or in part, by any flashing, intermittent or moving light or intermittent message of any nature except a sign giving solely public service information such as time, date, temperature or weather, nor shall any sign be so illuminated that it interferes with the effectiveness of, or obscures, an official traffic sign, device or signal. The use of search lights is prohibited.

Sec. 14.308 Moving parts

No sign shall contain any moving parts.

Sec. 14.309 Location

No off-premises sign may be erected within 5 feet of any rural road right of way line. Additionally, no sign may be located in such a manner as to create a safety hazard.

Sec. 14.310 Wind Pressure and Dead Load Requirements

Any sign as defined in this Chapter, which will have a height, in feet above ground, as measured above the average level of the ground adjacent to the proposed structure, of 6 feet or more, shall be designed and constructed to withstand wind load pressures in pounds per square foot as set out in the following table:

WIND LOAD PRESSURES IN POUNDS PER SQUARE FOOT

Height, in feet above ground, as measured above the average level of the ground adjacent to the structure

Pressure, pounds per square foot

0 - 5	0
6 - 30	20
31 - 50	25
51 - 99	35
100 - 199	45
200 - 299	50
300 - 399	55
400 - 500	60
501 - 800	70
Over 800	77

Division 14.4: Sign Categories

Sec. 14.400 Designated

(a) This Section concerns those types of permanent and temporary signs requiring a sign application permit under the provisions of this Chapter. This Section further includes the purpose of each sign type, size, height, number, location, design and landscaping requirements, and special provisions for each type of sign.

(b) The following is a listing of sign categories permitted under the provisions of this Section:

- (1) Residential nameplate signs;
- (2) Traffic-control signs upon private property;
- (3) Freestanding, real estate signs;
- (4) Freestanding commercial signs, multi-tenant shopping center or office complex;
- (5) Freestanding commercial signs, single-business use;
- (6) Projecting, wall and hanging commercial signs--individual business within a multi-tenant shopping center or office complex;
- (7) Joint directory commercial signs for a multi-tenant shopping center or office complex;
- (8) Public information signs (temporary) which are located along a highway, within the City and/or its area of extraterritorial jurisdiction, which is designated as being a portion of the Interstate Highway system or the Federal-aid Primary Highway system;
- (9) Public information signs (temporary) at all locations other than those described in the previous subsection;
- (10) Political signs which are located along a highway, within the City and/or its area of extraterritorial jurisdiction, which is designated as being a portion of the Interstate Highway system or the Federal-aid Primary Highway system;

- (11) Political signs at all locations other than those described in the previous Section;
- (12) Temporary site development signs.

Sec. 14.401 Residential Nameplate Signs

- (a) Purpose: to identify a house, showing the family name and/or the home name and the address;
- (b) Size: shall not exceed two (2) square feet per single family unit;
- (c) Height: no part of the sign shall extend above eight (8) feet from average grade;
- (d) Number: limited to one (1) sign for each dwelling unit;
- (e) Location: on-premise within the setback lines as provided in the zoning provisions of the Code;
- (f) Design: in accordance with the criteria in Division 14.3 of this Chapter;
- (g) Lighting: indirect;
- (h) Special provisions: Special provisions shall be as follows:
 - (1) Joint directory nameplate signs must be kept current, and
 - (2) Individual nameplates of a joint directory must be of a standard design and size;
- (i) If the proposed residential nameplate sign conforms to all the requirements of this Section, no permit and no fee shall be required.

Sec. 14.402 Traffic-control Signs upon Private Property

Traffic-control signs upon private property shall be regulated as follows:

- (a) Purpose: to relieve vehicular and pedestrian traffic congestion and promote the safe and expedient flow and parking of traffic on private property;
- (b) Size: all vehicular traffic-control signs shall not exceed two (2) square feet;
- (c) Height: no part of the sign shall extend above six (6) feet from average grade;
- (d) Number: subject to approval by the City Council;
- (e) Location: shall be determined by the City Council, with a letter of approval from the Chief of Police for any sign placed adjacent to a public street or way;
- (f) Design: subject to approval by the City Council;
- (g) Lighting: indirect;
- (h) Landscaping: at the discretion of the City Council;
- (i) Special Provisions: Special provisions shall be as follows:
 - (1) May be either freestanding or wall mounted, with same size requirements;

- (2) All traffic control signs shall be of a uniform design approved by the City Council. No individual sign shall be approved unless it conforms to an overall sign program for the entire site, submitted by the applicant;
- (3) No sign shall contain any advertising, but may identify the owner by name.

Sec. 14.403 Freestanding, Real Estate Signs

Sign use shall be regulated as follows:

- (a) Purpose: to identify real estate for sale or for lease;
- (b) Size: the sign shall not be larger than six (6) square feet (including all riders) in total surface area;
- (c) Height: no part of the sign shall exceed eight (8) feet above average grade;
- (d) Number: one (1) sign per lot or tract;
- (e) Location: unless the sign is on premises and within the lot lines as approved by the City Inspector, a written request must be submitted for approval to allow one off-premise sign at a roadway intersection as a means of providing directions to the public. To insure no sign(s) shall constitute a traffic hazard, each request shall be considered on an individual basis;
- (f) Lighting: none;
- (g) Duration: signs shall be removed within forty-eight (48) hours after the property has been sold or leased;
- (h) No permit and no fee shall be required if the sign meets the criteria in this Section.

Sec. 14.404 Freestanding Commercial Signs--Multi-tenant Shopping Center or Office Complex

Freestanding commercial signs for a multi-tenant shopping center or office complex shall be regulated as follows:

- (a) Purpose: to identify the multi-tenant shopping center or office complex;
- (b) Size: a maximum area of thirty-six (36) square feet, with a horizontal dimension of no greater than twelve (12) feet;
- (c) Height: no part of the sign shall extend above twelve (12) feet from average grade;
- (d) Number: one (1) sign on the major traffic street or way which the building abuts, subject to the approval of the City Council. If a building has two or more public entrances on distinct, separate public streets, proposals for one (1) additional freestanding sign with a maximum area of twelve (12) square feet may be approved at the discretion of the City Council;
- (e) Location: on premises of the center or complex and adjacent to major traffic way which the building abuts, within the building setback lines; however, if the area of the sign exceeds twenty-four (24) square feet, for each additional square foot of area the sign shall be removed one (1) additional foot from the property line, subject to the approval of the City Council;
- (f) Design: the sign shall contain only the name of the multi-tenant shopping center or office complex along with its street address, subject to the approval of the City Council;
- (g) Lighting: indirect;

(h) Landscaping: Landscaping shall be as follows:

- (1) A landscaped area of one hundred twenty (120) square feet at the base of the sign; however, if the sign exceeds twelve (12) square feet, for each additional square foot of sign there shall be ten (10) additional square feet of landscaped area,
- (2) All landscaped areas shall be maintained in a neat and healthy condition throughout the life of the permit.
- (3) A plan showing the landscaping must be submitted to the City Council by the applicant at the time of application.

Sec. 14.405 Freestanding Commercial Signs--Single-Business Use

Freestanding commercial signs, single-business use, shall be regulated as follows:

- (a) Purpose: to identify a business or organization being the sole business occupant of a lot or tract;
- (b) Size: a maximum area of twelve (12) square feet, with a horizontal dimension of no greater than ten (10) feet;
- (c) Height: no part of the sign shall extend above eight (8) feet above the average grade;
- (d) Number: one (1) sign on the major traffic street or way which the building abuts, subject to the approval of the City Council. If a building has two or more public entrances on distinct, separate public streets, proposals for one (1) additional freestanding sign with a maximum of six (6) square feet may be approved at the discretion of the City Council;
- (e) Location: on premises of the building and within the setback lines adjacent to the vehicular street which the building abuts, subject to approval of the City Council;
- (f) Design: the sign shall only contain the name of the business and its address, subject to the approval of the City Council;
- (g) Lighting: indirect;
- (h) Landscaping. Landscaping shall be as follows:
 - (1) A landscaped area of one hundred (100) square feet,
 - (2) All landscaped areas shall be maintained in a healthy, neat and clean condition,
 - (3) A plan showing the landscaping must be submitted to the Zoning Commission by the applicant at the time of application.

Sec. 14.406 Projecting, Wall and Hanging Commercial Signs--Individual Business Within a Multi-Tenant Shopping Center or Office Complex

Projecting, wall and hanging commercial signs, individual business within a multi-tenant shopping center or office complex for tenants who have their own separate exterior entrances shall be regulated as follows:

- (a) Purpose: to identify a business or organization which has its own separate exterior public entrance within a multi-tenant building;
- (b) Size: four (4) square feet for each five (5) front lineal feet of the individual business for an organization having its own exterior public entrance in a multi-tenant building, with a maximum

area of twelve (12) square feet. A minimum area of six (6) square feet will be allowed if a business has insufficient frontage. The size of a multi-paneled sign shall be determined by dividing the maximum size allowed by the number of panels. Combined maximum area for more than one sign shall not exceed twelve (12) square feet;

- (c) Height: minimum clearance of eight (8) feet to bottom of sign above pedestrian walkways;
- (d) Number: one (1) sign per pedestrian way on which the building abuts, as determined by the Inspector with a maximum of two (2) signs, subject to review by the City Council;
- (e) Location: perpendicular to, hung from, or attached to a projecting structural element of the exterior wall of the individual business or organization, adjacent to the street, parking lot or major pedestrian walkway which the building abuts, subject to the approval of the City Council;
- (f) Design: subject to the approval of the City Council; however, no additional fee shall be required for new signs in a multi-tenant shopping center or office complex where the City Council has approved a uniform design for every sign in the entire complex and the City Inspector certifies that the proposed new sign meets with the uniform design approved by the City;
- (g) Lighting: indirect;
- (h) Landscaping: not applicable;
- (i) Special Provisions: Special provisions shall be as follows:
 - (1) A joint directory sign is permitted subject to the provisions of this Chapter;
 - (2) A business or organization having a projecting or hanging sign is not excluded from participating in a joint directory;
 - (3) Businesses or organizations not having exterior public entrances are subject to the provisions of the joint directory signs for multi-tenant building of this Chapter; and,
 - (4) An individual business with a basement entrance with no calculable frontage may have one (1) sign with a maximum area of six (6) square feet.

Sec. 14.407 Joint Directory Commercial Signs for a Multi-Tenant Shopping Center or Office Complex

Joint directory commercial signs for a multi-tenant shopping center or office complex shall be regulated as follows:

- (a) Purpose: to list all tenants within a multi-tenant building and to guide the pedestrian to the individual tenant within the building;
- (b) Size: two (2) square feet per tenant within the multi-tenant building;
- (c) Height: a minimum clearance of three (3) feet to the bottom of sign above the average grade if the sign is a wall sign or if the sign is freestanding. No part of the sign shall extend above twelve (12) feet from average grade;
- (d) Number: one (1) sign per tenant on the major pedestrian way which the building abuts, subject to the approval of the City Council. If a building has two or more major public entrances on distinct, separate pedestrian ways, proposals for additional joint-business directories may be approved at the discretion of the City Council; the proposal shall conform to the other provisions of this Section;

- (e) Location: attached to the building at the major pedestrian entrance or if freestanding at a site within the parking area where the sign is not visible from a public street and subject to the approval of the City Council;
- (f) Design: subject to the approval of the City Council;
- (g) Lighting: indirect;
- (h) Landscaping: Landscaping shall be as follows:
 - (1) A landscaped area of two (2) square feet for each square foot of each side of the sign and supporting structure shall be required at the base of the sign, with a minimum area to be landscaped of twenty-four (24) square feet,
 - (2) All landscaped areas shall be maintained in a neat, clean and healthy condition,
 - (3) A plan showing the landscaping must be presented to the City Council by the applicant at the time of application.

Sec. 14.408 Freestanding Subdivision Sign

Freestanding subdivision entrance sign for a subdivision with twenty (20) lots or more and a single entrance:

- (a) Purpose: to identify a subdivision consisting of twenty lots or more with a single entrance;
- (b) Size: a maximum area of thirty-six (36') square feet, with a horizontal dimension of no greater than twelve (12') feet;
- (c) Height: no part of the sign shall extend above eight (8') feet above natural grade;
- (d) Number: one (1) sign on the major street intersecting with subdivision entrance, subject to the approval of the Zoning Commission;
- (e) Location: at the entrance street to the subdivision and adjacent to major traffic way which subdivision street enters at least twenty-four (24') feet from the right of way line of the major traffic way, subject to the approval of the Zoning Commission;
- (f) Designs: the signs shall contain only the name of the subdivision, subject to the approval of the Zoning Commission;
- (g) Lighting: indirect;
- (h) Landscaping: Landscaping shall be as follows:
 - (1) A landscaped area of one hundred twenty (120') square feet at the base of the sign; however, if the sign exceeds twelve (12') square feet, for each additional square foot of sign there shall be ten (10) additional square feet of landscaped area;
 - (2) All landscaped area shall be maintained in a neat and healthy condition throughout the life of the permit;
 - (3) A plan showing landscaping must be submitted to the zoning and planning commission by the applicant for the approval of the Zoning Commission.

Sec. 14.409 Subdivision Name Plate Signs

- (a) Purpose: to identify an entrance to a small subdivision of six (6) lots or less with a single entrance by indicating the street number of the residences within the subdivision;
- (b) Size: not to exceed two (2') square feet per single family dwelling or duplex structure or one-half square foot for each multi-family unit;
- (c) Height: no part of the sign shall extend above eight (8') feet from average grade;
- (d) Number: limited to one (1) street address number for each dwelling unit;
- (e) Location: at the entrance of the subdivision twenty-four feet from the major traffic way right of way;
- (f) Design: brass street numbers mounted on large native stone;
- (g) Lighting: indirect;
- (h) Landscaping:
 - (1) A landscaped area of one hundred twenty (120') square feet at the base of the sign;
 - (2) All landscaped areas must be maintained in a neat and healthy condition throughout the life of the permit and the restrictive covenants or the condominium regime shall provide for the maintenance of the landscaped area;
 - (3) A plan showing the landscaping must be submitted and approved by the Zoning Commission.

Sec. 14.410 Public Information Signs

Public information signs which are located along a highway, as that location is defined by Chapter 391 of the Texas Transportation Code, within the City and/or its area of extraterritorial jurisdiction, which is designated as being a portion of the Interstate Highway system or the Federal-aid Primary Highway system, shall be regulated as follows:

- (a) Purpose: temporary signs with the intended use of identifying community, civic events and activities or social events;
- (b) Size: the size of public information signs shall be a maximum of six (6) square feet;
- (c) Height: subject to the approval of the City Inspector, but in no case shall a sign be erected that exceeds an overall height of 42½ feet, measured from the highest point of the sign to the grade level of the roadway from which the sign is to be viewed. A roof sign having a tight or solid surface may not at any point exceed 24 feet above the roof level. Open roof signs in which the uniform open area is not less than 40% of the total gross area may in no case be erected to a greater height than 40 feet above the roof level. The lowest point of a projecting sign must be at least 14 feet above grade;
- (d) Spacing:
 - (1) Signs may not be located in such a manner as to create a safety hazard. They shall not be so located as to be likely to cause a driver to be unduly distracted in any way or so as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or obstruct or interfere with the driver's view of approaching, merging or intersecting

traffic, whether the intersection be of two or more highways or the intersection of a highway with a railroad.

- (2) Signs may not be located within 1,500 feet of any public park, public forest, public playground or scenic area designated as such by the State Department of Highways and Public Transportation or other governmental agency having and exercising such authority, which is adjacent to the highway.
- (3) Signs may not be located adjacent to or within 1,000 feet of interchanges, intersections at grade and rest areas along Interstate and freeway Federal-aid Primary Highways outside incorporated municipalities or which will tend to obscure or otherwise interfere with the driver's view of approaching, merging, or intersecting traffic. Where there are ramps between the main traveled way of Interstate and freeway Federal-aid Primary Highways and adjacent frontage roads, no new signs may be erected outside incorporated municipalities in areas adjacent to said ramps, their acceleration and deceleration lanes and within 1,000 feet thereof. Such distances shall be measured along the highway from the nearest point of beginning or ending of pavement widening at the exit from, or entrance to, the main traveled way.
- (4) Signs may not be erected along the Interstate and freeway Federal-aid Primary Highway systems closer than 1,500 feet apart on the same side of the highway.
- (5) Signs may not be erected along the nonfreeway Federal-aid Primary Highway system located outside of incorporated cities, towns, or villages closer than 750 feet apart on the same side of the highway.
- (6) Signs may not be erected along the nonfreeway Federal-aid Primary Highway system in incorporated cities, towns, and villages closer than 300 feet apart on the same side of the highway.
- (7) The spacing between signs shall not apply to signs separated by buildings, natural surroundings or other obstructions which cause only one sign located within the specified spacing to be visible at any one time.
- (8) No political or public information signs may be erected within 5 feet of any highway right of way line.

- (e) Number: subject to the approval of the City Inspector provided that the sign complies with the previous provision regulating Spacing;
- (f) Duration: subject to the approval of the City Inspector but not to exceed one (1) month;
- (g) Design: subject to the approval of the City Inspector;
- (h) Lighting: indirect;
- (i) Landscaping: not applicable;

Sec. 14.411 Public Information Signs (Temporary)

Public information signs at all locations other than those regulated by Section 14.410 above shall be regulated as follows:

- (a) Purpose: temporary signs with the intended use of identifying community, civic events and activities or social events;

- (b) Size: the size of public information signs shall be a maximum of six (6) square feet;
- (c) Height: subject to the approval of the City Inspector;
- (d) Number: subject to the approval of the City Inspector;
- (e) Location: subject to the approval of the City Inspector;
- (f) Duration: subject to the approval of the City Inspector but not to exceed one (1) month;
- (g) Design: subject to the approval of the City Inspector;
- (h) Lighting: indirect;
- (i) Landscaping: not applicable;
- (j) No permit and no fee shall be required if the sign meets the criteria of this Section.

Sec. 14.412 Political Signs on Highway

Political signs which are located along a highway, as that location is defined by Chapter 391 of the Texas Transportation Code, within the City or its area of extraterritorial jurisdiction, which is designated as being a portion of the Interstate Highway system or the Federal-aid Primary Highway System, shall be regulated as follows:

- (a) Purpose: signs with the intended use of denoting a political campaign headquarters, party affiliation, or advertising of a political figure or cause;
- (b) Size: the size of the sign shall be limited to a maximum of ten (10) square feet;
- (c) Height: no part of the sign shall extend above eight (8) feet above average grade;
- (d) Spacing: the requirements of Section 14.410(d) shall apply;
- (e) Number: one (1) sign per lot or tract of land;
- (f) Lighting: indirect;
- (g) Landscaping: not applicable;
- (h) Duration: the sign shall be taken down twenty-four (24) hours after the election, cause or event for which it was erected has terminated.

Sec. 14.413 Political Signs, Other

Political signs at all locations other than those regulated by Section 14.412 of this Chapter shall be regulated as follows:

- (a) Purpose: signs with the intended use of denoting a political campaign headquarters, party affiliation, or advertising of a political figure or cause;
- (b) Size: the size of the sign shall be limited to a maximum of ten (10) square feet;
- (c) Height: no part of the sign shall extend above eight (8) feet above average grade;
- (d) Number: one (1) sign per lot or tract of land;

- (e) Location: unless the sign is on premises and located within the setback lines of a lot, the off-premise location is subject to the approval of the City Council, and no sign shall constitute a traffic hazard;
- (f) Lighting: indirect;
- (g) Landscaping: not applicable;
- (h) Duration: the sign shall be taken down twenty-four (24) hours after the election, cause or event for which it was erected has terminated.
- (i) No permit and no fee shall be required.

Sec. 14.414 Temporary Site Development Signs

Temporary site development signs shall be regulated as follows:

- (a) Purpose: signs with the intended use of identifying or indicating construction and development projects within the city limits;
- (b) Size: the size of the temporary site development sign shall be a maximum of six (6) square feet;
- (c) Height: no part of the sign shall extend above eight (8) feet above average grade;
- (d) Number: one (1) sign per lot or tract of land;
- (e) Location: on-premises and located within the setback lines of a lot or tract, subject to the approval of the City Inspector;
- (f) Duration: not to be erected before a building permit is issued by the City and shall be removed when the certificate of occupancy is issued by the City, but under no circumstances to exceed more than one (1) year;
- (g) Design: subject to the approval of the City Council;
- (h) Lighting: not applicable;
- (i) Landscaping: not applicable;
- (j) Special provisions shall be as follows:
 - (1) The information permitted on temporary site development signs is limited to the project name, project address, general contractor, and architect.

Division 14.5: Variances

Sec. 14.500 Purpose - Limitations

- (a) In order to lessen practical difficulties and prevent unnecessary physical hardships, variances from the regulations may be granted. A practical difficulty or unnecessary physical hardship may result from the size, shape, or dimensions of a structure, or the location of the structure, from topographic or physical conditions on the site or in the immediate vicinity, or from other physical limitations, street locations, or traffic conditions in the immediate vicinity. Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance.

- (b) With respect to signs or outdoor advertising, along Highway 290 or any other portion of the Interstate Highway system or Federal-aid Primary Highway system within the City and/or its area of extraterritorial jurisdiction, which are subject to regulation under Chapter 391 of the Texas Transportation Code and State Department of Highways and Public Transportation regulations, no variance shall be granted from spacing, size and lighting requirements when such would result in less stringent regulation than that provided for under those regulations.
- (c) Except for the foregoing, a variance may be granted allowing minor exceptions to the regulations contained in this Chapter, in those instances in which a substantial injustice would result unless the minor exceptions were granted in appropriate cases and subject to appropriate conditions and safeguards.

Sec. 14.501 Application

Application for a variance shall be made upon a form provided by the City. The variance application shall include the application for a sign permit and shall also state the applicant's reasons for requesting variance in accordance with the criteria set forth in this Chapter.

Sec. 14.502 Fee

The fee for a variance is set forth in the Fee Schedules adopted by ordinance or resolution. The fee shall be paid at the time of application and shall not be refundable.

Sec. 14.503 Hearing

Upon receipt of a variance application, the City Council shall set a date for hearing before the Council.

Sec. 14.504 Action on Application

Within twenty (20) days of the closing of a hearing on a variance application, the City Council shall act on the application. The Council may recommend approval of the application as submitted, or may recommend approval of the application subject to such modifications or conditions as it deems necessary to accomplish the purpose of this Chapter, or the Council may recommend denial of the application. A variance may be revocable or may be granted for a limited time period.

Sec. 14.505 Criteria for Approval

Before the City Council acts on a variance application, the applicant must prove physical hardship, and the Council must find that:

- (a) There are special circumstances or conditions applying to the land, buildings, topography, vegetation, sign structures or other matters on adjacent lots or within the adjacent right-of-way, which would substantially restrict the effectiveness of the sign in question; provided, however, that such special circumstances or conditions are unique to the particular business or enterprise to which the applicant desires to draw attention, and do not apply generally to all businesses or enterprises;
- (b) That such special circumstances were not created by the applicant or anyone in privy to the applicant;
- (c) That the granting of the variance will be in general harmony with the purposes of this Chapter, and will not be materially detrimental to the persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general;
- (d) The variance applied for does not depart from the provisions of this Chapter any more than is required to identify the applicant's business or use;

(e) Such other factors and criteria as the Council deems applicable to the proposed variance.

CHAPTER 15: MOVING OF BUILDINGS

Sec. 15.100 Permit Required

- (a) No person shall move any building, or portion thereof, from one site to another, or along any public way or place within the city, until such person shall have first secured a permit to do so from the building standards commission.
- (b) This Section shall not apply to buildings specifically designed and constructed to be portable when the same are loaded on trucks, trailers, or dollies, and have a loaded height of not over fourteen (14) feet, and loaded width of not over fourteen (14) feet.

Sec. 15.101 Application for Permits, Fees, Deposits

- (a) Applications for moving permits shall be upon forms provided by the building official, and shall show at least the name of the owner, the name of the mover, the present use and location of the building, the future use and location of the building, the proposed route and time of move, and the loaded height and width.
- (b) The application for a moving permit shall be accompanied by restoration plans for the building or structure to be moved, and a tax certificate indicating that no delinquent taxes are outstanding on the properties involved.
- (c) Application for permits shall be made in the Municipal Building, and shall be accompanied by an application fee, a deposit, and an inspection fee as determined by the City Council by ordinance or resolution if the building is proposed to be located within the city limits. The building official shall make a charge against such deposit for the escort services of each officer or employee of the City required by the building official to escort such move, based upon the current hourly wage of such officer or employee. The unused balance of such deposit shall be refunded to the applicant, and the applicant shall promptly remit to the building official the balance due, if such deposit is insufficient to cover the escort service charges. No house moving permit may be issued until all building permits required by this Code, or any other Ordinances of the City, have been issued.
- (d) In lieu of the application fee set out in subsection (c) above, the application fee set by the City Council by ordinance or resolution shall be required for the moving of one principal building, and its accessory buildings, if all such buildings and parts thereof are moved within a period of twenty (20) days. The other charges, deposits, and fees set forth in subsection (c), above, shall be applicable.
- (e) The person applying for a permit under this Chapter shall file with the building official a good and sufficient surety bond in a form to be approved by the city's legal counsel and building official, which bond shall be carried by a company authorized to transact such business in Texas. Such bond may be filed in connection with one such permit, or may cover all permits issued to the permittee during a given period. A permit shall be required for each house moving operation, regardless of the filing of a sufficient bond. The bond shall be payable to the Mayor, or any successors in office, for the use and benefit of the city and of the other persons described in this Section, and shall be conditioned that the principal shall pay to the city any damages to streets or other property owned or controlled by the city, which damages are occasioned in any manner by the principal's use of his or her house moving permit; that the principal shall indemnify and hold harmless the city against any claims, damages, causes of action, costs and expenses, arising against the city by reason of such operations; and that the principal shall comply with all lawful regulations and ordinances of the city and with the terms and conditions of the permit in connection with which this bond is filed. Such bond shall be in the amount of TWENTY THOUSAND DOLLARS (\$20,000.00); shall constitute a continuing liability notwithstanding any recovery thereon; and shall contain a provision for a ten (10) day written notice to the city of cancellation by the surety.

Sec. 15.102 Application Processing

(a) The building official shall be entitled to inspect the building, and the proposed location of the building, and satisfy himself or herself that this Chapter, and all applicable city codes and ordinances, are being complied with, or that satisfactory arrangements to comply with this code, and all applicable ordinances, have been made. If the building official determines that the cost of repairs and rehabilitation will exceed sixty percent (60%) of the assessed tax value, he or she can recommend that no moving permit be issued by the building standards commission.

The building standards commission may refuse to issue a moving permit for the removal of any building if it finds that it cannot be safely moved over the proposed route, or that it cannot, or will not, be made to comply with this Code, and any other applicable city code or ordinance, in its proposed new location, or if the structure is judged to be incompatible with the neighborhood. The decision of the building standards commission to deny or grant a moving permit may be appealed to the City Council by any aggrieved individual.

(b) The building official shall inform the police department, fire department, and all public utilities affected by the move of the applicant's proposed route, size of load, time of move, lighting and safety precautions, and other features of the move brought to the attention of the building official. If any such department or utility shall inform the building official of reasons why such permit should not issue, the applicant shall be entitled to amend his or her application and to take such remedial steps or precautions as may be necessary after being advised of the nature of any disapproval of his or her application.

(c) No person shall be issued a moving permit under this Chapter, or move any building, or portion thereof, on the streets of the city, unless such person has currently in effect public liability and property damage insurance covering any loss or damage that may be caused any person, or any property other than vehicles, trailers, dollies, or cargo of such house mover, in amounts of ONE HUNDRED THOUSAND DOLLARS (\$100,000) for each person for bodily injury; THREE HUNDRED THOUSAND DOLLARS (\$300,000) for bodily injury liability on each accident; and FIFTY THOUSAND DOLLARS (\$50,000) for property damage liability for each accident.

Sec. 15.103 Issuance of the Moving Permit

(a) Each application for a moving permit for a building to be moved into, or out of the city shall be reviewed by the building standards commission which has the authority to grant or deny the permit after hearing. However, no hearing is required for moving a building which neither originates nor ends within the city limits.

(b) At least fourteen (14) days prior to the hearing on a moving permit by the building standards commission, the locations involved shall be posted with a sign giving the following information:

- (1) The current location of the structure, or the intended move-on location;
- (2) The name and address of the owner; and
- (3) The date, time, and location of the hearing. In addition, all residents and property owners within three hundred (300) feet of the proposed move-on location shall be notified of the intended move by mail, and any neighborhood association on file in the area of the proposed move-on and move-off location shall be similarly notified.

(c) The building standards commission may require the owner of the new site to post a cash deposit of at least ONE HUNDRED DOLLARS (\$100.00), or a bond to cover the demolition or removal of the structure, if the moved structure fails to comply with the standards of this Chapter.

(d) Each section of the building must be moved by a bonded mover.

- (e) The final permit issued to the mover shall describe the terms and conditions of the move fully. One copy of the permit shall be posted on the building before the same is moved, and retained thereon until the conditions have been fully met.
- (f) Move permits shall be issued with a maximum renovation and completion time of one hundred and twenty (120) days. The building standards commission may grant an extension of time.
- (g) Any move permit which has not been activated within thirty (30) days after issuance shall expire. In the event no work was ever commenced, the permit may be renewed without additional charge.

Sec. 15.104 Execution of Move

- (a) No building, or portion thereof, shall be on any street within the city, except between the hours of 12:00 midnight and 6:30 a.m.; except, that certain buildings which are of a size and so loaded and routed as to be quickly and safely moved without public inconvenience, may be moved over such streets within the city by special permission of the building standards commission at other hours. The decision of any one of the departments (police or fire) or public utilities affected, that moving should not be permitted at any time other than between 12:00 midnight and 6:30 a.m. shall be final. In the event that the move cannot be made at its originally scheduled time, the permittee shall request and obtain written permission for time change before proceeding with the move.
- (b) It shall be unlawful for any person to permit any building, or portion thereof, to be on any public street or alley at any time other than the time stated on the moving permit for such building, or portion thereof.
- (c) It shall be unlawful for any permittee to transfer, any permit, or any rights secured to him by any permit, issued under this Section.
- (d) If the chief of police shall find that the protection of public safety, or property other than vehicles, trailers, dollies, or cargo of the mover requires a police escort, and shall so advise the building official, such fact shall be specified on the moving permit, and it shall be unlawful for such building to be moved along or across any street or public place within the city unless accompanied by a uniformed police escort as required by the chief of police. It shall be unlawful for any person to refuse or fail to comply with any lawful order or direction of any police officer escorting such move. After the move has been completed, the escorting police officer shall file a written report of such move with the building official.

Sec. 15.105 Duties and Responsibilities; Violation; Penalty

- (a) The building or structure to be moved, and the site of the restoration work, must be kept in a clean and safe condition during repairs and remodeling.
- (b) Each lot from which a structure or building is moved shall be left in a clean, raked condition within thirty (30) days after the removal of the structure or building.
- (c) Failure to comply with the requirements of this Section constitutes a violation of this Chapter.
- (d) Upon failure to comply with this requirement, the City of Sunset Valley is then authorized to clean the lot by city contract, or by city forces. Such expenses incurred by the City of Sunset Valley constitute a lien against the real property on which the structure stood, and the lien runs with the land.

Sec. 15.106 Damage to Property

If the moving of a building pursuant to this Chapter has caused any damage to public or private property, other than vehicles, trailers, dollies, or cargo of the mover, the permittee shall forthwith place the same

in as good repair as it was before the permit was granted. Upon his failure to do so within ten (10) days after notification, the building official may cause the necessary repairs to be made, and the mover shall be responsible for the payment of the costs. The permittee shall not cut or trim those parts of trees or shrubs, on or over any public way or place, without permission from the department of public works, and shall not cut or trim those parts of trees or shrubs, on or over any private property, without permission from the owner or person in control of such property. Permits may be withheld from any mover who has willfully and repeatedly violated the provisions of this Code.

Sec. 15.107 New Buildings

Existing buildings which are moved or relocated into the city shall be considered as new buildings, and shall comply with all the requirements of this Chapter.

CHAPTER 16: TREE AND NATURAL AREA PROTECTION

Division 16.1: General Provisions

Sec. 16.100 Purpose

Trees are hereby declared to be of great value in the maintenance of the public health and welfare of the inhabitants of the City and in the conservation of vital energy resources. These trees should be preserved to the maximum extent feasible for the education and enjoyment of future generations, since large, old trees, if destroyed, can be replaced only after generations of time.

Division 16.2: Procedures for Removal

Sec. 16.200 Removal of Protected Trees

- (a) No person, corporation, public or private entity shall remove or cause the removal of any protected tree without first securing approval from the City, except as provided in subsections (b) or (c) below.
- (b) When any protected tree sustains damage in the form of a broken trunk, broken limbs or uprooting, which creates a hazard to life or property, no application shall be required for the removal of the damaged part or parts of the tree, provided that the removal is effected before the beginning of the fifth (5th) business day following the occurrence of the damage and, provided further, that the City may extend this period in the case of widespread and extensive storm damage.
- (c) When site plan approval by the City Council is required for any development, the actual or schematic locations of such existing trees as would be protected by this Chapter shall be shown on all site plans and such site plans depicting any such trees shall be submitted to the City for evaluation and recommendation. Final approval of the site plan shall constitute approval for tree removal as to any protected tree specifically identified on the site plan as being removed in connection with the approved development.

Sec. 16.201 Application for Removal of Protected Trees

- (a) Application for the removal of a protected tree located on public property or in any public street, alley, right-of-way or easement shall be made by the City or any public utility or political subdivision of the state with authority to install utility lines or other public facilities in or above the property, street, alley, right-of-way or easement on which such tree is located, or by the owner of real property abutting upon the site of the tree or its crown.
- (b) Application for the removal of a protected tree located on privately owned property shall be made by the owner of the property on which such tree is located, except that any appropriate city official may make application to remove a tree that constitutes a hazard to the safety of persons or property, or that is seriously diseased, if the owner thereof cannot be located or if he fails to remove the protected tree within a reasonable time after notice to do so.
- (c) The City may contract the services of a professional consultant to review and make recommendations on applications and shall do so in cases of dispute. The reasonable costs incurred in connection with the securing of such services shall be paid by the Applicant.
- (d) An application for the removal of a protected tree must specify:
 - (1) The approximate location of the tree;

- (2) The circumference of the trunk of the tree, as measured four and one-half feet (4½') above natural grade level;
- (3) The approximate crown size of the tree;
- (4) The species and/or common name of the tree;
- (5) The approximate size of the lot, tract, or parcel on which it is located;
- (6) The reason for the proposed removal; and
- (7) Such other information as may be reasonably required by the City.

(e) Where practicable, an application for tree removal specifying the information set forth in subsection (d) above shall be combined with any other applications and/or site plans required for specific development projects.

Sec. 16.202 Action on Application

- (a) Upon receipt of an application to remove a protected tree, the City or its designate shall promptly inspect the subject tree and shall approve or deny the application in accordance with provisions of this Chapter. The application will be approved or denied by the Council at the next regular or called meeting of the Council after such application is submitted to the City, provided that the submittal is made ten (10) working days prior to the meeting, and also provided that a variance or special exception from the City is required for approval of the application in accordance with the provisions of subsection (b) below, then the City shall have an additional forty-five (45) days to process the application.
- (b) The City shall approve an application for the removal of a protected tree located on privately owned property when a valid application therefor is received and a showing is made that the tree is diseased or is so located as to prevent reasonable access to the property or as to preclude reasonable and lawful use of the property. Where removal of the tree would become unnecessary if a variance or special exception were granted by the Board of Adjustment in the application of the zoning provisions of this Code, no application shall be approved except where such application for a variance or special exception has been denied. No application fee for the variance or special exception shall be charged where such application is required by this subsection.
- (c) Notwithstanding any of the foregoing provisions of this Section, the City shall approve an application for the removal of a protected tree under the following circumstances:
 - (1) The City or its designate determines that the tree constitutes a hazard to life or property which cannot reasonably be mitigated without removing the tree; or
 - (2) The City or its designate determines that the tree is dying/dead or is diseased to the point that its restoration to sound condition is not practicable, or that its disease can be expected to be transmitted to other trees and to endanger their health.
- (d) No approval, except an approval to remove a dead, badly diseased or hazardous tree, shall become effective until the third working day after it is granted. Every approval for tree removal shall automatically expire one (1) year from its effective date, except approvals pursuant to Section 16.202(c) above which shall be in effect for the duration of the approvals required by applicable City Ordinances.
- (e) The City Council may require as a condition of approval hereunder that a replacement tree(s) be planted. Protected trees removed shall be replaced by trees of an approved species with at least the same equivalent circumference inches of the tree(s) removed. The replacement of removed

tree(s) shall not count toward the number of trees to be planted as a requirement of the Landscape provisions of this Code. The City may require that fiscal security for the performance of such condition be provided, as authorized by the Fee Ordinance of the City of Sunset Valley. The City may further require that the applicant execute a written agreement with the City, in which he or she agrees to comply with such condition and authorizes the City, should the applicant fail to comply, to enter upon the land and to replace trees at the applicant's expense. Any condition requiring the planting of a replacement tree(s) must be met within twelve (12) months after removal of the protected tree.

Sec. 16.203 Conflicts with Other City Policies and Regulations

In any case where engineering or design standards or City policies or rules establish conditions that cannot be met in a specific situation without removal of a protected tree, the City shall determine what specific adverse effect would result from waiver or modification of such standard, policy, rule or application thereof, to the extent necessary to save the tree. If the City determines that there is no serious and imminent adverse effect, the standard, policy or rule may be modified or waived. All determinations required to be made under this Chapter shall be made before the expiration of ten (10) working days from the date of the application for approval for tree removal, in accordance with Section 16.202(a).

Sec. 16.204 Preservation of Natural Character

- (a) In addition to satisfying the requirements set forth in this Chapter in connection with the removal of protected trees, when site plan review and approval or any other approval by the City Council is required for any development or project, the applicant shall demonstrate to the satisfaction of the Council that the design has been accomplished to preserve the existing landscape character of the site, especially with respect to trees six (6) to twelve (12) inches in diameter, to the extent that such preservation is reasonable and feasible. The site plan shall show the locations of such existing trees as may be six (6) to twelve (12) inches in diameter. (Trunk circumference of nineteen inches (19") to thirty-eight inches (38") measured 4½ feet above natural grade).
- (b) In connection with the preservation of the natural landscape character of a site, the City Council may require the planting of a replacement tree(s) or other mitigative measures as a condition of approval. The City may require that fiscal security for the performance of such condition be provided, as authorized by the Fee Schedules adopted by ordinance or resolution. The City may further require that the applicant execute a written agreement with the City, in which he or she agrees to comply with such condition and authorizes the City, should the applicant fail to comply, to enter upon the land and to replace such trees at the applicant's expense. Any condition requiring the planting of a replacement tree(s) or other mitigative measures shall be met within the time directed by the City.

Sec. 16.205 Indiscriminate Clearing Prohibited

- (a) The clearing of natural vegetation is prohibited without first securing approval of the City, except where the clearing is for the purpose of lawn care, gardening or the removal of trees or vegetation damaged by natural forces, ranching or farming.
- (b) Application for the clearing of natural vegetation shall be made on a form provided by the City and shall include such information as may be required therein.
- (c) Where practicable, an application for the clearing of natural vegetation shall be combined with any other applications and/or site plans required for specific development projects.
- (d) Applications to clear natural vegetation required to be made under this Chapter shall be approved or denied in accordance with the provisions of Section 16.202 of this Chapter.

Division 16.3: Administration and Enforcement

Sec. 16.300 Administration

This Chapter shall be administered by the City Council or its designate who shall oversee regulation of the care and removal of protected trees now and hereafter in the City of Sunset Valley.

Sec. 16.301 Enforcement

- (a) **Stop Work Order.** The City Inspector, Council or other duly authorized City official may order all work, including site clearing or other site preparation, stopped on any site where a significant violation of this Chapter or of a final site plan is found. Any person, including a workman on the site, who fails to comply with a stop work order shall be guilty of a misdemeanor punishable as provided for in the penalty Section hereof.
- (b) **Revocation of Final Site Plan Approval.** If the Council finds, after notice and hearing, that a significant violation of an approved final site plan has occurred, the Council may revoke its approval of such site plan. It shall be unlawful for any person to do any work on the site covered by the site plan unless and until a new application for site plan approval has been filed and processed in accordance with the provisions of this Chapter and the Council grants approval to a new final site plan which corrects the violations of the original site plan.
- (c) **Injunction and Other Remedies.** Any tree removal or other work done contrary to any of the provisions of this Chapter or to any of the details contained in any final site plan approved by the City Council or to any of the conditions imposed in connection with the granting of any application required by this Chapter is hereby declared to be unlawful and shall constitute a violation of this Chapter. The Council may direct the City Attorney to initiate injunction, mandamus, abatement or any other action available in law or equity to prevent, enjoin, abate or correct unlawful tree removal or other work.
- (d) **Penalties.** Any person, firm or corporation who violates any provision of this Article or any order made under the authority of this Article, or who causes or permits any such violations, or who fails to perform any act required hereunder, or does any prohibited act or takes any action contrary to any final site plans approved by the Council or fails to take any action required by such site plan, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine or not more than one thousand dollars (\$1,000.00) per offense. Each and every day on which any violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. The owner or tenant of any building, structure or premises and any designer, builder, contractor, agent or other person who knowingly commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and subject to civil penalties as provided herein.

CHAPTER 17: PENALTIES AND ENFORCEMENT

Sec. 17.100 Suspension and Revocation of Permit or License

(a) Purpose. The purpose of this Section is to establish uniform procedures to govern the revocation of permits and the City's recovery of its reasonable costs incurred in connection therewith.

(b) Revocation of Permit. A permit may be revoked for:

- (1) The failure of the permittee to comply with the provisions of the City Code pursuant to which said permit was issued;
- (2) The failure of the permittee to comply with the provisions of any relevant city ordinance other than and in addition to the sections of the Code pursuant to which the permit was issued;
- (3) The failure of the permittee to comply with any term or requirement imposed by the City as a condition of the issuance of the permit;
- (4) The making of any material misrepresentation or false or misleading statement by the permit applicant or one acting on his behalf in connection with or on the permit application;
- (5) The failure of the permittee to timely commence the work as required or authorized by the permit as approved by the City; or
- (6) The failure of the permittee to timely complete the work as required or authorized by the permit as approved by the City;
- (7) Any other reason allowed by law.

(c) If the City determines that a permittee is in noncompliance, as that term is defined herein, or that a permit should be revoked for any other reason allowed by law, the City shall give written notice by certified mail, return receipt requested, to the permittee and, if not the same person, the property owner, which notice shall:

- (1) State the nature of the noncompliance or other condition warranting revocation;
- (2) Direct the specific action be taken to correct the noncompliance or other condition warranting revocation within thirty (30) days of the receipt of the notice, which action may include the requirement that the permittee provide such additional information as the City deems necessary;
- (3) Advise that a hearing may be requested before the City Council to determine whether or not the permittee is in noncompliance, and whether or not the permit should be revoked;
- (4) Advise that to request a hearing, a written application therefor must be filed with the City Secretary within ten (10) days of receipt of the notice provided for herein; and
- (5) Advise that if no hearing is requested within said ten (10) days, and if the required corrective work is not completed within the thirty (30) day period specified in the notice, the permit shall be revoked.

(d) If no hearing is requested and if the required corrective action is not completed within the time specified by the City, the permit shall be revoked and shall be void and of no effect as if it had never been issued. No work shall be done in connection with the project for which the permit was issued except as thereafter expressly directed or authorized by the City.

(e) Hearing Before the City Council.

- (1) If a hearing has been requested within ten (10) days of receipt of the notice by the filing of a written application therefor with the City Secretary, the City Council shall, no later than thirty (30) days after receipt of said request, hold a hearing to determine whether the permittee is in noncompliance or if some other reason recognized by law exists which would warrant the revocation of the permit and whether the permit should be revoked. Written notice of the date, time and place of the hearing shall be given to the permittee and, if not the same person, the owner of the property.
- (2) If, after hearing, the City Council determines that the permittee is in noncompliance or that such other condition exists that would warrant revocation of the permit, and that the permit should be revoked, it shall order that the necessary corrective action be completed within such time as the Council directs. If the work is not so completed, the permit shall be revoked, and shall be void and of no effect as if it had never been issued. No further work shall be done in connection with the project for which the permit was issued except as thereafter expressly directed or authorized by the City.

(f) Inspections.

- (1) In addition to any inspection authorized or required pursuant to any city ordinance or sections of this Code in connection with the issuance of a permit, the City is authorized to enter upon any property to which a permit relates at any reasonable hour to inspect the work for which the permit was issued. If the property is occupied, the City's representative shall first present credentials and request entry. If the property is vacant, the City's representative shall first make a reasonable effort to locate the owner or other persons who have charge or control of the property and request that entry be granted.
- (2) If the owner, occupant or person in control refuses to grant the City's representative entry, and the City has reasonable cause to believe that the permittee is in non-compliance as that term is defined in this Section of the Code, the City's representative shall seek and obtain a search warrant from the Municipal Court Judge, the purpose of which is to determine whether or not the permittee is in non-compliance, before entering upon the property.

(g) Extensions. The City may grant such extensions of time as it deems appropriate to those permittees who have made a reasonable effort to comply with the City's directives.

(h) Application. The provisions of this Section shall apply to the revocation of permits issued by the City pursuant to ordinances which do not include therein any specific procedure for permit revocation.

(i) Recovery of Costs.

- (1) The City may, upon notice to the permittee, retain such experts, including but not limited to engineers, sanitarians, hydrologists and attorneys, to advise and represent the City in connection with its determination that a permittee is in non-compliance, as that term is defined herein and/or, that a permit should be revoked. In the event that the City does determine that a permittee is in non-compliance and the permit is finally revoked, the permittee shall reimburse the City for the reasonable costs incurred in connection with the retention of such experts.
- (2) In addition to any other method allowed by law pursuant to which the City can recover the costs it incurs in connection with the permit revocation proceedings, including those authorized by subsection (j)(l) above, the City may, at its discretion, collect on any bond or letter of credit required of the permittee.

(3) Nothing in this Section is intended to limit the remedies available to the City.

Sec. 17.101 Penalties for Building Permit Violations

Violation of any sections of this Code relating to building permits is a misdemeanor punishable by a fine of \$200.00 per day for each day that a structure is constructed and/or maintained in violation of these Sections of the Code.

Sec. 17.102 Penalties for Uniform Building Code Violations

- (a) Any person, firm or corporation violating any of the provisions of the Uniform Building Code as adopted which do not relate to public health, sanitation or fire safety, within the corporate limits of the City of Sunset Valley, Texas shall be deemed guilty of a Class "C" misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued, or permitted, and upon conviction shall be fined an amount not exceeding five hundred dollars (\$500.00).
- (b) Any person, firm or corporation violating any of the provisions of the Uniform Building Code, as adopted, within the corporate limits of the City of Sunset Valley, Texas, that relates to public health and sanitation or fire safety shall be deemed guilty of a Class "C" misdemeanor, and each such person shall be deemed guilty of separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued, or permitted, and upon conviction shall be fined an amount not exceeding one thousand dollars (\$1,000.00).

Sec. 17.103 Penalties for Uniform Mechanical Code Violations

- (a) Any person, firm or corporation violating any of the provisions of the Uniform Mechanical Code as adopted which do not relate to public health, sanitation or fire safety, within the corporate limits of the City of Sunset Valley, Texas shall be deemed guilty of a Class "C" misdemeanor, and upon conviction shall be fined an amount not exceeding two hundred dollars (\$200.00). Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued, or permitted.
- (b) Any person, firm or corporation violating any of the provisions of the Uniform Mechanical Code as adopted, within the corporate limits of the City of Sunset Valley, Texas, that relates to public health and sanitation or fire safety shall be deemed guilty of a Class "C" misdemeanor, and upon conviction shall be fined an amount not exceeding one thousand dollars (\$1000.00). Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued, or permitted.

Sec. 17.104 Penalties for Uniform Plumbing Code Violations

- (a) Any person, firm or corporation violating any of the provisions of the Uniform Plumbing Code as adopted which do not relate to public health, sanitation or safety, within the corporate limits of the City of Sunset Valley, Texas shall be deemed guilty of a Class "C" misdemeanor, and upon conviction shall be fined an amount not exceeding two hundred dollars (\$200.00). Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued, or permitted.
- (b) Any person, firm or corporation violating any of the provisions of the Uniform Plumbing Code as adopted, within the corporate limits of the City of Sunset Valley, Texas, that relates to public

health and sanitation or fire safety shall be deemed guilty of a Class "C" misdemeanor, and upon conviction shall be fined an amount not exceeding one thousand dollars (\$1000.00). Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued, or permitted.

Sec. 17.105 Penalties for Uniform Fire Code Violations

The adoption the Uniform Fire Code as provided in this Code is made subject to and modified by the addition of the following provisions:

- (a) Any person, firm or corporation violating any of the provisions of the Uniform Fire Code as adopted, within the corporate limits of the City of Sunset Valley, Texas, shall be deemed guilty of a Class "C" misdemeanor, and upon conviction shall be fined an amount not exceeding one thousand dollars (\$1,000.00). Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued, or permitted.

Sec. 17.106 Penalties for Underground Storage Tank Violations

The violation of any of the provisions of the Sections of this Code on underground storage tanks shall be unlawful and a misdemeanor offense. Upon conviction, any person violating these Sections of the Code shall be fined in an amount not to exceed two thousand dollars (\$2,000). Each day a violation of these Sections of the Code continues shall constitute a distinct and separate offense.

Sec. 17.107 Penalties for Excavation Permit Violations

Any person who shall violate any of the provisions of the Sections of the Code regulating excavation permits not relating to health, safety or sanitation or shall fail to comply therewith or any of the requirements thereof, shall be deemed guilty of a misdemeanor and shall be liable for a fine, and upon conviction of any of such violations shall be fined in a sum of not more than Five Hundred (\$500.00) Dollars; and each day any such violation shall be permitted to exist shall constitute a separate and distinct offense. Any person violating any provision of these Sections of the Code relating to health safety, or sanitation shall be guilty of a misdemeanor, and, upon conviction shall be fined an amount not exceeding One Thousand Dollars (\$1,000.00).

Sec. 17.108 Penalties for Underground Utility Line Violations

- (a) Any person violating these Sections of the Code on underground utility lines within the corporate limits of the City of Sunset Valley, Texas, shall be guilty of a misdemeanor, and, upon conviction shall be fined an amount not exceeding five thousand dollars (\$5,000).
- (b) Each day that such violation continues shall be a separate offense. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violation of these Sections of the Code.

Sec. 17.109 Penalties for Subdivision Violations

- (a) Any person violating any provision of this Code relating to non-health and sanitation subdivision requirements within the corporate limits of the City of Sunset Valley, Texas, shall be guilty of a misdemeanor, and, upon conviction, shall be fined an amount not exceeding two hundred dollars (\$200.00). Any person violating any provision of these sections of the Code within the corporate limits of the City of Sunset Valley, Texas, that relates to health or sanitation shall be guilty of a misdemeanor, and upon conviction shall be fined an amount not exceeding one thousand \$1,000.00) dollars.

- (b) Each day that such violation continues shall be a separate offense. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violations of these sections of the Code.
- (c) In the event any provision of the subdivision requirements of the Code is violated within the corporate limits of the City, or outside such corporate limits but within the area of extraterritorial jurisdiction of the City, the City may institute any appropriate action or proceedings in District Court or another Court of competent jurisdiction to restrain and enjoin the violation of such Sections of the Code.

Sec. 17.110 Penalties for Watershed Development Violations

- (a) Any person violating any provision of the Sections of this Code on watershed development which do not relate to health or sanitation within the corporate limits of the City of Sunset Valley, Texas, shall be guilty of a misdemeanor, and, upon conviction, shall be fined an amount not exceeding two hundred dollars (\$200.00). Any person violating any provision of the Sections of this Code on watershed development within the corporate limits of the City of Sunset Valley, Texas, that relates to health or sanitation shall be guilty of a misdemeanor, and, upon conviction shall be fined an amount not exceeding one thousand dollars (\$1,000.00).
- (b) Each day that such violation continues shall be a separate offense. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violations of these Sections of the Code.
- (c) In the event any provision of these Sections of the Code is violated within the corporate limits of the City, or outside such corporate limits but within the area of extraterritorial jurisdiction of the City, the City may institute any appropriate action or proceedings in District Court or another Court of competent jurisdiction to restrain and enjoin the violation of such Sections of the Code.

Sec. 17.111 Penalties for Sign Violations

Any person convicted of a violation of any provision of the sign Sections of the Code shall be fined in an amount not less than one hundred dollars (\$100.00) and not to exceed one thousand dollars (\$1,000.00). Each day of violation under these Sections of the Code shall be a separate violation.

Sec. 17.112 Penalties for Landscaping Violations

- (a) Any violation of the Sections of the Code regulating landscaping will constitute a misdemeanor. Upon conviction a fine shall be assessed (not exceeding two hundred dollars [\$200]). Each day that such violation continues shall be a separate offense. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violations of these Sections of the Code.
- (b) To avoid penalties involving the removal or damage of certain trees protected by this Code, the developer also should be familiar with and adhere to the requirements of the Sections of the Code regulating trees of this City.

Sec. 17.113 Penalties for Oak Wilt Disease Regulations Violations

It shall be unlawful for any person, firm, or corporation to violate the provisions of Chapter 12 of this Code. Any person violating any of the provision of Chapter 12 of this Code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provision of Chapter 12 of this Code is committed, continued, or permitted and upon the conviction of any such violation, such offense shall be punishable by a fine of not more than Two Thousand Dollars (\$2,000.00).

Sec. 17.114 Penalties for Drainage Criteria Violations

- (a) Any person, firm, or corporation violating any of the provisions of the Sections of this Code on drainage criteria which do not relate to health or sanitation within the corporate limits of the City of Sunset Valley, Texas, shall be guilty of a misdemeanor, and, upon conviction, shall be fined an amount not exceeding two hundred dollars (\$200.00). Any person violating any provision of these Sections of the Code within the corporate limits of the City of Sunset Valley, Texas, that relates to health or sanitation shall be guilty of a misdemeanor, and, upon conviction shall be fined an amount not exceeding one thousand dollars (\$1,000.00).
- (b) Each day that such violation continues shall be a separate offense. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violations of these Sections of the Code.
- (c) In the event any provision of these Sections of the Code is violated within the corporate limits of the city, or outside such corporate limits but within the area of extraterritorial jurisdiction of the City of Sunset Valley, the city may institute any appropriate action or proceedings in District Court or another court of competent jurisdiction to restrain and enjoin the violation of such Sections of the Code.

Sec. 17.115 Penalties for Blasting Permit Violations

Failure to comply with the regulations in this Code on blasting permits will be subject to fines not to exceed one thousand dollars (\$1,000) per day, each day of violation constitutes a separate offense.

Sec. 17.116 Penalties for Fire Lane Violations

A violation of the requirement of a fire lane is a misdemeanor punishable by a fine of up to \$100 per day for each day that a parking facility is in use in violation of these Sections of the Code regulating fire lanes.

Sec. 17.117 Penalties for On-site Sewage System Permit Violations

Any person violating any of the provisions of the Sections of the Code regulating on-site sewage systems shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provision of these Sections is committed, continued or permitted and upon conviction of any such violation, such offense shall be punishable by a fine of not more than One Thousand Dollars (\$1,000.00). Prosecution under this section shall not bar any action under other federal or state statute or local ordinance.

Sec. 17.118 Penalties for Wastewater System Violations

- (a) Any person violating any provision of these sections of the Code regulating the wastewater system which do not relate to health or sanitation within the corporate limits of Sunset Valley, Texas shall be guilty of a misdemeanor, and upon conviction shall be fined an amount not exceeding two hundred dollars (\$200.00).
- (b) Any person violating any provision of these sections of the Code within the corporate limits of the City of Sunset Valley, Texas, that relates to health or sanitation shall be guilty of a misdemeanor and upon conviction shall be fined an amount not exceeding one thousand dollars (\$1,000.00).
- (c) Each day that such violation continues shall be a separate offense. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violations of these sections of the Code.

APPENDIX A

CONCEPTUAL SITE PLAN REQUIREMENTS FOR ZONING CHANGES, AMENDMENTS AND VARIANCES

An application for a change in zoning classification shall include a conceptual site plan (20 copies) and meeting the following minimum requirements.

1. A site map showing all existing structures and features (streets, roads, drainages, etc.) on and within 500 feet of the area for which a request in zoning is requested; and
2. A conceptual layout showing proposed structures, parking facilities, egress/ingress routes, and landscaping and water quality control features for the subject area. The applicant will not be bound to the location of proposed improvements shown on the conceptual plan, but their general location is required for planning and evaluation purposes; and
3. A written description of the conceptual plan summarizing, at a minimum, the following items:
 - a. Current and proposed zoning;
 - b. Nature and extent of proposed improvements;
 - c. General types, size and number of improvements;
 - d. Listing and brief description of benefits and impacts the proposed improvements and change in zoning will have on the immediate areas and on the City;
 - e. Reason(s) for requesting the change in zoning;
 - f. Listing, description and applicant's justification for any and all conditional overlays, deed restrictions and/or other covenants which are proposed by the applicant as part of the change in zoning; and
 - g. General time or schedule requirements of the applicant.

APPENDIX B

SITE PLAN REQUIREMENTS FOR ZONING CHANGES, AMENDMENTS, AND VARIANCES

The site plan referred to herein shall contain the following:

- A. The boundary lines and dimensions of the property, existing subdivision lots, available utilities, easements, roadways, sidewalks, fire lanes, and public rights-of-way.
- B. Topography of the property proposed for development in contours of not less than two (2) feet, together with any proposed grade elevations, if different from existing elevations. If the natural contour of the land is to be altered or changed in any location on the property more than four (4) feet then the site plan must provide detailed information on the proposed grading plan to the surrounding properties and the use of surrounding properties, and shall include information indicating the drainage and line of sight effect the proposed grading plan will have on the surrounding properties.
- C. The flood plains, water courses, wetlands, drainage areas, and other significant features including, but not limited to, rock outcroppings and tree groupings.
- D. The location and use of all existing and proposed buildings or structures, including all refuse storage areas, and the minimum distance between buildings, where building complexes are proposed, a site plan showing the location of each building and the minimum distance between buildings, and between buildings and the property line, street or curb line and/or alley shall be submitted.
- E. Total number of off-street parking and loading spaces in accordance with this Code.
- F. All points of vehicular ingress and egress and circulation within the property. Any special traffic regulation facilities, proposed or required, to assure the safe function of the circulation plan shall also be shown.
- G. Setbacks, lot coverage, and when relevant, the relationships of the setbacks provided and the height of any existing or proposed building or structure.
- H. The location, size, and arrangement of all outdoor signs, exterior auditory speakers, and lighting.
- I. A landscape plan prepared in accordance with the requirements of this Code.
- J. The location and height of fences or screen plantings and the type of building materials or plantings to be used for fencing or screening in accordance with the requirements of this Code.
- K. Note a soil erosion control plan for the period during which construction will be taking place.

L. Where multiple types of land uses are proposed, a land use plan delineating the specific areas to be devoted to various uses shall be required.

M. Vicinity map, north point, scale, name of the development, name of the owner, name of the planner, total acreage of the project, street address or common description of the property.

N. Current land uses and zoning district of the property and current land uses and zoning districts of the contiguous properties and buildings on the exterior of the site and within twenty-five (25) feet of all property lines.

O. The location and size of existing and proposed surface and subsurface drainage facilities.

P. A description of the type of land use that is proposed for a site including its Standard Industrial Classification (SIC) Code if there are any chemicals or toxic materials involved. The City Planner may allow all of the foregoing to be contained within a single drawing if in the opinion of the City Planner the drawing can be properly evaluated.

APPENDIX C

HAZARDOUS MATERIAL RATINGS

A. Determination of Degree of Health Hazard

The health hazard rating of a material shall be determined by evaluating the potential for harm and the relative toxicity of the material or mixture of materials as a whole. Table A-1 applies to human effects data. In the absence of human exposure data, Table A-2 shall be used as a guideline. Where both acute and chronic exposure data are available, the data for the worst effect shall be used to develop the rating.

Table A-1

RELATIVE TOXICITY RATING FOR HAZARDOUS MATERIALS (Human Exposure by Any Route)

- * Includes substances which bear a significant relationship to the development of cancer in man, but excluding the common varieties of skin cancer.
- ** Allergens are rated according to their sensitizing potential rather than the severity of an allergic reaction upon re-exposure to a substance by a sensitized worker.

Table A-2

RELATIVE ACUTE TOXICITY CRITERIA

B. Determination of Degree of Fire Hazard

The fire hazard rating of a product shall be determined by evaluating the potential for harm and the relative flammability of the material or mixture of materials as a whole, using the criteria which follows:

The fire hazard rating of a liquid shall be determined from the criteria contained in Table A-3 and based on data using the final product formulation. The test procedures as found in 29 CFR 1910.106 and 107 are mandatory liquids.

EXTREMELY FLAMMABLE: Rating 4

Materials which on account of their physical form or environmental conditions can form explosive mixture with air which are readily dispersed in air, such as dusts of combustible solids and mists or flammable or combustible liquid droplets.

HIGHLY FLAMMABLE: Rating 3

Liquids and solids that can be ignited under almost all ambient temperature conditions. This rating shall include:

Solid materials in the form of coarse dusts which may burn rapidly but which generally do not form explosive atmospheres with air.

Solid materials in a fibrous or shredded form which may burn rapidly and create flash fire hazards, such as cotton, sisal and hemp.

Materials which burn with extreme rapidity, usually by reason of self-contained oxygen (e.g., dry nitrocellulose and many organic peroxides).

Materials which ignite spontaneously when exposed to air or to other substance.

MODERATELY COMBUSTIBLE: Rating 2

Materials that must be moderately heated or exposed to relatively highly ambient temperatures before ignition can occur. Materials with this rating would not under normal conditions form hazardous atmospheres with air, but under high ambient temperatures or under moderate heating may release vapor in sufficient quantities to produce hazardous atmospheres with air. This rating shall include solids and semisolids which readily give off flammable vapors.

SLIGHTLY COMBUSTIBLE: Rating 1

Materials that must be preheated before ignition can occur.

Materials with this rating require considerable preheating, under all ambient temperature conditions, before ignition and combustion can occur. This rating shall include: Materials which will burn in air when exposed to a temperature of 1,500 F (815 C) for a period of five (5) minutes or less.

NONCOMBUSTIBLE: Rating 0

This group should include any material which will not burn in air when exposed to a temperature of 1,500 F (815 C) for a period of five (5) minutes.

The relative ratings are taken from NFPA 704M booklet, with changes in flash point to reflect current IOTA regulations.

TABLE A-3
RELATIVE FLAMMABILITY CRITERIA

C. Determination of Degree of Reactivity

The reactivity hazard rating of a material shall be determined by evaluating the potential for harm and the relative reactivity of the material or mixture of materials as a whole, using the criteria which follow.

Materials in this category may be self-reactive by polymerization, decomposition or condensation and/or reactive with other materials commonly encountered in the work place. The reactivity in this category often involves the rapid release of highly hazardous products. The assessment of relative reactivity requires specific knowledge of what materials may be encountered in the work place.

EXTREMELY REACTIVE: Rating 4

Materials which in themselves are readily capable of detonation or of explosive decomposition or explosive reaction at normal temperatures and pressures. This rating should include materials which are sensitive to mechanical or localized thermal shock at normal temperatures and pressures.

HIGHLY REACTIVE: Rating 3

Materials which in themselves are capable of detonation or of explosive decomposition or explosive reaction, but which require a strong initiating source or which must be heated under confinement before initiation. This rating should include materials which are sensitive to thermal or mechanical shock at elevated temperatures and pressures or which react explosively with water without requiring heat or confinement.

MODERATELY REACTIVE: Rating 2

Materials which in themselves are normally unstable and readily undergo rapid chemical change but do not detonate. This rating should include materials which can undergo chemical change with rapid release of energy at normal temperatures and pressure. It should also include those materials which may react violently with water or which may form potentially explosive mixtures with water.

SLIGHTLY REACTIVE: Rating 1

Materials which in themselves are normally stable but which can become unstable at elevated temperatures and pressures or which may react violently with water with some release of energy but not violently.

NONREACTIVE: Rating 0

Materials which in themselves are normally stable, even under fire exposure conditions and which are not reactive with water.