

CHAPTER 2: ZONING

Division 2.1: Zoning Commission

Sec. 2.100 Zoning Commission Created (*Amended 08/17/10*)

- (a) There shall be and is hereby created a zoning commission for the city, which shall consist of five members including a chairperson, and up to five alternate members to serve in the absence of a member. The members and alternate members shall be resident citizens 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 and alternate 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.
- (e) Up to two alternate member(s) of the zoning commission shall be assigned to participate in a meeting or hearing of the zoning commission to substitute for member(s) of the zoning commission who are unable to attend and participate in such meeting or hearing. Alternate members assigned to participate in meetings or hearings shall have all the authority of a regular member of the zoning commission while so assigned. The chairperson of the zoning commission shall arrange for the assignment of alternate members, as necessary, and the City Administrator shall assist the chairperson in making such assignments. When needed, and as practicable, alternate members shall be assigned to zoning commission meetings or hearings by alphabetical order by last name on a rotating basis. Notwithstanding the foregoing, in the event that an alternate member is assigned to a hearing that is continued or resumed at a later meeting of the zoning commission, such alternate member may continue the assignment in connection with such continued or resumed hearing.

Sec. 2.101 Term of Office (*Amended 08/17/10*)

The terms for the members and alternate 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 (*Amended 3-19-2013*)
 - (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) 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. Up to two alternate member(s) shall be assigned to participate in a meeting or hearing of the Board to substitute for member(s) of the Board who are unable to attend and participate in such meeting or hearing. Alternate members assigned to participate in meetings or hearings shall have all the authority of a regular member of the Board while so assigned. The chairperson of the Board shall arrange for the assignment of alternate members, as necessary, and the City Administrator shall assist the chairperson in making such assignments. When needed, and as practicable, alternate members shall be assigned to Board meetings or hearings by alphabetical order by last name on a rotating basis.

Notwithstanding the foregoing, in the event that an alternate member is assigned to a hearing that is continued or resumed at a later meeting of the Board, such alternate member may continue the assignment in connection with such continued or resumed hearing.

- (3) 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.
 - (4) 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. Any such rules adopted after September 1, 2019 shall be subject to the approval of the city council.
 - (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 and Appeals from Administrative Action (*Amended 3/10/2020*)

(a) Special Use Permit/Zoning Classification Change/Amendment of Zoning Regulation

(1) Except as specifically otherwise provided in this Code with regard to special use permits, the Zoning Commission and City Council shall hold a public hearing on an application for a special use permit, zoning classification change, and on proposed general amendments to the zoning provisions of this Code initiated by the City Council before acting thereon. The Zoning Commission shall hold a hearing on an application for a special use permit or zoning classification change within forty-five (45) days of the date of the filing of an administratively complete application that requires action for recommendation by the Zoning Commission. The City Council shall hold a hearing on an application for a special use permit or a zoning classification change within forty-five (45) days after the Zoning Commission has issued a recommendation on the matter or has issued a report of no recommendation.

(2) Notice.

(A) By Publication. The City shall cause notice of each 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.

(B) Written Notice to Property Owners. When the public hearing is to consider a proposed special use permit, or zoning classification change affecting a specific property, 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. However, if the proposed amendment does not include a proposed change in zoning classification (including changes in applicable conditional overlays) or a special use permit applicable to a specific property, no notice is required to be mailed to specific property owners. 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.

(C) Sign on Property Being Considered for a Special Use Permit 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, 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 the public hearings before the Zoning Commission and 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 or City Council and the time and place for public inspection of the application or proposal. No action taken by the Zoning Commission or the City Council shall be affected by any failure to comply with this section. The City may require the applicant to arrange the placement of required signage or may place the required signage on the affected property and charge the applicant the reasonable cost of such signage. If the City places the required signage on the property, the applicant's cooperation in placement of such signage on the affected property shall be a condition to review and action on the application.

(3) 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.

(4) 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.

(b) Public Hearings of Applications for Zoning Variance

(1) The Board of Adjustment shall hold a public hearing on an application for a variance from applicable zoning regulations. The Board of Adjustment shall hold a hearing within forty-five (45) days of the date of the filing of an administratively complete application or appeal.

(2) Notice of a public hearing conducted by the Board of Adjustment regarding a variance request shall, in addition to the requirements of the Texas Open Meetings Act, be by written notice to property owners in the manner provided in subsection (a) (2) (B) of this Section regarding an application for a special use permit or zoning classification change.

(c) Public Hearings and Decision from Administrative Action

(1) An appeal of a decision made by an administrative official may be made by any of the persons or agencies and in the circumstances provided in Texas Local Government code Section 211.008.

(2) An appeal is commenced by the filing of a notice of appeal with the Board of Adjustment and the administrative official from whom the appeal is taken, specifying the grounds of the appeal. Filing of the notice of appeal is complete when delivered to the City Secretary for the Board of Adjustment and to the City Administrator for the administrative official. The notice of appeal must be filed not later than the 20th day after the date of the decision that is the subject of the appeal.

(3) The administrative official from whom the appeal is taken shall immediately transmit to the Board of Adjustment all papers constituting the record of the appealed action.

(4) The hearing of the appeal shall be set in a reasonable time following public notice. Public notice for an appeal that does not relate to a specific application, address, or project, shall be provided in accordance with subsection 2.300 (a)(2)(B) to the appealing party and the affected administrative official. Public notice for an appeal that is related to a specific application, address, or project, shall be provided in accordance with subsection 2.300 (a)(2)(B) to:

(i) owners of all real property located within five hundred feet (500') of the property that is the subject of the decision;

(ii) the owner of the affected property, and;

(iii) the administrative official from whom the appeal is taken.

The Board of Adjustment shall decide the appeal not later than 60 days after the date the notice of appeal was timely filed. The Board of Adjustment shall decide the appeal at a meeting for which public notice can be provided as required by applicable law following the hearing, or earlier as necessary to timely render a decision.

Sec. 2.301 **Intentionally left blank** *(Amended 12/17/13)*

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 parties 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 *(Amended 12/17/13)*

- (a) Intent. To provide a vehicle to: (i) consider requests by property owners to change the zoning category or to add to or delete from the terms of a conditional overlay applicable to the owner's property when unanticipated significant changes occur within the area that make it unlikely that the property can be developed consistent with the Existing or Future Land Use Map; (ii) to provide the means for future changes in regulations or zoning districts initiated by the City Council; and (iii) 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) Initiation of Amendment.
 - (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 of the zoning classification (including conditional overlays) applicable to the owner's property.
 - (B) On Council's Own Motion. The Council, by motion, may initiate a proposal to amend the zoning provisions of this Code, and may initiate a change in zoning category (including conditional overlays) of a particular owner's property. Such amendment(s) shall not become effective without first giving notice and holding hearings in accordance with Section 2.300,

- (c) Application Requirements for Amendments Initiated by Property Owner. An application shall be accompanied by:
- (1) A non-refundable deposit or fee as set forth by ordinance or resolution of the City Council;
 - (2) A legal description, including volume and page of the deed record, and address of the parcel affected;
 - (3) The present zoning classification and present use of the parcel and all contiguous parcels around it;
 - (4) The type and location of any structures on the applicant's parcel and on adjoining land;
 - (5) A conceptual site plan (See Appendix A);
 - (6) A statement that explains:
 - (A) How the request satisfies the conditional findings set forth in subsection 2.305(b)(4);
 - (B) How the conceptual plan, if being processed concurrently, meets the goals, standards and policies of the Comprehensive Land Use Plan; and
 - (C) How the amendment request meets the goals, standards and policies of the Comprehensive Land Use Plan.
 - (7) 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;
 - (8) For proposals requesting amendments to Zoning Classification, the following are additional application requirements:
 - (A) The zoning change requested and the proposed use;
 - (B) 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:
 - i) A proposed map drawn proportionally to the existing zoning maps; and,
 - ii) A statistical analysis providing applicable information, such as acreages, maximum dwelling units, and building intensity.
 - (9) 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.
- (d) Applicability of Land Development Code Chapter 1, Division 1.6; Report of Completeness. The provisions of Land Development Code Chapter 1, Division 1.6 apply to applications submitted by an owner of property required by this Section. The City Administrator or City designee shall review each application for completeness pursuant to the procedure provided in Section 1.602 of the Sunset Valley Land Development Code. After receipt of an administratively complete application as provided by Section 1.602, the City Administrator or City designee shall cause to occur within ten (10) working days:

- (1) Formal notice to be sent to the applicant stating:
 - (A) A schedule of review, hearings and report dates;
 - (B) 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.
 - (C) 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) A copy of the application and notice of schedule of review and hearing dates to be delivered to each member of the Zoning Commission and City Council.
- (e) Review of Application Submitted by Owner of Property/On-site Inspection/Action (written request required).
- (1) Within sixty (60) 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

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:

 - (A) Amend the application so it is consistent with the recommendations made in such report;
 - (B) Withdraw the application; or
 - (C) 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.
 - (2) 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.
 - (3) Hearing and Notice. The Zoning Commission shall hold at least one (1) public hearing on the application 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.
 - (4) Findings. Findings, as required by this Section, 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 requested by a property owner to be recommended for approval, the Zoning Commission 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 proposed classification will allow uses that are reasonable and not incompatible with surrounding properties and that any minor incompatible effects of uses to be allowed will be adequately mitigated; and
- (iv) The zoning classification change requested is no greater than the minimum required to allow for reasonable use of the land; and
- (v) The proposed change in zoning classification is in the community's best interest in terms of the public health, safety and welfare; and
- (vi) 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
- (vii) 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
- (viii) 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
- (ix) 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
- (x) 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 a change in Zoning Category initiated by the City Council.

- (i) 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.
- (ii) 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.

(f) Interpretative Rules applicable to all applications for amendment by an owner of property.

(1) Amendments should be granted sparingly.

- (2) 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.

(g) Recommendation by the Zoning Commission.

- (1) No amendment to the zoning provisions of this Code, whether on request of an owner of property or initiated by the City Council, shall be enacted without a recommendation from the Zoning Commission.
- (2) Within ten (10) days of the conclusion of the public hearing, the Zoning Commission shall deliver a written recommendation of action to the Council. The Zoning Commission may postpone action on an amendment requested by an owner of property up to sixty (60) days following the public hearing if additional information or assessment is required. The Commission shall not recommend an amendment requested by an owner of property unless it finds, based on competent evidence, that each of the conditions in Section 2.305(e)(4)(A) has been established. Findings of the Zoning Commission, together with the specific facts upon which such findings are based, shall be incorporated into the written recommendation by the Zoning Commission. With regard to an amendment requested by an owner of property the Zoning Commission may recommend that the Council:
 - (A) Approve the amendment request;
 - (B) Approve the amendment request with conditions, limitations and safeguards; or
 - (C) Deny the amendment request.

(h) Review and Action by Council.

- (1) 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.
- (2) Council Action. Council action on an application may include:
 - (A) Approval of the recommendation of the Zoning Commission. This action requires a majority vote of the City Council members present;
 - (B) Overrule the recommendation of the Zoning commission to grant an amendment requested by an owner of property or an amendment initiated by the City Council. This action requires the approval of three-fourths (3/4) of the City Council members present;
 - (C) Modify, add, or subtract terms or conditions of a recommendation of the Zoning Commission for approval of an amendment requested by an owner of property or initiated by the City Council. This action requires a majority vote of the City Council members present; or
 - (D) Overrule a recommendation by the Zoning Commission denying a request for amendment by an owner of property. This action requires the approval of three-fourths (3/4) of the City Council members present.

- (E) Regardless how a proposed change is initiated, if the City has received a written protest from 20% of the owners subject to the proposed change, or, in the case of an amendment affecting a specific property, from 20% of the owners of property within two hundred feet (200') of the specific affected 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.

In computing the percentage of land area under this subsection, the area of streets and alleys shall be included.

- (i) Finality of Action. The Council's decision shall become final on the effective date of its action. 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.

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: **(Amended July 21, 1998)**
- (1) Special circumstances or conditions exist such that requiring compliance with the provisions of the applicable zoning provisions of the Code will cause significant practical difficulties to the Applicant. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute practical 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 or unreasonable disruption of the natural terrain; or
 - (C) Significant or unreasonable destruction of the existing flora.
- (3) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
 - (4) There is no practical alternative to the requisite variance that will alleviate the difficulty or hardship complained of or the requisite enhances the quality of the project as a whole and would result in a better project than requiring strict compliance with the provisions of the Code; 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	Parkland District
C	Conservation District
G	Greenspace and Preservation District
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 (Amended 12/17/13)

(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
Alcohol beverages sold in a restaurant for on-premise consumption	NC, HC
Alcoholic beverages sold in a restaurant for on-premise consumption and for off-premise consumption in growlers	NC,HC
Alcohol beverages sold in grocery for off premise consumption	NC, HC
Beer and wine sold in a retail store for off-premise consumption	NC, HC
Day Care Facility	HC
Event Center requiring TABC license or permit for premises	HC
Winery	HC
Farmers/Artisan Market	GUI, O, NC, HC
Medical related professional Office	O, NC, HC
Research, development, or clinical laboratory	HC
Restaurant	NC
Veterinary Services	O, NC, HC

(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 of 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 2.503, and with each of the specific criteria in Section 2.503 applicable to the proposed use.
 - (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) consecutive calendar days. A Temporary Special Use Permit may be extended for an additional fifteen (15) consecutive calendar days upon approval of the City Council. 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 for a Temporary Special Use Permit to operate a carnival or other amusement activity may be granted for a period not to exceed fourteen (14) consecutive calendar days on the terms and conditions approved by the City Council.

Sec. 2.502 General Criteria Applicable to All Special Uses and Temporary Special Uses
(Amended 12/17/13)

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.
- (f) The special use shall be operated either by the owner or lessee of improved property on which the special use is located or by another pursuant to a written agreement with such owner or lessee.

Sec. 2.503 Specific Criteria Applicable to Individual Special Uses and Temporary Special Uses
(Amended 12/17/2013)

- (a) Alcoholic Beverages Sold in a Restaurant for On-Premise Consumption and for Off-Premise Consumption in Growlers. (Amended 11-11-2014)

- (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 forty-nine percent (49%) of the gross receipts derived from all sales (Amended 07/16/13);
- (4) The sale and use of growlers shall be in compliance with all applicable federal, State, and local health and safety law. The sale of an empty growler shall not count as a sale of alcohol beverage for the purpose of determining the percentage of gross receipts derived from the sale of alcoholic beverages.
- (5) Sales of alcoholic beverages in a growler shall be limited to sales of beverages with a percentage of alcohol not higher than 15% by volume.

(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;

(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 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.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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 Permit Holder to control and prevent litter incident to the special use.

- (7) 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 Administrator 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. (Not applicable to Temporary Special Uses) 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.
- (e) Alcoholic beverages Sold in a Retail Establishment for Off-Premise Consumption. A proposal to sell alcoholic beverages in a retail establishment for off-premise consumption must comply with the following specific criteria and conditions, as well as the foregoing general criteria:
- (1) The sale of alcoholic beverages shall be restricted to beer and wine;
 - (2) The retail establishment where the alcoholic beverage is proposed to be sold is a minimum of 10,000 square feet and the total display or shelf space devoted to the sale of beer and wine does not exceed ten percent (10%) of the total display or shelf space devoted to other retail sales;
 - (3) The retail establishment where the alcoholic beverage is proposed to be sold is not located

within three hundred (300') feet of a church or school as measured by State law;

- (4) The retail establishment 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;
- (5) The gross receipts derived from the sale of beer and wine shall not exceed forty percent (40%) of the gross receipts derived from the sale of other retail products:

(f) Farmer's/Artisan Market: A proposal to sell goods, wares, merchandise, produce, or products on part of a public street, sidewalk, or alley, other public lands, or on private property

(1) Definitions. For purposes of this subsection, unless the context otherwise indicates, the following terms have the following meanings.

- A. **"Artist/Artisan"** means any individual who displays or offers for sale his or her own handcrafted items.
- B. **"Farm and Food Products"** means any agricultural, horticultural, forest or other product of the soil or water, including, but not limited to, fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, maple products, apple cider, fruit juice, wine, ornamental or vegetable plants. This term does not include live animals.
- C. **"Farmer/Grower"** means a person whose produce or plants are organically, sustainably or naturally grown and grown within the defined local area. Organically grown produce must be certified by the State of Texas.
- D. **"Farmer's/Artisan Market"** means a building, structure or location at which a group of two (2) or more farmers or artisans or a combination thereof, from a defined local area who directly sell to the public farm and food products, either primary or secondary producer food specialty items, handcrafted items, goods or wares, and/or natural flowers and plants at which eighty (80%) percent of itinerant vendors must have grown, reared, caught, brewed, pickled, baked, smoked or processed the goods themselves.
- E. **"Food Specialty Items"** means baked goods, jams, jellies, large-portion prepackaged products, spices, condiments, cheeses, meats, seafood and pasta. Food specialty items may or may not be intended for immediate consumption on premises.
- F. **"Handcrafted Items"** means non-machine made objects, displaying a degree of manual skill or dexterity, and include, but are not limited to, leather goods, wood carving, beadwork, basketry, pottery and jewelry, hand woven cloth and blankets and objects made there from. Such items may include elements of new materials or machine-made parts, provided that no object which is primarily mass-produced or machine-made and assembled from a kit shall be considered to be handcrafted. Clothes and craft items sewn with a machine shall be considered handcrafted items.
- G. **"Itinerant Vendor"** means any local farmer, grower, producer, person or artisan with no established business location within the geographical boundaries of the City

who is associated with a Permit Holder that has been issued a Farmers/Artisan Market Special Use Permit. This term excludes any business within the City related to a Home Occupation Permit.

- H. **“Local Area”** means within the borders of the State of Texas provided no suitable product from a primary producer, farmer, artisan or grower is available within a radius of 150 miles from the City limits.
- I. **“Machine-Made”** means the producing or reproducing of an item in mass production by mechanically stamping, casting, blanking and weaving, except beads.
- J. **“Natural Flowers/Natural Plant/Natural Produce”** means propagated by seeds or cultivated by budding, grafting, layering, or other nursery techniques. The term “natural” excludes any produce/plants that have been irradiated, grown using pesticides, herbicides or chemical fertilizers, and is hormone free.
- K. **“Producer, Primary”** means all produce grown, reared or caught on the producer’s land within the defined local area. For domesticated livestock or plants this means grown or finished (having spent at least 50% of its life) on the producer’s land. For fish and other seafood this means caught from either inshore waters within the local area or offshore waters along the Texas coastline.
- L. **“Producer, Secondary”** means all produce must be brewed, pickled, baked, smoked or processed by the itinerant vendor using at least one ingredient of origin from within the defined local area (not merely bought locally). The minimum local ingredient is 10% of each product. Receipts should be kept as proof of origin for inspection.
- M. **“Permit Holder”** means an individual or representative of an organization that represents a group of small scale itinerant vendors that come together on an occasional or temporary basis as a collaborative group.
- N. **“Sustainably Grown”** means produce or plants that adhere to an agriculture that promotes self-reliance, resource conservation, and viability to both the natural environment and the parties involved. Sustainable agriculture incorporates the principles of organic farming although it does not need to be organically certified.

(2) Review of Effects

Before approving a special use permit allowing a Farmer’s/Artisan Market, the City Zoning Commission and City Council shall consider the following:

- A. Pedestrian and motor vehicle safety at and surrounding the proposed market;
- B. The effect of anticipated pedestrian and motor vehicle traffic on adjoining streets and sidewalks;
- C. The Compatibility of adjacent zoning;

- D. Cultural, sociological, economic, traditional, or historical influences that create or support placement of the proposed market;
- E. Availability of existing market space in the area; and
- F. Public health, safety and welfare.

(3) Permanent Use Not Created; No Abandonment or Vacation

The approval of a Special Use Permit establishing a Farmer's/Artisan Market does not create a permanent right to use, or is not to be construed to authorize abandonment or vacation of a public street, sidewalk, or alley.

(4) Application Requirements

A. An application under this section shall include:

- (1) The Permit Holder's name, including the organization name, mailing address, phone number, and email address.
- (2) A list of all itinerant vendors, including state sales tax permit number, if applicable, or exemption certificate.
- (3) A description of the merchandise intended for sale and a statement that the merchandise offered for sale has been created or produced by the itinerant vendor.
- (4) A written schedule showing the days and hours of operation
- (5) The exact limits or boundaries of the market.
- (6) The proposed closure of any public street, sidewalk, or alley.
- (7) A statement from the Permit Holder that the organization will not discriminate against itinerant vendors based on race, religion, sex, national origin, sexual orientation, age or disability.

B. Two applicants may file a joint application if both applicants are engaged in a joint business venture and complete the application form and provide the information required in Subsection A for both applicants.

(5) Conditions of Operation.

A. The Permit Holder shall be responsible for insuring the following conditions of operation are adhered to:

- (1) That all itinerant vendors have individual licenses and certificates as promulgated by the state and/or health department. For the purpose of health permits only, Farmers Market may be defined as a temporary event. A Temporary event permit may be issued for the event and such permit may run for up to fourteen consecutive Saturdays.
- (2) The location of vendor spaces shall have provision for access and shall be divided in such a way to ensure movement and safety between the vendors.
- (3) The location of vendor spaces shall not hinder or impede pedestrian flow on any sidewalk or traffic flow on any roadway adjacent to the Farmer's/Artisan Market.

- (4) The vendor's-current sales tax permit is available on site for inspection at all times of operation.
- (5) All supplies and storage shall be kept in a neat and orderly fashion within the vendor's space.
- (6) Portraits offered for sale that are created on site by the portrait artist while the subject poses. Portrait artists may sell mailing tubes, protective frames, mats or glass as part of the sale.
- (7) Works such as sculpture or paintings, drawings, prints, or photographs and all other two (2) dimensional works of art are originals or high quality reproductions of the artist's work, consecutively numbered, signed or stamped by the artist. Quality reproductions of two (2) dimensional works are acceptable if hand enhanced.
- (8) All vendors offer for sale only the type of product as listed on the statements submitted to the Deputy City Administrator unless other products are reviewed and approved by the Deputy City Administrator for compliance with this Special Use Permit.
- (9) A vendor may not claim use of or occupy a vendor space except during the time the Farmer's/Artisan Market is authorized to operate.
- (10) Any spaces in the Farmer's/Artisan Market reserved for use by an organization promoting public awareness, or not-for-profit fundraising, shall not be counted towards the 20% of itinerant vendors who do not have to grow, rear, catch, brew, pickle, bake, smoke or process the goods themselves.

- B. An employee of the City or another governmental entity may inspect a license during operation of a Farmer's/Artisan Market.
- C. An employee of the City, designee or another governmental entity may inspect a vendor space and merchandise displayed, offered for sale, or sold at a Farmer's/Artisan Market.

(6) Hours of Operation/Parking on Streets

- A. The Farmer's/Artisan Market shall only operate between the hours of 8:00 a.m. to 6:00 p.m. on either a Saturday or Sunday of each week. The City may also request vendors to cease operation due to security reasons or in the event of an emergency.
- B. Vehicle parking on streets surrounding the Farmer's/Artisan Market for the setup or tear down of vendor displays or deliveries shall not be parked longer than twenty (20) minutes on streets open to traffic.

(7) License Term and Renewal

- A. All permits issued under this Section are valid for a term of one year from date of issuance.
- B. All permits issued under this Section are non-transferable and a separate permit is required for each farmer's/artisan market area.
- C. All permits shall not automatically be renewed.

- (1) Persons who hold permits may submit applications for additional one-year terms.
- (2) The City Administrator may approve a renewal application provided the applicant has not been found to have violated the terms of the permit.

(8) Enforcement.

- A. The City shall inspect all displays at least monthly to confirm compliance with this Section and any applicable laws. Upon determining that the Permit Holder is in violation of any provision of this section, the City may suspend or revoke the license.
- B. The City shall investigate complaints alleging violation of this Section provided that the complaint is in written form and signed by the complainant including the telephone number and address.
- C. The City has the authority to physically take any product, produce, or items for sale by the vendor into custody for examination and investigation of compliance with this Section, provided that such taking shall be only for a reasonable period of time not to exceed thirty (30) calendar days. The City has the authority to require that a vendor demonstrate the creation of the wares at any time after issuance of the permit, in order to determine if the vendor is in compliance with this Section. If destructive testing makes the return of the item impossible, the City shall purchase the item from the vendor.
- D. If any vendor is not in compliance with this Section the Permit Holder shall be notified in writing of the violation and shall have seven (7) calendar days to come into compliance or the permit shall be suspended until the violation is cured, provided however, that if the violation is a health or safety violation, then the violation must be cured immediately.

(9) Prohibitions

The following acts are prohibited.

- A. A person may not use the term “farmer’s/artisan market” to describe a market or other sales location that does not meet the terms of the definition set forth in the definitions for this subsection.
- B. An itinerant vendor may not sell farm and food products, handcrafted items, or food specialty items at a market labeled “farmer’s/artisan market” unless at least 75% of the product offered by that person was grown or processed by that person or under that person’s direction. A product not grown or processed by that person must have been purchased directly from another farmer.

(10) Penalty

- A. Any person violating any provision of this section of the Code regulating Farmer’s/Artisan Market Special Use Permits 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 one hundred dollars (\$100.00).
- B. Any person violating any provision of this section of the Code regulating

Farmer's/Artisan Market Special Use Permits 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 this section of the Code.

(11) Relationship to Farmer's/Artisan Market Rules

This section does not prohibit a market from imposing more stringent requirements on its sellers than those imposed by Section 2.503 (f).

- (g) Event Center requiring TABC license or permit for premises: In addition to the general criteria applicable to all special uses, an Event Center requiring TABC license or permit for premises shall be operated and maintained in accordance with the following conditions and limitations:

- (1) The premises must comply with all requirements applicable to Event Centers;
- (2) The premises 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;
- (3) The premises 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;

- (h) Winery. A winery must comply with the following specific criteria and conditions, as well as the foregoing general criteria:

- (1) The winery 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 winery where the alcoholic beverage is proposed to be produced or sold is not located on property, two or more sides of which abut property in a residential zoning district.
- (3) A winery shall produce no more than 20,000 gallons of wine annually on the permitted premises.
- (4) The quantity of alcoholic beverages produced or bottled off premises purchased by the winery may not exceed 40% by volume of the quantity of alcoholic beverages sold as measured in gallons.
- (5) The Permit Holder shall prohibit patrons from leaving the licensed premises with an unconsumed alcohol sample or glass of wine.
- (6) A Permit Holder may offer alcohol samples and glasses of wine in open containers and may provide them to a patron free of charge.

- (7) A Permit Holder must comply with all state and federal laws and regulations regarding the production and sale of wine.
- (8) A Permit Holder must submit a report of the activities for a permit renewal on an annual basis that includes the previous 12 months of reports to TABC of alcoholic beverages purchased, alcoholic beverages produced and total sales of alcoholic beverages.

(i) Alcoholic beverages Sold in a Retail Establishment for Off-Premise Consumption under Chapter 22 of the Texas Alcoholic Beverage Code Package Store Permit

- (1) The retail establishment where the alcoholic beverage is proposed to be sold shall operation in pursuant to a permit issued under Chapter 22 of the Texas Alcoholic Beverage Code and shall operate in compliance with that code
- (2) The retail establishment where the alcoholic beverage is proposed to be sold is a minimum of 20,000 square feet;
- (3) The retail establishment where the alcoholic beverage is proposed to be sold is not located within three hundred (300') feet of a church or school as measured by State law; and
- (4) The retail establishment 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.

(j) Religious Worship Uses

- (1) A special use permit is required for conversion of existing improvements on a property from a residential use to a religious worship use where no alterations requiring a building permit are made; for construction of new improvements to be used for a religious worship use; and for alteration of existing improvements to be used for a religious worship use.
- (2) Disclosure of the religious worship use shall be made in each application for a building permit for improvements to be used for religious worship. Construction shall comply with all applicable building regulations pertaining to religious or public assembly facilities.
- (3) Occupancy limits for all improvements used for religious worship uses shall be established in accordance with fire safety regulations of the city, regardless whether a building permit is required and issued.
- (4) Where no construction activity is proposed and no building permit is required, a certificate of occupancy shall be issued on approval of a special use permit, which shall establish the maximum occupancy.
- (5) (5) For uses with an occupancy limit of greater than 20 persons, the lot used for a religious worship use must be adjacent to a collector, minor or major arterial street.
- (6) On- or off-site parking must be provided at a ratio of one parking space per 3 persons, up to the occupancy limits of the building(s) on the property used for religious worship uses. The number of handicapped parking spaces required by the table in Section 10.104 of this Code shall be provided on site except where no buildings to be used for religious worship are

required to comply with accessibility requirements for the disabled pursuant to applicable regulations.

Sec. 2.504 General Requirements for All Special Uses and Temporary Special Uses
(Amended 12/17/13)

- (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 Administrator, 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.
 - (6) Giving any false, misleading, or fraudulent statements made in connection with or on the permit application.

The holder of a permit that has been revoked may not apply for a new permit for one year from the date of revocation, unless the revocation is overturned on appeal.

- (d) Appeal. An applicant or Permit Holder aggrieved by a decision by the City Administrator to deny a permit renewal or revoke a permit may appeal the decision to the City Council.

A person may file an appeal in writing with the City Administrator not later than fifteen (15) days from the date of the City Administrator's decision on the permit. The appeal under this section shall describe the action appealed from and reason for the appeal.

- A. The City Council shall hold a hearing not later than the 45th day after an appeal is filed. The appellant shall have the right to present witnesses and testimony at such hearing.
- B. The City Council may uphold, reverse, or modify a decision by the City Administrator.

- (e) 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.
- (f) Permit Term and Renewal

- (1) Special Use Permits shall be valid for a term of one year from date of issuance.
- (2) Temporary Special Use Permits shall be valid for the number of days specified at time of issuance, not to exceed 30 consecutive days, unless extended.
- (3) The holder of a Special Use permit may submit an application for renewal when the permit is within 60 days of expiration. The application for renewal shall include all information required to demonstrate compliance with the general and specific criteria of this section and any special conditions of the permit. If the Special Use includes any sale of alcoholic beverages, the permittee shall provide documentation of compliance with all requirements of the Texas Alcoholic Beverage Commission and any other applicable state or federal agencies. The application for renewal shall be accompanied with the annual permit fee as established by the City Council.
- (4) The City Administrator may administratively renew the permit provided that the applicant is found to be in compliance with the terms of this section.
- (5) Notwithstanding anything to the contrary in this subsection, a Special Use Permit for a Religious Worship Use shall remain valid for so long as such use is continuously operated in compliance with the Special Use Permit issued for such use, and need not be renewed annually, if the use is limited to: (i) religious assembly or worship services and administrative functions associated therewith; and (ii) day care or child instruction provided during religious assembly or worship services. An annual renewal of a Special Use Permit shall be required for the operation of a school, the sale of any goods or services, and any other activity not associated with or ancillary to religious assembly or worship services.

(g) Transfer. A Special Use Permit is not transferable.

(h) 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 except those properties that front Highway 290 West shown on the future Land Use Map adopted on February 21, 1995 as having Highway Commercial zoning and shall be effectively buffered from other districts. **(Amended October 3, 2000)**
- (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
<ul style="list-style-type: none"> • 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.
<ul style="list-style-type: none"> • 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.
<ul style="list-style-type: none"> • 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 levels unable to be heard within 100' of the intended targeted area.
<ul style="list-style-type: none"> • 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
<ul style="list-style-type: none"> • 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.
<ul style="list-style-type: none"> • 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.
<ul style="list-style-type: none"> • 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 (Amended July 7, 1998)

(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 (except in the case of a permitted guest house);
Amended May 6, 2014
- (5) Not be attended by nuisance factors;
- (6) Not be greater than 1,000 square feet; **Amended May 6, 2014**
- (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;
- (9) The height of an accessory building or structure may not exceed the height of the principal building or structure;
- (10) All accessory buildings and structures, other than detached garages, must be located in the rear yard behind the principal building or structure, except where the principal building or structure is more than 75 feet from the front lot line. If the principal building or structure is more than 75 feet

from the front lot line, an accessory building or structure may be located in front or to the side of principal building or structure provided that the accessory building or structure is more than 75 feet from the front lot line. Unless the accessory building or structure is architecturally compatible in construction materials, color, and design to the principal building or structure, it must be screened by landscaping from being seen from the front or side lot lines. The landscaping providing the screening must be located within 25 feet from the front and side(s) of the accessory building or structure.

- (11) Detached garages may be located to the side or behind the principal building or structure, except when the principal building or structure is more than 75 feet from the front lot line. If the principal building or structure is more than 75 feet from the front lot line, a detached garage may be located in front of the principal building or structure. Detached garages must be architecturally compatible in construction materials, color, and design to the principal building or structure.
- (b) Accessory buildings or structures may be used in conjunction with, support of, or storage for a home occupation by Special Use permit.
- (c) Any changes to an accessory use or structure (e.g., placement, angle, size, etc.) not included within the plan submitted in support of the permit application on which the accessory use or structure permit was granted must have the written approval of the City prior to the change being constructed or performed.
- (d) For property zoned to be included in a single family residential or PUD district and used only as a single family residential use, the rainwater harvesting systems described in this subsection (d) shall constitute accessory structures, but shall not (to the extent of the maximum size or capacity provided in this subsection (d)) be subject to the following regulations: (i) the limitations and restrictions set forth in subsections (a) (7), (8), and (10) of this section; or (ii) the limitation on the maximum number of buildings and the maximum combined floor areas of accessory structures set forth in section 2.604 of this Code. By way of clarifying example, up to three accessory buildings and up to a cumulative 1,500 square feet of accessory structures that comply with all applicable provisions of this Code may be allowed notwithstanding the fact that one or more of the rainwater harvesting systems described in this subsection (up to the maximum size or capacity provided) are located on the affected property. In addition, a rainwater harvesting system described in subsections (d)(1) and (2) may be located in a side yard setback, provided that it is not located in a utility or drainage easement; and rainwater harvesting systems described in subsection (d)(1), (2), and (3) need not be architecturally compatible with the primary structure nor screened from view. **(Amended May 6, 2014)**
 - (2) One or more receptacles with a cumulative capacity not greater than 175 gallons that receive water from a single downspout on the primary structure used as a home if the receptacle(s) are located within six (6) feet of the eaves of the home facing the front yard (maximum capacity of allowed receptacles is measured by each downspout but more than one downspout may be the source of water for allowed receptacles), provided that the receptacle does not function with the use of any electrical or pressurizing equipment; and **(Amended May 6, 2014)**
 - (2) A receptacle with a capacity not greater than 350 gallons for each downspout on a building if it is located behind the front wall of the primary structure used as a home, provided that the receptacle does not function with the use of any electrical or pressurizing equipment. **(Amended May 6, 2014)**
 - (3) One or more rainwater harvesting systems with a cumulative total area footprint of 350 square feet (whether above or below ground) located in a back yard. **(Amended May 6, 2014)**

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. This section is intended to provide rights on the conditions provided herein only with regard to such dimensional regulations.
- (b) No such non-complying structure may be enlarged or altered except as allowed in the following subsections (c) and (d).
- (c) Single Family Residential Property
 - (1) If a structure on property zoned and used as single family residential property is partly complying and partly non-complying, the complying portion of the structure may be repaired, rebuilt, remodeled or altered in compliance with applicable regulations in any way as long as that portion of the structure continues to meet all applicable dimensional regulations in place at that time.
 - (2) The non-complying portion of a structure on single family residential property that is partly non-complying, or a structure on single family residential property that is entirely non-complying, may only be repaired, rebuilt, remodeled or altered so long as (i) the repairs, rebuilding, remodeling or alteration is done in the original footprint of the structure and (ii) the repairs, rebuilding, remodeling or alteration meet all applicable regulations except dimensional regulations and location of the structure on the site.
- (d) Structures on Property Zoned and Used for Any Purposes Other than Single Family Residential
 - (1) Status of Structures. If any portion of a structure on property zoned and used for any purpose other than single family residential is non-complying, the entire building is deemed to be a non-complying structure. If the non-complying portion of the structure is permanently removed and the land is restored to an undeveloped state, the remaining structure will be deemed a complying structure.
 - (2) Damaged Structures. This subsection applies to non-complying structures that are (i) located on property zoned and used for any purpose other than single family residential and (ii) damaged by any means other than a purposeful destruction or demolition by the owner. Should more than 50% of the structure be destroyed, no reconstruction may occur except in full compliance with all then current applicable law. Should less than 50% of the structure be destroyed, reconstruction on the original footprint may be permitted, provided the owner complies with all applicable dimensional regulations in place at the time the structure is repaired or reconstructed. In the event of a repair or reconstruction pursuant to this subsection, the structure repaired or reconstructed in compliance with this section shall be deemed a non-complying structure.

(3) All Other Structures. Undamaged non-complying structures located on property zoned and used for any purpose other than single family residential must be maintained in good condition but may not be altered or enlarged.

(e) The Building Official may order an unsafe non-complying structure to be restored to a safe condition in compliance with all applicable regulations of this Code. Any such order is subject to the provisions of this Section regulating the repair or reconstruction of partially or wholly damaged or destroyed non-complying structures. A building inspector that requires or attempts to require any modifications not required by applicable codes and regulations shall forfeit the right to do business in Sunset Valley for 12 months.

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) Outdoor commercial kennels (Amended Oct 17, 2006);
- (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, however, nothing within this Section shall be interpreted within the term, meaning, or definition of boat to include the sale of:
 - i. Canoes, paddle boats, kayaks, inflatable watercraft;
 - ii. Boats fifteen feet or less; or
 - iii. Pontoon boats ten feet or less

Provided any outdoor storage of same meets the city's screening requirements as amended from time to time and the gross receipts derived from the sale of these items does not exceed forty percent (40%) of the gross receipts derived from the sale of all products by the retailer. **(Amended August 9, 2005)**

- (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.
- (bb) Boarding houses and lodging houses (*Amended Nov. 4, 1996*)

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.

Sec. 2.517 Permit Required for Certain Home Occupations in SF, Single Family Residential Districts (Amended October 27, 2015)

- (a) Except as otherwise provided in Subsection (e), a person desiring to engage in a home occupation in a SF, Single Family Residential District that does not occur in any accessory building shall submit an application for a permit on form(s) provided by the City for that purpose. The application shall be accompanied by the fee established from time to time by City ordinance.
- (b) The City Administrator, or such other person designated by the City Administrator shall review and approve or deny the application within ten days of receipt by the City of a complete application with any required filing fee. If the proposed home occupation satisfies the requirements set forth and referred in Section 2.601 of this Code, the City Administrator or designee shall issue the requested permit.
- (c) If the City Administrator or designee denies or fails to timely act on the permit application, the applicant may, not later than ten days following the sooner of the denial or the last day for timely action, appeal the decision or inaction to the City Council, without any additional fee. The City Council shall consider the appeal on the same basis and procedure used by the City Council on an application for a special use permit as provided in Section 2.501 of this Code, including review for compliance with all applicable restrictions and criteria, except that no prior consideration of the Zoning Commission shall be necessary.
- (d) A person desiring to engage in a home occupation in a SF, Single Family Residential District to be conducted wholly or in part in an accessory building shall submit an application for a special use permit pursuant to the procedures set forth in Section 2.501 of this Code. Such application shall be accompanied by the fee established by the Council from time to time for such permits.
- (e) The following professional and business activities shall be deemed not to constitute a home occupation if operated in compliance with the criteria set forth and referred in subsection 2.601(e) of this Code, and so long as no license or certification is required for the activity, other than a personal license or certification to engage in the profession or trade:
 - (1) Garage sales and hobbies, as defined in Section 1.201 do not constitute a home occupation. However, garage sales and sales to customers at the location of the residential property of plants,

baked goods, wood, fruit, animals, or other goods, occurring more frequently than as described in the definition of Garage Sales in Section 1.201 shall constitute a home occupation;

- (2) Private music lessons to individuals;
- (3) Production of artistic or artisanal works that do not involve more than incidental use of motorized machinery;
- (4) Storage of goods for sale off the premises of the subject residential property;
- (5) The offering of any goods or services for sale via mail, the world wide web, or other remote marketing means where the delivery of goods or performance of services occurs off site; and
- (6) Business or professional activities conducted in the home by a resident of the home by use of telephone, or other electronic communication or data processing devices;

(f) Notwithstanding the general penalty for a violation of this Chapter as provided in Chapter 17 of this Code, this subsection shall apply to a violation of the requirement to obtain a required permit for the conduct of a home occupation (in addition to any other applicable penalties where a special use permit is required and not obtained). Written notice of an alleged violation shall be provided by regular U.S. Mail and by certified mail to the last known occupant at the address where the home occupation is alleged to occur stating the nature of the violation and a general description of the activity alleged to constitute the home occupation. A period of 30 days shall be allowed for the violation to cease, except in the case of an activity constituting a nuisance a period of 10 days shall be permitted to discontinue the activity. If the activity continues thereafter, prosecution of the offense pursuant to Chapter 17 may be initiated, except that the period of violation up to the time of trial shall be punishable by a fine of up to \$200. Subsequent offenses for similar activities involving the same property shall be punishable as provided in Chapter 17 of this Code. Nothing in this subsection shall be construed to prohibit the city from seeking enforcement by civil action and civil penalties as provided by law.”

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 (*Amended Nov. 4, 1998*)

- (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; however, a home occupation permit is required as set forth in Section 2.517 of this Code. (***Amended October 27, 2015***)
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.
 - (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) No substantial increase in waste water or water use shall be allowed.
 - (8) No obnoxious noise or odor, excessive night lighting, excessive street parking by customers, employees or others assisting in the activity or providing goods or services to the operator(s) of the activity, no activity constituting a nuisance, or that creates electrical interference in a surrounding residential property, and no other conditions that are incompatible with a quiet residential setting or hazardous to nearby residential property shall be created.”
- (f) Community homes as that term is defined in Section 1.201 and subject to the limitations and requirements for such homes set forth in the Texas Human Resources Code, as it may be from time to time amended. ***(Amended Nov. 4, 1996)***
- (g) A single guest house, as that term is defined in Section 1.201, which is used for human habitation by a reasonable number of persons, provided that the habitants of guest houses in SF, Single Family Residential Districts shall not pay rent or other compensation for use of the guest house or any portion thereof.. ***(Amended Nov. 16, 2016)***

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
<p>1. Single family, detached dwellings limited to no more than one such building per lot and occupied by no more than one family.</p> <p>2. Accessory structures and uses customarily incidental to single family, detached dwelling in a rural setting.</p> <p>3. 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.</p> <p>4. Temporary Construction Storage as defined in Chapter 1, Division 1.2, § 1.201.</p> <p>5. Home occupation located within the principal dwelling and meeting the criteria of Section 2.601 of Chapter 2, Division 2.6.</p> <p>6. Community homes as that term is defined in Section 1.201 and subject to the limitations and requirements for such homes as set forth in the Texas Human Resources Code, as it may be from time to time amended.</p> <p>7. A single guest house, as that term is defined in Section 1.201, which is used for human habitation by a reasonable number of persons, provided that the habitants of guest houses in SF, Single Family Residential Districts shall not pay rent or other compensation for us of the guest house or any portion thereof. Guest houses may also be used for any use that would constitute an "incidental use", as that term is defined in this Code, that is permitted in SF, Single Family Residential Districts. <i>(Amended 11-04-96)</i></p>	<p>1. 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>	<p><u>General Requirements</u> Maximum DU per Acre: 1.0 Minimum Lot Size: 1.0 acre Minimum Lot Width at Front Setback Line: 120 ft.</p> <p>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> Minimum Setbacks Front: 50 ft. Side: 20 ft. Rear: 30 ft. Maximum Height: 35 ft.</p> <p><u>Accessory Use & Structure</u> Maximum Height: 20 ft. Minimum Side and Rear Setback: 20 ft. Maximum No. of Bldgs: 3</p> <p>Minimum Distance Between Buildings: 10 ft. Placement: Side or Rear Yd Maximum Floor Area/Bldg: 1,000 ft² Maximum Combined Floor Area: 1,500 ft.²</p>	<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"> 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>i.e.</i>, either up to light tree canopies or down to light ground but not horizontal away from house) 5. Subdivision Provisions of this Code 6. All other applicable Provisions of this Codes as amended

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, religious worship use, 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
<p>1. Offices of an accountant, architect, attorney, engineer, broker, consultant, insurance agent, religious worship use or similar professional or semi-professional uses other than medical-related services and veterinary services, and uses permitted in SF.</p>	<p>1. Medical-related professional offices. 2. Veterinary services.</p>	<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) Personal Service Establishment

- (u) Pharmacy;
- (v) Seamstress, dressmaker or tailor shop;
- (w) Specialty food store;
- (x) Studio for art, dance, drama, music, photography, or interior decorating;
- (y) Toy store; and
- (z) Accessory uses customarily incidental to any of the foregoing permitted uses. See Section 2.506 of this Code.
- (aa) 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
- (d) alcoholic beverage sales for on-premise consumption in a restaurant ***(Amended 01/20/98)***
- (e) alcoholic beverage sales for off-premise consumption in a retail use ***(Amended 01/20/98)***

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. Beer and wine sales in a retail use (Amended 01/20/98)</p> <p>5. Banks and savings and loans</p> <p>6. Alcoholic beverage sales in restaurants (Amended 01/20/98)</p>	<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: 50 ft. Side: 20 ft. Rear: 30 ft. Maximum Height: 35 ft.</p> <p><u>Parking Lot and Other Impervious Cover:</u> Minimum Setbacks: Front: 50 ft. Side: 20 ft. 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 servicing of boats and boat motors, and the sale or servicing of motor vehicles; ***(Amended August 9, 2005)***
- (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);
- (q) Temporary field or construction. (See definition in Section 1.201).
- (r) Guest houses and residential inns. ***(Amended Nov. 4, 1996)***

- (s) Body piercing if such activities are not the primary business of the applicant and occupy no more than ten percent (10%) of the floor area of the business offering the service up to a maximum of 300 square feet. **(Adopted 4/17/01)**
- (t) Pet Services
- (u) Event Center **(Amended 12-6-11)**

Sec. 2.902 Special Uses Permitted in HC, Highway Commercial

- (a) Day Care Facility
- (b) Medical-related professional offices
- (c) Alcoholic beverages for on-premise consumption in a restaurant **(Amended 01/20/98)**
- (d) Alcoholic beverages for off-premise consumption in a grocery store **(Amended 01/20/98)**
- (e) Event Center requiring TABC license or permit for premises. **(Amended 12-6-11)**
- (f) Winery **(Amended 4/2/2013)**
- (g) Alcoholic beverages Sold in a Retail Establishment for Off-Premise Consumption under Chapter 22 of the Texas Alcoholic Beverage Code Package Store Permit. **(Amended 12-17-2014)**

Sec. 2.903 Specific Standards, HC District

- (a) No flat roofs shall be authorized.
- (b) Varied, multiple pitched roofs.
- (c) Beer and wine sales for off-premise consumption in a retail use **(Amended 01/20/98)**
- (d) Event Centers. All event centers shall be operated and maintained in accordance with the following conditions and limitations:
 - (1) The sale and consumption of alcoholic beverages on the premises is permitted without a Special Use Permit under the following conditions:
 - (A) The sale of alcoholic beverages on the premises shall not exceed 40% of gross sales for any discrete event, where gross sales shall include the event center rental charge, if any and charges for the sale of food, if any;
 - (B) The cost of alcoholic beverages consumed on the premises shall not exceed 40% of the total event cost for any discrete event, where total event costs shall include the event center rental charge, if any, and charges for the sale of food, if any;

- (C) All third party servers of alcoholic beverages on the premises shall obtain or maintain any license or permit required by the Texas Alcoholic Beverage Commission (TABC) for the service of alcoholic beverages;
 - (D) Regardless whether required by applicable State law, all those serving alcohol on the premises shall be certified by the TABC;
 - (E) No location specific TABC license or permit is required for the event center premises; and
 - (F) Each person serving alcoholic beverages for consumption at an event shall furnish to the City proof of commercial general liability insurance with a coverage limit of at least one million dollars (\$1,000,000) per occurrence and proof of TABC certification.
- (2) No event may take place between the hours of 2:00am and 6:00am
 - (3) Capacity for an event at an event center shall be limited to 3 people for every off-street parking space onsite. The capacity may be increased with the approval of the City Administrator if the owner or operator of the event center provides the City Administrator acceptable proof that additional parking has been secured by leasing or licensing parking spaces on adjacent properties, leasing or licensing parking spaces at another location from which a shuttle service will transport event participants, or some other similar parking plan. Off-site parking must not endanger event participants or create unreasonable traffic congestion in the City. Capacity cannot be increased to exceed the occupancy limits set by any other applicable law or regulation.
 - (4) All events centers must comply with ADA accessibility guidelines.
 - (5) A security guard will be provided for every 200 people at an event.
 - (6) All outdoor areas of the event center premises shall be kept clean. Within 2 hours of its creation or placement, any trash or debris located in outdoor areas shall be removed from the premises or placed in a garbage receptacle for collection.
 - (7) If on-site temporary sanitation facilities will be used for an event, the owner or operator of the event center must provide the City Administrator with information regarding the proposed method of containment and disposal and capacity of such facilities.

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>3. Guest houses and residential inns. (Amended Nov. 4, 1996)</p> <p>4. Event Center</p>	<p>1. Medical-related professional offices.</p> <p>2. Veterinary services.</p> <p>3. Alcohol beverage sales in a restaurant. (Amended 01/20/98)</p> <p>4. Day Care Facility.</p> <p>5. Alcohol beverage sales in a retail use. (Amended 01/20/98)</p> <p>6. Alcohol beverage sales in a grocery store. (Amended 01/20/98)</p> <p>7. Event Center requiring TABC license or permit for premises. (Amended 12-6-11)</p> <p>8. Winery (Amended 4/2/2013)</p> <p>9. Alcoholic beverages Sold in a Retail Establishment for Off-Premise Consumption under Chapter 22 of the Texas Alcoholic Beverage Code Package Store Permit. (Amended 12-17-2014)</p>	<p>1. Property subdivided before May 10,2007, the effective date of the site requirements amendments:</p> <p>All requirements provided in subdivision 2 below, except as follows: Minimum Lot Size shall be the size of the affected lot in an approved subdivision plat recorded on or before May 10, 2007, except that if such lot was thereafter re-subdivided in an approved and recorded subdivision plat by combining lots or parts of lots, the minimum lot size shall be the size of such larger re-subdivided lot.</p> <p>2. <u>General Requirements</u> Minimum Lot Size: 3 acres 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: 50,000 ft² per building Maximum Impervious Cover Not to Exceed Allowable under Watershed Provisions of this Code</p> <p><u>Primary Use & Structure</u> 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. 2. For Event Centers see Section 2.903 <p><u>Compatibility and Buffering Standards:</u></p> <ol style="list-style-type: none"> 1. 100 foot landscape setback. See § 2.505(b).

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) Religious worship use 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
1. Government buildings 2. Schools. 3. Religious Worship Use 4. Parks 5. Other uses and structures similar or incidental to the above permitted uses	1. Medical-related 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: 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> 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> 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 (<u>i.e.</u> , either up to light tree canopies or down to light ground but not horizontal away from a building)

			<p>5. Subdivision Provisions of this Code</p> <p>6. All other applicable ordinances as amended</p> <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).
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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, Parkland; G, Greenspace and Preservation; and C, Conservation. (Amended March 21, 2006)

Sec. 2.1200 Intent of Parkland District

To provide publicly owned parcels for parks and recreation, including active and passive recreation, water quality protection, air purification, and continuity of aesthetic open space and nature area buffering for the citizens of Sunset Valley.

Section 2.1201. Parkland District Permitted Uses and Development Standard.

LAND USES	DEVELOPMENT STANDARD	
Permitted Uses	Site Requirements	Supplementary Requirements
<ol style="list-style-type: none"> 1. Public Parks 2. Publicly owned Open Areas 3. Conservation area or easement 4. Vehicular parking 5. Playground equipment and other recreational structures 6. Drainage improvements, Water quality protection facilities, Infiltration/Passive detention facilities 7. Shelters related to park uses and activities 8. Paths and trails, including foot bridges 9. Uses permitted in a Greenspace / Preservation District 10. Uses permitted in a Conservation District 11. Other uses and structures similar or incidental to the above permitted uses 	<ol style="list-style-type: none"> 1. Direct public access must be provided for parks and active recreation areas. 2. Any improved parking surfaces must be for park-related uses and conform with the City's approved Parks and Open Space Management Plan. 	<ol style="list-style-type: none"> 1. Only vegetation included in the City's approved plant list may be used. 2. Maintenance, management and construction practices must conform to the City's approved Parks and Open Space Management Plan.

Section 2.1202 (*Deleted in its entirety on March 21, 2006*)

Section 2.1210. Intent of Greenspace/Preservation District.

To provide publicly and privately owned parcels for permanent open space or preservation purposes, including passive recreation, wildlife habitat, ecological and historical preservation, water quality protection, air purification, science education, nature observation, and continuity of aesthetic open space and natural area buffering for the citizens of Sunset Valley.

Section 2.1211. Greenspace/Preservation District Permitted Uses and Development Standard.

LAND USES	DEVELOPMENT STANDARD	
Permitted Uses	Site Requirements	Supplementary Requirements
<ol style="list-style-type: none"> 1. Publicly owned Open Areas 2. Privately owned Open Areas 3. Conservation area or easement 4. Drainage improvements, water quality protection facilities, infiltration/passive detention facilities 5. Paths and trails, including foot bridges and pedestrian links 6. Historical sites and structures 7. Uses permitted in a Conservation District 8. Other uses and structures similar or incidental to the above permitted uses 9. Buffering, berming or other visual or sound mitigation not in conflict with the intention of the Greenspace / Preservation District 10. Motorized Vehicular access in the Greenspace/Preservation District is restricted to emergency vehicles, City of Sunset Valley vehicles or for specifically approved City of Sunset Valley projects and activities that are consistent with the goals and objectives of the Conservation District. 	<ol style="list-style-type: none"> 1. Direct public access is not required in the Greenspace/ Preservation District 	<ol style="list-style-type: none"> 1. Only vegetation included in the City's approved plant list may be used. 2. Maintenance, management and construction practices must conform to the City's approved Parks and Open Space Management Plan. 3. Pets are not allowed, except when under direct control of owner in certain time periods, in accordance with the City's approved Parks and Open Space Management Plan.

Section 2.1220. Intent of the Conservation District.

To provide publicly and privately owned parcels for permanent conservation purposes including space for wildlife habitat (including Federally listed endangered species habitat), ecological and geological preservation, water quality protection, air purification, science education, nature observation, and continuity of aesthetic open space and nature area buffering for the citizens of Sunset Valley.

Section 2.1221. Conservation District Permitted Uses and Development Standard.

LAND USES	DEVELOPMENT STANDARD	
Permitted Uses	Site Requirements	Supplementary Requirements
<ol style="list-style-type: none"> 1. Boundary fences and applicable signage 2. Publicly owned Open Areas 3. Privately owned Open Areas 4. Conservation area or easement 5. Motorized Vehicular access in the Conservation District is restricted to emergency vehicles, City of Sunset Valley vehicles or for specifically approved City of Sunset Valley projects and activities that are consistent with the goals and objectives of the Conservation District. 	<ol style="list-style-type: none"> 1. Direct public access is not required in the Conservation District. 	<ol style="list-style-type: none"> 1. Only endemic vegetation may be used. 2. Maintenance and management practices must conform to the City's approved Parks and Open Space Management Plan. 3. The only structures permitted are those that adhere to the intent of the Conservation District. 4. Pets are not allowed, except when under direct control of owner in certain time periods, in accordance with the City's approved Parks and Open Space Management Plan. 5. Public access may be restricted in accordance with the City's approved Park and Open Space Management Plan.

Division 2.13: Planned Unit Development

Sec 2.1301 Planned Unit Development of Single Family Residential Zoned Land. *(Adopted in its entirety 04/28/04)*

(a) Purpose. Planned Unit Development (PUD) is intended to encourage innovative subdivision or site plan design and promote superior development. It is suitable for the comprehensive development of large tracts of vacant or substantially vacant land. The Planned Unit Development (PUD) District is intended for tracts for which a standard zoning classification may be inappropriate. Special circumstances that may warrant a PUD zoning classification include the following:

- (1) Areas with environmental constraints which may require special design considerations for the preservation of environmental features not adequately protected under current ordinances; and
- (2) Areas of special concern to existing or proposed residential neighborhoods where standard zoning may not adequately address concerns of land use intensity, buffering and screening, open spaces, tree preservation, cluster development, infill areas, undesirable activities or design features, access and transportation impacts, landscaping, lighting, signage, noise, air quality, protection of water resources, type of construction, type of building materials, allowable uses, design concept, architectural diversity, maintenance, height of improvements, building mass, square footage of residential units, setbacks, recreational amenities, covered parking, view preservation, historical preservation, public safety and welfare, or any other features for which special site conditions or other considerations may warrant innovative or custom design.

- (b) Permitted Uses. PUD may be utilized for any type of land use permitted in single family residential zoning districts within the City, provided all uses are compatible with adjacent uses and the Comprehensive Plan.
- (c) Standards and Criteria. When considering a PUD, the unique nature of each proposal for a PUD may require, under proper circumstance, the departure from certain codes and ordinances. The adoption of an ordinance establishing a PUD district shall constitute authority for such flexible planning to the extent that the PUD, as approved, departs from city codes and ordinances. However, each PUD must comply with the following criteria.
 - (1) Goals and Objectives. Before approving a PUD, the City Council shall determine that it meets all of the following goals and objectives:
 - (A) The development in the proposed PUD is equal to or superior to development that would occur under the standard ordinance requirements;
 - (B) The proposed PUD shall be in harmony with the general purposes, goals, objectives, and standards of the Comprehensive Plan;
 - (C) The proposed PUD shall not have an adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utilities or any other matters affecting the public health, safety and general welfare;
 - (D) The proposed PUD shall be adequately served by essential public facilities and services including streets, parking, drainage, water, wastewater facilities and other necessary utilities; and
 - (E) The proposed PUD shall be constructed, arranged and maintained so as not to dominate, by scale and massing of structures, the immediate neighboring properties or interfere with their development or use in accordance with any existing zoning district.
 - (2) Size. Creation of a PUD is only justified for development of tracts thirty (30) acres or greater in size. There is no maximum size for a PUD. However, a PUD must consist of a parcel or group of parcels that form a single contiguous land unit. For this purpose, an ownership separated solely by the width of a public or utility right-of-way will be considered contiguous.
 - (3) Height and Street Requirements.
 - (A) Height. The height limitation for structures within the PUD shall be approved as part of the development plan to assure compatibility with adjacent developments and other portions of the PUD. Height may not exceed the maximum height allowance for similar proposed uses in single family residential zoning districts within the City.
 - (B) Street. All pavement widths and curve radii, for public streets, shall be designed to assure adequate access by fire and emergency vehicles.
 - (4) General Provisions.
 - (A) Developments within a PUD must comply with all other applicable ordinances not

specifically waived by this section.

(B) The proposed PUD shall not waive any basic health or safety standards.

(5) Density.

(A) Maximum Density. The maximum density shall be as specified in the PUD land development ordinance approved by the City Council, but shall be no greater than 1.5 times the density allowed without PUD zoning based on gross site acreage.

(B) Minimum Lot Sizes. Minimum lot sizes as required by the Subdivision and Zoning Ordinances may be waived, provided that:

(i) The overall density of the PUD shall not exceed 1.5 times the density permitted without a PUD designation;

(ii) The PUD provides for adequate buffers to assure compatibility with adjacent developments inside and outside of the PUD; and

(iii) The PUD preserves natural features on the site to the extent reasonably feasible.

(C) Density Transfers and Bonuses. Density transfers and bonuses may be granted within a PUD, which would result in a variety of densities for specific parcels within the PUD while maintaining the overall permitted density of the entire PUD.

(6) Impervious Cover Standards. The maximum impervious cover for the entire property within the PUD must conform to the impervious cover limitations for each of the water quality zones for that property. PUD's are not required to conform to any per lot requirements regarding impervious cover.

(7) Setback Requirements. The proposed PUD may deviate from setback requirements in the Zoning Ordinance.

(8) Street and Alley Sizes. The proposed PUD may contain streets and alleys that deviate from the minimum street and alley size required by the Sunset Valley Code or ordinances.

(9) Location. Creation of a PUD is only justified for large tracts of land with street frontage along Ernest Robles Way or Highway 290.

(d) Designation of a PUD District:

(1) The designation of a PUD district shall be achieved through amendment to the Zoning Ordinance.

(2) The applicant for PUD approval shall submit a Development Plan and supporting documents shall form part of the ordinances and be attached as exhibits thereto.

(3) Prior to formal consideration of a plan for a PUD, the Planning and Zoning Commission and the City Council shall hold public hearings at which interested parties or citizens shall have an opportunity to be heard in the same manner as required for a rezoning application.

- (4) The Planning and Zoning Commission may take action to:
 - (A) Recommend approval of the Development Plan as submitted;
 - (B) Recommend approval of the Plan contingent on changes suggested by the Commission; or
 - (C) Recommend disapproval of the Plan.
- (5) The City Council may take action to:
 - (A) Approve the Development Plan as submitted;
 - (B) Amend and approve the Plan as amended; or
 - (C) Disapprove the Plan.

(e) Development Plan.

- (1) The Development Plan shall include both plans and written documents for the entire PUD area and shall specifically include the following as a minimum:
 - (A) The location and gross acreage of each density area including the dwelling intensity of any residential areas or the lot sizes and locations of any other uses within the PUD;
 - (B) A plan and written documentation of the locations and types of open spaces in the PUD, including their intended uses, finished landscaping, public access, and restrictions on development and access. This information shall include details concerning access to and through open spaces, restrictions or conditions on any development within each type of open space, and responsibilities for maintenance of landscape and access and improvements within open spaces;
 - (C) The location of the twenty-five (25) year and one-hundred (100) year floodplains and all public streets;
 - (D) The conceptual location and acreage of streets and common open space;
 - (E) The location, development, landscaping and maintenance criteria of all buffer areas, which shall include at a minimum the area within one hundred (100) feet inside the perimeter of the parcel, except for tracts fronting on Ernest Robles Way shall include a buffer area with an overall average in width of at least one hundred twenty-five (125) feet, provided the width of the buffer shall never be less than one hundred (100) feet from Ernest Robles Way. Landscaped buffer areas may include naturally vegetated or undisturbed areas;
 - (F) The development controls, such as deed restrictions and Federal wildlife restrictions, which will be applied to assure compatibility of the proposed development with adjacent existing development and zoning districts;

- (G) The assurance of maintenance and continued protection of the PUD, including any of the common open space. This includes, but it is not necessarily limited to, restrictive covenants, home owners' association agreements, maintenance agreements, deeds and agreements establishing easements and rights-of-way;
 - (H) The public dedications and physical improvements which will be undertaken to assure compatibility with adjacent land uses and the assurance that the development will not require any excessive expenditures by the City for road or utility improvements;
 - (I) A plan for the location of all public utilities;
 - (J) Drainage, water quality protection and flood control plans; and
 - (K) A plan showing the land uses, names of property owners, and density of adjacent development within two hundred (200) feet of the boundary of the PUD.
 - (L) A plan and elevation drawings showing building facades and exterior details, fences, and landscaping and buffering, as will be seen from the vantage points of public street right-of-ways abutting the PUD. Included with such plans and elevations there shall be written documents that will assure adherence to and compliance with such plans and elevation details. The purpose of this provision is to provide assurance that the PUD will complement and enhance, not degrade, the visual quality of the land and buildings in the surrounding area.
- (2) All plans shall be submitted as multiple copies, for review by each Planning and Zoning Commission member, each City Council member, and appropriate City staff. Plans shall adequately illustrate all of the required information at a scale no finer than one inch equals one hundred feet (1"=100') and a sheet size no larger than 30" by 40".
 - (3) Plans shall be submitted for review by the City Staff at least forty-five (45) calendar days in advance of the first public hearing of the Planning and Zoning Commission for this amendment.
 - (4) Detailed site plans, showing details in excess of those required on the PUD Development Plan, may be required by the Planning and Zoning Commission or the City Council as part of a PUD approval.
- (f) Changes to a Development Plan.
- (1) Minor Changes. Minor alterations to the Development Plan required by engineering or other circumstances that do not substantially change the concept of the PUD may be approved administratively by the Deputy City Administrator. Changes that reduce the intensity of the land use are minor changes.
 - (2) Major Changes. Major changes such as increased density shall be submitted following the same procedure required in the original PUD application.
- (g) Platting. Platting will be determined by the proposed Development Plan. The Development Plan must be approved prior to or simultaneously with the approval of any plat.
- (h) Procedures.

- (1) Pre-application conference. Prior to filing an application for PUD approval, the prospective applicant may request a pre-application conference with the Deputy City Administrator and other City officials as deemed to be appropriate. At the conference, the applicant shall present the general outline of the PUD proposal, evidenced schematically by sketch plans. If the applicant so requests, City staff shall, within ten (10) working days, furnish the applicant with written comments regarding the conference, including any appropriate recommendations, to inform and assist the applicant in preparation of the Development Plan.
 - (2) Zoning requirements. All zoning procedures, including fee payment, shall be in accordance with this Chapter.
 - (3) Additional fees. Additional fees incurred by the City for review of the Development Plan by City staff and consultants shall be reimbursed to the City by the applicant in accordance with the City's Fee Ordinance.
- i. Recording a PUD. The PUD ordinance approving the PUD shall be recorded in the official deed records of Travis County. The recording costs shall be paid by the applicant.

Division 2.14: General Standards for all Zoning Districts

Sec. 2.1400 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. 2.1401 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. 2.1402 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 as shown in the table under the appropriate category in Sections 2.604, 2.704, 2.804, 2.904, and 2.1004. **(Amended 7/16/2013)**

Sec. 2.1403 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. 2.1404 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. 2.1405 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. 2.1406 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 at a minimum of fifty-one percent (51%) masonry materials. The percentage is calculated on the exterior wall surface of the entire structure, excluding doors, windows, door and window casings, porch decking and roofs. Exterior surfaces may be constructed of masonry or approved siding, such as wood, or aluminum, or fiber cement siding, or solar energy conservation materials, or any combination of such materials, or other type shingles, subject to compliance with local regulations. No shiplap may be used. **(Amended 7-2-2019)**
- (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. 2.1407 Impervious Cover Requirements

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