

CHAPTER 1: GENERAL PROVISIONS; DEFINITIONS; INTERPRETATION

Division 1.1: General Provisions

Sec. 1.100 Short Title

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

Sec. 1.101 Purposes

The Land Development Code is adopted for the following reasons:

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

- (l) to protect the Edwards Aquifer and the City's drinking water supply and prevent excessive pollutant loadings in creeks.

Sec. 1.102 Authority

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

Sec. 1.103 Jurisdiction (Amended 03/06/01)

The provisions of this Land development Code apply to all property located within the incorporated city limits of the City of Sunset Valley as such limits may increase or decrease from time to time through annexation or disannexation. In addition, and to the extent permitted by state law, the provisions of this Land Development Code apply to all property located within the extraterritorial jurisdiction of the City of Sunset Valley.

Sec. 1.104 Relationship to Comprehensive Plan

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

Division 1.2: Definitions (Amended 7/02/19)

Sec. 1.200 General Provisions

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

Sec. 1.201 Terms Defined

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

"Abandoned": Out of service and not safeguarded in compliance with this Land Development Code; provided, however, that an underground storage tank shall not be deemed abandoned if it has been closed in accordance with this Code or with any other applicable State, Federal or local law or regulation.

"Accessory Structure": means a structure that is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure.

"Ancestral Tree": means any tree listed on the heritage tree list that has reached a diameter of 30 inches or more for the large tree category or 15 inches or more for the small tree category.

"Administrative Assistant": means the person employed under the title Deputy City Administrator by the City of Sunset Valley, Texas. The terms "Deputy City Administrator" and "City Administrative Assistant" shall be synonymous with "Administrative Assistant". For purposes of any provision in this Code providing that a permit may be approved, denied, or reviewed by the "City Administrative Assistant", "Administrative Assistant", or "Deputy City Administrator" such terms shall be construed to include any employee or agent of the City that the City Council may from time to time designate, by ordinance or resolution, to review permit applications.

"Administrative Official": The department director appointed by the City Administrator to administer this Ordinance, or the department director's designee.

"Administrator": means the official appointed by the City Council to carry out the duties and responsibilities, contained in the flood loss control provisions of this Code.

"Adult Entertainment Activity": Any commercial activity, including live performances, whether conducted intermittently or full time, which primarily involves the sale, display, exhibition, or viewing of books, magazines, films, photographs or other materials, distinguished or characterized by an emphasis on matter depicting, describing, or relating to sex acts, or by an emphasis on male or female genitals, buttocks, or female breasts.

"Alcohol Sample": An individual serving of wine not to exceed one- and one-half ounces of wine for the purpose of allowing a patron to sample a product.

"Alcoholic Beverage": An alcoholic beverage as defined in the Alcoholic Beverage Code of the State of Texas.

"Alley": Any minor public right-of-way, not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.

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

"Alter": When used in the sign regulation section of this code the intended definition is to change the size, shape or outline, or type of sign or to change the electrical lighting, except for the replacement of lamps not brighter than the original or the replacement of surface panel.

"Amusement, Commercial Open Air": Any amusement enterprise offering entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open, including but not limited to, a golf driving range, archery range, miniature golf course, and race track.

"Amusement Center or Parlor": Any establishment containing one or more pool or billiard tables, pinball and electronic games offered for hire to the public as primary purpose.

"Anti-transpirant": A protective coating generally applied to plant material prior to or immediately after transplanting that reduces water loss through the leaf surface.

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

"Appeal": When used in the flood loss control sections of this Code, "appeal" means a request for a review of the Administrator's interpretation of any provision of the flood control sections or a request for a variance.

"Appurtenant Structure": means an accessory structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure.

"Approval": Approval means written approval from the City of Sunset Valley pursuant to a duly executed application for approval made on a form promulgated by the City.

"Approved Tree Planting and Replacement List": means a list of approved trees that are proven to thrive in this region with fewer problems and requiring less care to remain healthy.

"Aquifer-related Watershed": All land area in a watershed that is within the Edwards Aquifer Recharge Zone or that naturally drains to, or is otherwise located upstream from, the recharge zone.

"Architectural Detail": Any projection, articulation, relief, cornice, column, change of building material, window, awning or door opening on any building.

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

"Area of Shallow Flooding": means a designed AO, AH, AR/AO or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent change or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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

"Atmospheric Pollution": The discharging from stacks, open storage, chimneys, exhausts, vents, ducts, openings or open fires of such air contaminants as visible emissions, sulfur dioxide, particulate matter, hydrocarbons, fumes or similar material or gases. Compliance shall conform to the procedures prescribed by the Texas Natural Resource Conservation Commission for the control of air pollution.

"Attach": To stick, tack, nail or otherwise affix one object to another.

"Automobile Service Station": An establishment selling fuel for motor vehicles or performing any repair or maintenance services on motor vehicles.

"Automobile Wash Service (Commercial)": A building, or portion thereof, containing facilities for washing automobiles.

"Average grade": means the grade of the finished ground level at the midpoint of each exterior surface of a sign, or a structure, in the event that the sign is attached to the structure.

"Awning": A shelter constructed of materials on a supporting framework that projects from and is supported by the exterior wall of a building.

"Base Flood": means the flood having a one percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation (BFE) ": The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year - also called the Base Flood.

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

"Bay": A parking facility unit, usually including one or two rows of parking spaces and a central aisle.

"Berm": An earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise, but shall not be considered fill as per definition in the watershed provisions of this Code.

"Billboard": means any sign that is freestanding or attached to or part of a building and is an off-premise sign.

"Board of Adjustment": Also, may be referred to as the Board. The function is to hear applications for variances. The Board consists of citizens appointed to it by the City Council for a period of time.

"Boarding House": A building other than a hotel, motel, residential inn, restaurant, or community home, where lodging or meals are provided for compensation for two or more persons who do not constitute a "family" as that term is defined herein.

"Body Piercing": A procedure to pierce the ear or other part of the human body to permit the insertion of rings and other decorative items in accordance with the provisions of Chapter 146 of the Texas Health and Safety Code.

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

"Buffer, Architectural": A visual screen constructed of wood, masonry, or other material used in such a manner that adjacent property will be screened from the use contemplated so noise, solid waste, or other objectionable influences will be avoided. Such buffer shall be one hundred (100) percent opaque and adequate in height to accomplish the desired end.

"Buffer, Landscape": A visual screen using landscaping (other than mere grass on flat terrain), or the use of landscaping along with berms, walls or decorative fences to partially and periodically obstruct the view from the street, and/or adjacent structures or lots in a continuous manner, of vehicular use areas, parking lots and their parked cars, detention ponds, service areas, sedimentation ponds, filtration or utility appurtenances, and other areas that may need such buffering.

"Buffer, perimeter landscape": A continuous area of land which is required to be set aside along the perimeter of a lot in which landscaping is used to provide a transition between lots and to reduce the environmental, aesthetic, and other impacts of one type of land use upon another.

"Building": Any structure, either temporary or permanent having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal or property of any kind, including tents, awnings or vehicles situated on private property and used for purposes of a building. The word "building" includes the word "structure."

"Building/Accessory Use": A subordinate building or use, the use of which is clearly incidental to and customarily found in connection with the main building or principal use of the land.

"Building/Main or Principal Use": A building in which is conducted the principal use of the lot on which it is situated.

"Building Official": The City Administrator or designee, including consultant(s) engaged pursuant to an agreement approved by the City Council. The term can refer to more than one person as the various functions of the Building Official may be divided and assigned by the City Administrator not inconsistent with any City Council direction. Action by an authorized agent or contractor of the City in performance of a duty or authority assigned by this Code to the Building Official shall be the action of the Building Official. When asked by any person, the City Administrator or designee shall promptly identify the person(s) authorized to act as the Building Official in connection with a permit application, an enforcement action, or any other action of the Building Official authorized or required by this Code. *(Amended 10/29/19)*

"Building Setback Line": The line within a property defining the minimum horizontal distance between a building and/or property boundary line and the adjacent street line or property boundary line.

"Building Standards Commission": The Zoning Commission of the City of Sunset Valley. In this regard the zoning commission shall act as the building standards commission.

"Cafe": See **"Restaurant"**.

"Caliper": For installed trees under four inches (4") the trunk is measured six inches (6") above the ground. Multi-trunked trees are measured as follows: Diameter of largest trunk plus half the diameter(s) of each of the other trunks measured six inches (6") above the ground for trees under four inches (4") in diameter. Installed trees four inches (4") and over are measured twelve inches (12") above the ground.

"Center line of waterway": The center line of the waterway refers to existing topographically defined channels. If not readily discernible, the center line shall be determined by (first) the low flow line, or (second) the center line of the two-year flood plain.

"Certificate of Occupancy" (C.O.): An official certificate issued by the City which indicates conformance with building, zoning, and health and safety regulations and authorizes legal use and occupancy of the premises for which it is issued.

"Child Day Care Facility": Any facility that provides care, training, education, custody, treatment, or supervision for six or more children who are not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day whether or not the facility is operated for profit or charges for the services it offers.

"City": The City of Sunset Valley, Texas, and includes an official, agent, or employee of the City acting on behalf of the City.

"City Council": See **"Council"**.

"City Inspector": means a person or persons designated by the City Council to perform inspections within the corporate limits of the City of Sunset Valley.

(a) **"City of Austin Environmental Criteria Manual" or "City of Austin Environmental Criteria Manual, as amended"**: The edition of the City of Austin Drainage Criteria Manual in effect on October 31, 2011. This reference manual is promulgated by the City of Austin.

(b) **"City of Austin Drainage Criteria Manual" or "City of Austin Drainage Criteria Manual, as amended" or "City of Austin Drainage Manual"**: The edition of the City of Austin Drainage Criteria Manual in effect on October 31, 2011. This reference manual is promulgated by the City of Austin. This manual is to be used by any person developing a tract of land within the jurisdiction of the City of Sunset Valley. Requirements found within this or other City of Sunset Valley ordinances and codes override any inconsistencies that may occur between this manual and City of Sunset Valley codes or ordinances.

"Civic Organization": An organization which offers community programs to citizen, city or civic affairs groups.

"Clearing": means the act of cutting down, removal all or a substantial part of, or damaging a tree or other vegetation that will cause the tree to decline and/or die, which is not limited to chemical, physical, compaction, or grading damage.

"Clinic": A group of offices for one or more physicians, surgeons, or dentists to treat sick or injured out-patients who do not remain overnight.

"Commencement of Work": For construction of a sign, commencement of work shall be the point in time when the sign has been delivered to the site and attachment to a building has begun or holes are excavated for ground installation.

"Commercial Lot": Any lot not to be used as single family residential, recreational or open space.

"Commercial sign": means a sign other than a real estate "for sale or for lease" sign, political sign, residential nameplate sign, public information sign, traffic control sign or exempted sign which directs the attention of the general public to a business, product, service, or other commercial or business activity.

"Commercial Use": Commercial use types include the sale, rental, servicing, and distribution of goods and the provision of services other than those normally classified as industrial or civic uses.

"Common Area": An area held, designed and designated principally for the common use of the occupants of a subdivision or development.

"Community Home": A home located in an area zoned as Single Family (SF) Residential which is occupied by not more than six person with disabilities and two supervisors living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities under an arrangement that qualifies as a "community home" as that term is used in Title 8 of the Texas Human Resources, Section 123.001, et seq., as amended.

"Comprehensive Plan": The plan required by The Texas Local Government Code Annotated, Section 211.004. The comprehensive plan is an independent, long-range plan for use and development of land within the City and in the City's extraterritorial jurisdiction.

"Conditional Use": A use that may be allowed if it meets certain specified requirements or conditions and meets the approval of the local governing body.

"Conservation Area or Conservation Easement": A reserved area over, on, across or through a property that shall be exclusively managed and maintained as a habitat to conserve and protect the native flora and fauna, and thus protect, promote, improve and benefit the general welfare of the present and future citizens of the City of Sunset Valley, Texas.

"Containment System": Tanks, walls and impermeable excavation liners, such as reinforced concrete vaults, reinforced and unreinforced flexible membrane liners and rigid fiberglass reinforced plastic liners, installed for the purpose of detecting releases, leakage or spills of hazardous materials from underground storage tanks or systems and preventing said releases, leakage or spills from entering the environment.

"Convenience Store": Establishment primarily engaged in the retail sale of food, beer and wine in unopened containers, or household products for home consumption, in a convenient and limited nature.

"Council": The City Council of Sunset Valley, Texas.

"Coverage": The percentage of a lot or tract covered by the roof or first floor of a building, or impervious cover.

"Critical Environmental Features (CEF's)": Features which have been determined to be of critical importance to the protection of one or more environmental resources. CEFs typically include such features as springs and seeps, bluffs, rimrocks, caves and sinkholes.

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

"Critical Root Zone (CRZ) ": means a region measured outward from the trunk of a tree representing the essential area of the roots that must be preserved for the tree's livelihood. The CRZ is measured as one foot of radial distance outward from the trunk for every inch of tree caliper or diameter at breast height.

"Critical Water Quality Zone": Lands and waters as defined in Chapter 4, Division 4.2, Section 4.200 of this Code.

"Crosswalk Way": A public right-of-way, four feet or more in width between property lines, which provides pedestrian circulation.

"Crown": means all portion of the tree, excluding trunks and roots.

"Cul-de-sac": A street having but one outlet to another street, and terminated on the opposite end by a vehicular turn around.

"Days": Working days unless defined as calendar days.

"DBH (Diameter Breast Height)": For the purpose of this Code, the diameter of existing trees, which is measured four (4) feet above the ground, except that for purposes of the landscape regulations chapter of this Code, the DBH is measured 4.5 feet above the ground.

"Dead-end Street": A street, other than a cul-de-sac, with only one outlet.

"Density": The relationship of a structure(s) to the area of the lot or tract upon which the structure(s) is/are located or erected.

"Detention Pond": A structure designed to reduce the rate of runoff for a short period in order to reduce peak flows by controlling the discharge through an outlet structure thereby extending the runoff period.

"Developer": A person who improves land, primarily through the construction of buildings, roads, or other structures; excavation, dredging, grading, filling, clearing, or removing vegetation.

"Development": Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials and clearing or removing vegetation. This term does not include repairs, digging or repaving by a governmental authority of a public street or public road that has already been paved before so long as such activities do not increase impervious cover. For purposes of the landscaping regulations in this Code, "development" means any proposed material change in the use or character of the land, including, but not limited to, land clearing or the placement of any structure or site improvements to the land.

"Development Free Zone": Area of land which falls within the Critical Water Quality Zone and the Critical Water Transition Zone as defined in Chapter 4, Division 4.2, Section 4.201 of this Code.

"Diameter –at-Breast-Height (DBH) ": means a form of measurement of an existing tree trunk. Diameter is measured at four and one-half feet above the ground level. The diameter of multi trunk trees shall be measured by adding the diameter of the largest trunk with one-half the diameter of each additional trunk.

“Dilapidated or Deteriorated Condition”: When used for Sign Regulation purposes shall be defined as any sign which in the opinion of the Administrative Official has any of the following characteristics:

- a) Where elements of the surface or background can be seen, as viewed from the normal viewing distance, to have portions of the finished material or paint flaked, broken off, or missing, or otherwise not in harmony with the rest of the surface; or
- b) Where the structural support or frame members are visibly bent, broken, dented, or torn; or
- c) Where the panel is visibly cracked, or in the case of wood and similar products, splintered in such a way as to constitute an unsightly or harmful condition; or
- d) Where the sign or its elements are twisted or leaning or at angles other than those at which it was originally erected (such as may result from being blown or the failure of a structural support); or
- e) Where the message or wording can no longer be clearly read by a person with normal eyesight under normal viewing conditions.

“Distance between Signs”: The shortest straight-line horizontal distance between the nearest elements of signs.

“Distance from Edge of Pavement”: The shortest straight-line horizontal distance from the edge of the street pavement to a vertical line to the ground from the nearest element of the sign.

“Distance from Property Line” (also Setback from Property Line): The shortest horizontal distance from the nearest property line to a vertical line to the ground from the nearest element of the sign.

“Distance from R.O.W.”: Distance of signs from R.O.W. shall mean the shortest horizontal distance from the nearest R.O.W. to a vertical line to the ground from the nearest element of the sign.

"District": A section of the City of Sunset Valley for which the regulations governing the uses of and development standards for building or lots are uniform.

“Donation Bin”: A bin or similar structure used for the collection of clothes or non-perishable food items.

"Double-walled": Constructed with more than one containment layer, with space between the layers sufficient to allow monitoring of any leakage into or from the enclosed space; laminated coated or clad materials shall not be considered double-walled.

"Dripline": means the periphery of the area underneath a tree that would be encompassed by a perpendicular line dropped from the outermost edges of the canopy of the tree. The term drip line also includes canopy and crown.

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

"Driveway": An entrance roadway from a street to a parking facility.

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

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

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

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

"Electrical wires": Lines or wires with a capacity equal to or less than 12,500 volts.

"Elevated Building": means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

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

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

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

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

"Event Center": A venue or complex of buildings for hire (not including places of worship or public buildings) with the purpose of hosting a variety of gatherings where food, beverages, music, and dancing may be offered for purposes such as life cycle events (for example, birthdays, anniversaries, weddings, reunions); corporate or professional functions (for example, seminars, meetings, lectures, retreats); other special events (for example, charitable events, fundraisers, art shows, holiday parties,

photographic shoots, and motion picture filming); and incidental facilities (for example, kitchen, administrative office.

"Existing Construction": means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

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

"Façade": Any separate face of a building, including parapet walls and omitted wall lines, or any part of a building which encloses or covers usable space. Where separate faces are oriented in the same direction, or in the directions within 45 degrees of one another, they are to be considered as part of a single facade.

"Family": An individual or two or more persons living together and occupying a single housekeeping unit with a primary kitchen facility on a non-profit, cost-sharing basis. For purposes of this definition, "cost-sharing" includes the payment of rent by a reasonable number of persons, on a monthly or longer-term basis, for the use of a room for living or sleeping purposes (where such room is designed and constructed for living or sleeping purposes) within a single family residence that is occupied by a family.

"Fiber Cement Siding": made from Portland cement mixed with ground sand, cellulose fiber, and other additives. The product is also known as cement fiber siding, concrete siding, and fiber cement cladding.

"Fill": Any deposit or stockpiling of earthen materials in their natural state.

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

"Fine art": means sculpture, fountains or similar objects.

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

"FIRM": See **"Flood Insurance Rate Map."**

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

"Flood or Flooding": A general and temporary condition of partial or complete inundation of normally dry land areas from:

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

"Flood Elevation Study": means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

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

"Flood Insurance Study (FIS)": See *Flood Elevation Study*.

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

"Floodplain Management": means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

"Floodplain Management Regulations": Includes zoning, watershed, subdivision and floodplain regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other statutes, ordinances, laws and administrative regulations adopted by federal state or local jurisdictions. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

"Flood Protection System": means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

"Flood Proofing": means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway (Regulatory Floodway)": The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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

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

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

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

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

"Fund Raiser": An activity that takes place for the sole purpose of raising funds to support community service organizations, public charities, or non-profit organizations.

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

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

"Garage Sales": Occasional sales (garage sales and yard sales only) at retail, not to exceed two (2) in number on the same premises in any one calendar year, by a person who does not hold himself out as engaging in, or does not habitually engage in, the business of selling such property at retail; provided that 1) the sales shall be confined to the garage and/or yard of the premises; 2) no additional merchandise acquired solely for the purpose of resale on the premises shall be sold at such occasional sale; 3) the duration of each such sale shall not exceed two (2) consecutive calendar days; 4) only one sign shall be permitted upon the premises and when the sale is taking place.

"Glass of Wine": An individual serving of wine not less than 5 ounces and not greater than 7 ounces offered for on-premise consumption.

"Greenbelt": A continuous linear open space area often, but not necessarily, in public ownership or in public easements for public outdoor recreation.

"Grocery Store": A retail establishment primarily engaged in the retail sale of food products, where revenue from the sale of groceries (other than beer and wine) comprises at least 51% of the gross income of the establishment, and at least 51% of the total display or shelf space is devoted to groceries (other than beer and wine), delicatessens, meat markets, retail bakeries, fruits or vegetables.

"Growler": A container for beverages, variously provided by a purchaser or a seller of beverages, and used primarily for the purchase of beer from a keg or wine from a barrel for the purpose of transporting the beverage off the premises where purchased. The term does not include a beverage container pre-filled with a beverage before delivery to the site of sale, or a container filled with a beverage at the site of purchase at any time other than at the time of purchase of the beverage by the consumer. The maximum size of a container constituting a growler shall be the lesser of (i) a container that will hold a maximum volume of one (1) gallon of liquid; or (ii) the maximum size allowed by applicable State or Federal law.

"Guest House": An accessory structure for human habitation detached from a single family residence but located on the same lot or contiguous lots on which is located one single family residence, containing one or more rooms with a bathing facility and toilet, that would provide a single housekeeping unit. Regulations applicable to accessory structures in Section 2.506 of the Land Development Code are applicable to Guest Houses.

"Hazardous Materials": Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.

"Head-in Parking": Nose-in parking at an angle of 90 degrees to a curb, edge of street, or defined parking area.

"Height, Sign": As applied to a sign, height shall be measured as the vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and finished grade at the center of the base of the sign.

"Height, Letter/Logo": The height of each individual letter, logo, symbol, and/or icon in a sign.

"Heritage Tree": Means a tree that has a diameter of 24 inches or more, measured four and one-half feet above natural grade, and is one of the following species (large tree category):

- a. Texas Ash (*Fraxinus texensis*)
- b. Bald Cypress (*Taxodium distichum*)
- c. American Elm (*Ulmus americana*)
- d. Cedar Elm (*Ulmus crassifolia*)
- e. All Oaks (*Quercus sp.*)
- f. Pecan (*Carrya illinoensis*)

- g. Arizona Walnut (*Juglans major*)
- h. Eastern Black Walnut (*Juglans nigra*)
- i. Honey Mesquite (*Prosopis glandulosis*)
- j. Ashe Juniper (*Juniperus asheii*) with no more than 2 main trunks

In addition, heritage tree means a tree that has a diameter of 10 inches or more, measured four and one-half feet above natural grade, and is one of the following species (small tree category):

- a. Texas Persimmon (*Diospyrus texana*)
- b. Texas Mountain Laurel (*Sophora secundiflora*)
- c. Eve's necklace (*Sophora affinis*)
- d. Silk Tassel (*Garrya ovata*)
- e. Bigtooth Maple (*Acer grandidentatum*)

This list of eligible heritage tree species may be supplemented.

"Highest Adjacent Grade": Means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure": Means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior or;
 - (b) Directly by the Secretary of the Interior in states without approved programs.

"Hobby": An accessory use carried on by the occupant of the premises in a shop, studio or other workroom, purely for personal enjoyment, amusement or recreation; provided that the articles produced or constructed in said shop, studio, or workroom are not sold either on or off the premises, and provided such use will not be obnoxious or offensive by reason of vibration, noise, odor, dust, smoke, fumes, electrical interference or hazards.

"Holding Tank System": A system that consists of a watertight container or containers used to receive and store sewage in an anaerobic environment pending its delivery to, and treatment at, an approved treatment facility.

"Home Occupation": Any occupation or activity which is clearly incidental and secondary to the use of the premises for dwelling purposes and which is carried on within the dwelling or within one accessory building and which must comply with provisions of this Code.

"Home Office": The portion of a residential dwelling devoted to the business of a home occupation.

"Horse Stables, Private": Any premises on which one or more horses are kept for the sole use, and enjoyment of the owner or lessee of the premises and not for any commercial purpose and are maintained in conformity and compliance with all Federal, state and local health and other city regulations.

"Hotel": See **"Motel"**.

"Illumination": The enhancement of a sign utilizing electric lights, luminous tubes or other similar means.

"Impervious Cover": Roads, parking areas, buildings and other impermeable construction covering the natural land surface; this shall include, but not be limited to, all streets and pavement within a subdivision; See Section 4.301 for inclusions, exclusions, and exemptions from impervious cover calculations.

"Incidental Use": A secondary or minor use associated with a primary use.

"Incompatibility of land uses": Contradictory, incongruous, or discordant land uses or activities, including the impacts of noise, vibration, smoke, odors, toxic matter, radiation, and similar environmental conditions.

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

"Indiscriminate Clearing": means the removal of natural vegetation without consideration of habitat and ecosystem services understory plants provide. Indiscriminate clearing refers to removal of all natural vegetation within a given area.

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

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

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

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

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

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

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

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

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

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

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

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

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

"Lease Space": An area of a building separated internally and intended for use by an individual tenant.

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

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

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

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

"Levee System": means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

"Limited Exemption": The circumstance of an application that allows for certain exemptions from the requirement to obtain a sign permit.

"Lodging House": A building with guest rooms, two or more of which share communal bath and/or toilet facilities, where over-night, weekly, or similarly short-term lodging is provided for compensation on a for-profit, non-cost sharing basis, whether or not open to the public. A "lodging house" does not include a "community home" as that term is defined herein.

"Logo": Any registered or recognized symbol, letter, or combination of symbols and letters used by an organization, individual, company, or product for advertising to identify that organization, individual, company, or product.

"Lot": Generally, a discrete tract of land, including a "plot" or a "Legal Lot."

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

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

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

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

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

"Lowest Floor": means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

"Low Pressure Dose System": A system that utilizes some form of pumping device and a network of small diameter piping to distribute treated effluent within a subsurface sewage disposal area.

"Major waterway": Any natural channel for surface water drainage that drains six hundred forty (640) acres or more.

"Manufactured Home": For flood loss control provisions of this Code, means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Masonry": A building material on the exterior surfaces of the outside walls constructed of solid brick, , or stone, cement fiber board, or stucco.

"Massage Establishment": Any building, room, place or establishment, where manipulated massage or manipulated exercises are practiced for pay upon the human body by anyone who is not a duly licensed physician; osteopath; chiropractor; registered nurse or practical nurse operating under a physician's directions; licensed or certified alternative health care practitioner such as massage therapists, etc.; registered pathologists and physical or occupational therapists who treat only patients referred by a licensed physician and operate only under such physician's direction, whether with or without the use of mechanical therapeutic, or bathing devices, and shall include Turkish bathhouses. The term shall not include a regularly licensed hospital, medical clinic or nursing home.

"Master Comprehensive Plan": The plan required by the Texas Local Gov't Code Annotated, Section 211.004. The comprehensive plan is an independent, long-term plan for use and development of land within the City and in the City's extraterritorial jurisdiction.

"Mean Sea Level": means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Micro-blading" (eyebrows only): The practice of producing an indelible mark or figure on the eyebrow by inserting pigments under the skin using needles, scalpels, or other related equipment. Any business providing this service must be licensed by the Department of State Health Services, or successor.

"Minor waterway": Any natural channel for surface water drainage that drains an area greater than sixty-four (64) acres but less than three hundred twenty (320) acres.

"Mobile Home": A mobile or portable dwelling which is constructed on a chassis, and which is designed to be towed over Texas roads and highways under special permit, designed for year-round occupancy, designed primarily to be used without a permanent foundation, but which may sit on a permanent foundation, and designed to be connected to utilities. It may consist of one or more units that can be telescoped when transported and expanded later for additional capacity or of two or more units, separately transportable, but designed to be joined together into one integral unit. The following shall not be included in this definition:

(a) Travel trailers, pickup coaches, motor homes, camping trailers, or other recreational vehicles.

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

"Mobile Home/Recreational Vehicle Park": Any area or tract of land where one or more mobile homes or recreational vehicle lots or spaces are rented or held for hire.

"Motel/Hotel": A building or group of buildings developed as an integral unit in which there are: 1) guest rooms each of which has its own bath and toilet facilities, in which living and sleeping areas are combined into one room, and which may be rented on a daily basis; and 2) desk or lobby service and telephone, maid, linen, room and similar services. Guest rooms may have individual entrances.

"Mulch": Non-living organic and synthetic materials customarily used in landscape design to retard erosion and retain moisture.

"Multi-family": An attached housing unit development designed to provide shelter to three or more individual persons or families, with each unit containing separate kitchen, bath and bedroom facilities and sharing a common wall. For the provisions of this Code only, multi-family includes but is not limited to four-plexes, apartments, townhouses or condominiums.

"Native": Plants which have locally adapted by natural selection to the region's weather, soil, pests and disease conditions.

"Natural": Produced or existing in nature; not manufactured, artificial or cultivated.

"Natural Vegetation": means native or naturalized woody and herbaceous plants that grow without human intervention. Natural vegetation excludes invasive, exotic species including but not limited to Japanese Ligustrum (*Ligustrum japonica*), Chinaberry (*Melia azaderach*), Chinese Tallow (*Sapium*

sebiferum), Red-Tipped Photinia (*Photinia x fraseri*), Nandina (*Nandina sp.*), Tree of Heaven (*Ailanthus altissima*).

"New Construction": means, for flood plain management purposes, structures for which the "Start of Construction" commenced on or after the effective date of a flood plain management regulation adopted by a community.

"Noncompliance": Includes any one or more of the following:

- (a) The failure of a permittee to comply with the provisions of the City Code pursuant to which the permit was issued;
- (b) The failure of a permittee to comply with the provisions of any relevant City Ordinance other than and in addition to the Sections of the Code pursuant to which the permit was issued;
- (c) The failure of a permittee to comply with any term or condition imposed by the City in connection with the issuance of the permit;
- (d) The making of any material misrepresentation or false or misleading statement by a permit applicant or one acting on his behalf in connection with or on a permit application;
- (e) The failure of a permittee to timely commence the work required or authorized by a permit as approved by the City; or
- (f) The failure of a permittee to timely complete the work required or authorized by a permit as approved by the City.
- (g) A failure to obtain any required permit prior to commencing an activity for which a permit is required

"Non-complying": A building, structure, or area, including off-street parking or loading areas, that does not comply with currently applicable site development regulations for the district in which it is located, but did comply with applicable regulations at the time of its construction.

"Non-conforming": The use of any land, building, or structure which does not conform with currently applicable use regulations, but which complied with use regulations in effect at the time the use was established.

"Notice": means actual notice or written notice sent by registered or certified mail.

"Nuisance Factor": Any offensive or unpleasant thing which annoys or disturbs one in free use, possession, or enjoyment of his property or which endangers one's health or life or property, such as:

- (a) Noise;
- (b) Dust;
- (c) Smoke;
- (d) Fumes;
- (e) Odor;
- (f) Glare;
- (g) Flashes;
- (h) Heat;
- (i) Electronic or atomic radiation;

- (j) Effluent;
- (k) Vibration;
- (l) Shock waves;
- (m) Gases;
- (n) Vicious, mischievous, and barking dogs(s); and
- (o) Unlawful diversion of drainage onto adjacent property.

“Obsolete”: Any sign which:

- a) For at least 12 continuous months, does not identify or advertise a bona fide business, lessee, service, owner, product or activity on the premises on which the sign is located; or
- b) If the premises is leased, relates to a tenant and at least two years have elapsed since the date the most recent tenant ceased to operate on the premises; or
- c) No legal owner can be found and relates to a use or purpose that is no longer in existence.

"Office": A room, studio, suite, or building or any part thereof in which a person transacts his business or carries on his stated occupation. For the purposes of the Code, an office shall not involve manufacturing, fabrication, production, processing, assembling, cleaning, testing, repair, or storage of materials, goods and products; or the sale and delivery of any materials, goods or products which are physically located on the premises. An office shall not be deemed to include a veterinary clinic.

"Office complex": means two or more offices and/or office establishments, sharing customer parking area, regardless of whether said offices or office establishments occupy separate structures or are under separate ownership, or on separate tracts or lots of land.

"Official sign": means any sign erected by or at the direction of any governmental body.

"Off-premise sign": means any sign other than an on-premise sign.

"Off-street": Off the right-of-way of a public street or place.

"On-premise sign": means a sign which advertises only goods, services, facilities, events or attractions available on the premises where located, or identifies the owner or occupant or directs traffic on the premises. All other signs are off-premise signs.

"Open Space": Any unoccupied space on a lot that is open and unobstructed to the sky and has no impervious cover.

"Open Storage": Open storage is the storage of any vehicles, equipment, machinery, commodities, raw, semi-finished materials, and building materials, not accessory to a residential use which is visible from any point on the building lot line when viewed from ground level to six (6) feet above ground level.

"Outdoor Advertising": See "Sign."

“Outdoor Sales or Services”: The offer or display for sale of any goods, wares, merchandise or services on private property separate and apart from the main building or at a location where there is no preexisting principal use. The goods, wares, merchandise or services offered for sale as outdoor sales or services are normally not offered for sale in the main building on the lot or in association with the principal use.

"Overland flow": Storm water runoff that is not confined by any natural or man-made channel such as a creek, drainage ditch, storm sewer, or the like.

"Owner": For purposes of the chapter of this Code regulating tree and natural area protection, owner means any person with a freehold interest in land, or a lessee, agent, employee or other person acting on behalf of the owner with the owner's authorization.

“Pad Site”: A tract, lot, or land lease intended for the single use of a freestanding building typically adjacent to street R.O.W. and may also be a portion of a tractor lot.

"Parking Bay": A parking facility unit, usually including one or two rows of parking spaces and a central aisle.

"Parking module": The clear width provided for the parking of vehicles, including two rows of parking with an aisle between the rows.

"Parking Space": An area on a lot or site or within a building not on a public street and having an all-weather surface; enclosed or unenclosed, together with an all-weather surface driveway which may be an easement, connecting the parking space with a street permitting free ingress and egress; used or intended to be used for parking of a motor vehicle.

"Partial Tree Survey": means a drawing of the proposed preliminary plat or site plan including adjacent easements and rights-of-way showing size, locations, species, and critical root zone of all trees having a DBH of four inches or more.

"Pavement Width": The portion of a street available for vehicular traffic. Where curbs are laid, "pavement width" is the portion between the face of curbs.

"Paver": A masonry or concrete brick or tile suitable for paving streets, sidewalks, driveways, or related surfaces.

"Pawn Shop": A business which transacts business that conforms to the Texas statutory definition for pawn shop.

"Permanent Storage": Storage for a period of more than thirty (30) days.

"Permit": A permit or license issued by the City authorizing the holder thereof, his agents or his employees to perform certain work or engage in certain activities.

"Permittee": The person to whom any permit or license has been issued by the City, and any agent or employee of said person.

"Person": Any individual, association, firm, trust, partnership, corporation, joint-stock company, joint venture, court appointed receiver or conservator, consortium, or any other legal or commercial entity; any group of the foregoing, organized or united for a business purpose; or any governmental agency or entity, or political subdivision.

"Personal Service Establishment": shall mean a place of business primarily engaged in providing services of a personal nature associated with appearance, grooming, or physical wellbeing. Uses include nail salons, tanning salons and day spas that provide treatments such as massage (but not a massage establishment), facials, unwanted hair removal, and body treatment and microblading (eyebrows only) but shall exclude body piercing and tattooing.

"Pervious Concrete": Pervious concrete (also called porous concrete, permeable concrete, no fines concrete and porous pavement) is a special type of concrete using large aggregates with little to no fine particles. Pervious concrete has high porosity and is used for concrete flatwork applications that allows water from precipitation and other sources to pass directly through, thereby reducing the runoff from a site and allowing groundwater recharge.

"Pet Services": Is the use of a site for the provision of grooming, or boarding services, performed within an enclosed building or structure. The use of any structure or building for the purpose of boarding or intending to board animals must meet all of the following requirements:

- (1) The structure or building must be capable of controlling the temperature within the building or structure within limits generally accepted to maintain the health of those species of animals present, of maintaining humidity levels of 30 to 70 percent and of rapidly eliminating odors from within the building;
- (2) The structure or building must be an enclosure created by the continuous connection of a roof, floor and walls (a shed or barn set on top of the ground does not have a continuous connection between the walls and the ground unless a foundation and floor are provided);
- (3) The structure or building must have at least one door for entry and exit that can be opened and closed (any windows or openings which provide natural light must be covered with a transparent material such as glass or hard plastic); and
- (4) The structure or building must be designed to be acoustically sound so as to eliminate animal noise from reaching neighboring tenants or adjacent property and designed to adequately contain and restrain the animals present;
- (5) The pet service must be operated in compliance with all applicable ordinances, laws and regulations including but not limited to licensing requirements.
- (6) A sign is prominently displayed stating that any unresolved complaints regarding the care of animals or the condition of the premises can be directed to the City of Sunset Valley at 512-892-1383.

Pet services excludes boarding of equine, primates, livestock and large animals as well as the sale of dogs and cats from the premises.

"Piping": All pipes, including valves, elbows, joints, flanges, flexible connectors and other fittings attached to and constituting a part of an underground storage tank system through which hazardous materials regulated by this Code flow.

"Planning Commission": The Planning Commission of the City is the City Council.

"Plant communities": A formation of vegetation that differs from each other by the dominant or characteristic species that are found in it. Geography and climate are the primary influences on the establishment and survival of plant communities.

"Planting area": Any area designed for landscape planting having a minimum of 180 square feet of actual plantable area and a minimum inside dimension of any side of ten (10) feet.

"Plat": A map, drawing, or chart of a single tract or a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of this Code.

"Plot": See "lot."

"Poles, overhead wires and associated structures": All poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, communications circuits, appliances, attachments, and appurtenances used or useful in supplying electric, communications or similar associated service.

"Political sign": means any sign which is designed to influence the action of the voters for the passage or defeat of a measure appearing on the ballot at any national, state, or local election or which is designed to influence the voters for the election or defeat of a candidate for nomination or election to any public office at any national, state or local election, but the sign shall not include the name of the sponsor or business promoting the activity or advertising the business.

"Preliminary Plat": A plat of the proposed arrangement of streets, lots, easements, and other public spaces in a subdivision in preparation for review by the City Council.

"Premises": means a lot or tract within the City of Sunset Valley, Texas, and contiguous land(s) in the same ownership which is not divided by a public highway, street or alley, or right-of-way therefor.

"Primary Containment": The first level of containment, or the inside portion of an underground storage tank or of fuel delivery piping, which comes into immediate contact on its inner surface with the hazardous material being contained.

"Private On-site Sewage Facility": A sewage disposal facility, including facilities consisting of evapotranspiration systems, pressure dosing systems and holding tanks designed and intended to serve only an individual household, multiple unit residential structures or commercial establishments whose operation and maintenance is the sole responsibility of the householder or owner of the establishment's facilities. Such facilities are not subject to the issuance of wastewater discharge orders by the Texas Natural Resources and Conservation Commission.

"Project": means a specific development or property improvement endeavor undertaken by a property owner and documented in one or more permit applications filed by the owner. Once a permit or approval has expired, the project has terminated. Once construction has begun and been completed, approvals or permits for new construction on the same property are not considered part of the same project unless expressly contemplated, documented or applied for in the original permit application, or unless the approvals or permits involve minor modifications to the original project. If an application seeks or would require a change in a zoning category, for example, the application initiates a new project. A new project is not initiated by minor modifications in the original plan or by alterations specifically required by the City or that are occasioned merely by attempts to decrease impervious cover or by dedication of property to public use.

(a) If the initial application references a building or buildings, additional or different buildings would constitute a new project. Once all the buildings referenced in the initial application have been built according to approved plans and regulations, the project has ended with respect to *those* buildings or building permits.

b) If a project has several component parts, completion or termination of the project as to one part does not constitute completion or termination of the entire project.

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

"Protected Tree": means a tree with a diameter of 10 inches or more, measured four and one-half feet above natural grade for the majority of species. A tree with a diameter of greater than 5 inches of the following tree species shall be considered protected:

- a. Texas Persimmon (*Diospyrus texana*)
- b. Texas Mountain Laurel (*Sophora secundiflora*)
- c. Eve's necklace (*Sophora affinis*)
- d. Silk Tassel (*Garrya ovata*)
- e. Bigtooth Maple (*Acer grandidentatum*)

The following species of trees are not included in the definition of protected tree:

- a. Chinaberry (*Melia azederach*)
- b. Chinese Tallow (*Sapium sebiferum*)
- c. Japanese Ligustrum (*Ligustrum japonica*)
- d. Tree of Heaven (*Ailanthus altissima*)
- e. Callery Pear (*Pyrus calleryana*)

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

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

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

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

"Public Property": Any property which is owned by a governmental entity. It shall also include property for which the primary use is for the operations of a governmental entity.

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

"Rainwater harvesting system": Shall mean one or more receptacle(s) for the collection and storage of rainwater from a roof or from runoff flowing across the ground, together with any pumps and mechanical equipment and slab therefor, whether located above or below ground.

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

"Recreational Vehicle": means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.. Recreational vehicles shall include a motor home, travel trailer, truck camper and camping trailer, but shall not include a mobile home.

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

"Regulatory Floodway": means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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

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

"Removal": For purposes of the Chapter of this Code regulating tree and natural area protection, removal means an act that causes or may be reasonably expected to cause a tree to die, including:

- (a) uprooting;
- (b) severing the main trunk;
- (c)damaging the root system; and
- (d) excessive pruning.

"Repair": The restoration, renovation or mending of a malfunctioning or damaged underground storage tank system or component thereof.

Residence time": The average residence time of a basin equal to the volume of the basin divided by the average rate of the outflow.

"Residential Inn": A building or group of buildings developed as an integral unit, which there are 1) guest rooms each of which has its own bath and toilet facilities; 2) where over-night, weekly, or similarly short-term lodging is provided for compensation; and 3) where desk or lobby service and telephone, maid, linen and similar services are provided.

"Residential nameplate sign": means a sign permitted for the sole purpose of identifying the inhabitant residing therein, the house name, or identifying the address of the house. The sign may contain no advertising of any kind.

"Restaurant": An establishment whose primary business is selling food for consumption at tables on the premises or for takeout, as determined by at least 51% of gross sales.

"Restoration": means the routine maintenance and painting of existing, approved signs, that do not change the approved design and color in any way.

"Retail (General)": Establishments serving a local district market area, and engaged primarily in the rental or sale of retail goods and services commonly purchased by the general public, including those listed in Retail, Limited.

"Retail (Limited)": Establishments engaged primarily in the rental or retail sale of goods and services for personal consumption or improvement or household use, except those items specifically defined under Retail, General, generally serving a neighborhood area.

"Rezoning": A change in the zoning map; an amendment to the map.

"Right-of-way": Any travel-way open to the general public for travel or land dedicated for eventual travel by the public. Dedicated right-of-way may in addition to travel by the public be used for installation of utilities or other public purposes.

"Riverine": means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"School, Public or Denominational": A school having a curriculum generally equivalent to public elementary or secondary schools, but not including trade or commercial schools.

"Sculptured Aluminum Panel": An aluminum sign panel with text or graphic depictions cut out from the panel, typically with a translucent material covering the cut-out from the inner side of the panel.

"Secondary Containment": The level of containment external to and separate from the primary containment, consisting of an impervious layer of materials which are installed so that any release of hazardous materials from the primary containment of an underground storage tank, fuel delivery piping or tank system is prevented from contacting the environment outside said impervious layer.

"Secondary Use": A collateral use of land or buildings, which is customarily done or performed in conjunction with a permitted principal use, but not constituting a majority of either the employment, area or revenue of the combined uses.

"Setback": As applied to a sign, the distance from the closest portion, whether the support or edge of the sign, to the property line.

"Sewage": Water which contains, or which has been in contact with, organic and inorganic contaminants such as human or animal wastes, vegetable matter, cooking fats and greases, laundry and dishwashing detergents and other chemical compounds and waste products. The term "**sewage**" is interchangeable with the term "**wastewater**."

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

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

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

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

"Sidewalk": A pedestrian walkway that is grade-separated from the adjacent street or drive when located adjacent to a street or drive.

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

"Sign Area": A two-dimensional area on a building or other permitted sign structure that is free of architectural details and is the area that encompasses the proposed sign in its entirety.

"Sign Area, Aggregate": The sum total of all the window and interior sign area on the aggregate window area available per tenant.

"Sign, attached": Any sign attached to, applied on, or supported by any part of a building (including canopy fascia, walls and awnings) which encloses or covers usable space.

"Sign, Attached Business": A permanent attached onsite sign that is used to identify a business, profession, organization, institution, service, activity or other nonresidential use conducted, sold or offered on the site where such sign is located. This sign may also identify the name of the site or development or may identify the occupants within the site or development. A primary business sign is attached to a façade facing a street or vehicular driveway access.

"Sign, Banner": A temporary on-premise sign made of cloth, flexible plastic, canvas or other non-rigid material.

"Sign Base": See sign, monument.

"Sign, Billboard": means any sign that is freestanding or attached to or part of a building and is an off-premise sign.

“Sign, Billboard”: A sign advertising products not made, sold, used or served on the premises displaying such sign, or a sign having a height greater than 14 feet and a surface area greater than hundred square feet.

“Sign, Bulletin Board”: A permanent ground sign or monument sign within a residential subdivision for displaying news and information for subdivision residents.

“Sign, Business Monument”: A permanent on-premise monument sign that is used to identify a business, profession, organization, institution, service, activity or other nonresidential use conducted, sold or offered on the site where such sign is located. This sign may also identify the name of the site or development or may identify the occupants within the site or development.

“Sign, Canopy”: A sign on a freestanding structure with a roof but not walls.

“Sign, Changeable Electronic Variable Message”: A sign which permits alteration of the sign's message or images by electronic means. This includes a sign using light-emitting diodes (LEDs) or other means of digital display to present a message or images.

“Sign, Commercial”: means a sign other than a real estate "for sale or for lease" sign, political sign, residential nameplate sign, public information sign, traffic control sign or exempted sign which directs the attention of the general public to a business, product, service, or other commercial or business activity.

“Sign, Development/Construction”: A temporary on-premise ground sign that pertains to a new development that is approved or under construction.

“Sign, Directional”: A permanent on-premise attached sign intended to aid in vehicular movement on the site.

“Sign, Directory”: A permanent on-premise attached or monument sign providing direction to or identifying the buildings in the development.

“Sign, Drive Through”: A permanent on-premise attached or monument sign located immediately adjacent to, within, or over a drive through lane that is associated with sales conducted from an automobile.

“Sign, Drive Through NON-Food Service”: A drive through sign associated with sales from an automobile that are not related to food service sales.

“Sign, Electronic Message”: A sign that includes provisions for programmable electronic message changes.

“Sign, Commercial Real Estate”: An on-premise sign intended to advertise building(s), buildings or space(s) for sale or lease after the building(s) and or space(s) have been occupied for a year or more.

“Sign Face”: The surface of one side of a sign.

“Sign, Freestanding ”: means any sign which is not attached to or on the walls, face, or exterior of a building.

“Sign, Garage/Yard Sale”: A temporary ground or banner sign intended to advertise garage sales or yard sales.

“Sign, Gasoline Pricing”: A permanent on-premise monument sign which displays the price per gallon of fuel sold by that business, and which may be periodically changed to reflect changes in fuel prices.

“Sign, Government”: A sign erected by or on behalf of a federal, state or local government or an agency thereof.

Sign, Grand Opening Banner”: A banner permitted within 1 year of the issuance of a Certificate of Occupancy (C.O.) for a business.

“Sign, Ground”: Any sign connected to the ground by legs, poles, or other supports and which is not an attached, portable, monument, or vehicular sign.

“Sign, Holiday”: Any sign that is associated with the celebration of a recognized holiday or celebration.

“Sign, Home Occupation”: An attached on-premise sign at the entrance of a home occupation.

“Sign, Human”: A sign held by or attached to a human for the purpose of advertising or providing information about a business, commodity, service, product, or other commercial activity. A person dressed in a costume for the purpose of advertising or providing information about a business, commodity, service, product, or other commercial activity shall constitute a human sign. Human signs do not include T-shirts, hats, or other similar clothing.

“Sign, Inflatable”: Any balloon or other device which is inflated by air or other gas and displayed outdoors. Inflatable structures primarily designed for recreational use shall not be considered to be a sign as, for example: slides, swimming pools or space walks.

“Sign, Land”: A temporary on-premise ground sign on vacant land intended to advertise land for sale including un-platted tracts of land.

“Sign, Light Pole Banner”: A banner sign attached to a light pole along a public street or within a public park.

“Sign, Menu-board”: A drive through sign associated with menu and pricing for food services and may include an audible speaker and microphone integral to the sign.

“Sign, Model Home”: A temporary on-premise real estate sign identifying a homebuilder’s model home open for inspection.

“Sign, Monument”: Any sign which is connected to the ground and which has no clear space for the full width of the sign between the bottom of the sign and the surface of the ground. A monument sign includes a sign face and sign structure, and may also include a sign base and sign cap as described below:

(a) Sign Base: The above-ground foundation of the sign, which includes the exposed concrete footing for the sign.

(b) Sign Face: The surface of the sign in which the sign message is located.

(c) Sign Structure: The structure surrounding the sign face.

(d) Sign Cap: A part of the sign structure located above the sign face that is constructed of a different masonry.

“Sign, New Construction for Sale/ Leasing”: A temporary on-premise sign intended to advertise a newly constructed building(s) that is/are for sale or lease.

Sign Off-Site: A sign which directs attention to a business, commodity, service, good, product, or entertainment not related to the site upon which such sign is located or to which it is affixed.

“Sign, Official”: means any sign erected by or at the direction of any governmental body.

“Sign, Off-premise ”: means any sign other than an on-premise sign.

“Sign, On Premise”: Any sign, the content of which relates to the site on which it is located, referring exclusively to businesses, commodities, services, products, goods, or entertainment on the site, or the sale, lease, or construction of those sites.

“Sign, On-premise”: means a sign which advertises only goods, services, facilities, events or attractions available on the premises where located, or identifies the owner or occupant or directs traffic on the premises. All other signs are off-premise signs.

“Sign Panel”: Any separate, single panel or piece of material containing a word or symbol legend or individual message that is affixed to the face of a sign.

“Sign, Panel Replacement”: The replacement of a panel on an existing sign that does not alter the sign.

“Sign, Parks and Recreation Banner”: A banner displayed on public park property.

“Sign Permit”: The official authorization by the City to alter, erect, or display any sign not exempted by this ordinance.

"Sign, Political": means any sign which is designed to influence the action of the voters for the passage or defeat of a measure appearing on the ballot at any national, state, or local election or which is designed to influence the voters for the election or defeat of a candidate for nomination or election to any public office at any national, state or local election, but the sign shall not include the name of the sponsor or business promoting the activity or advertising the business.

"Sign, Portable": Any sign which is not attached or affixed to the ground, a building, vehicle, or other fixed structure or object. Portable signs include those signs installed on wheels, trailers, skids, and similar mobile structures.

"Sign, Projecting": An attached sign oriented perpendicular to the face of the building which projects more than twelve (12) inches beyond the surface of the building to which it is affixed or supported.

"Sign, Public Information": means any sign which is intended to identify community, civic and social events, and is not a commercial sign, official sign, political sign, or real estate sign as defined herein.

"Sign, Reader board": A sign that utilizes alternating electronic data control components or a sign comprised of non-permanent letters, numerals or symbols, which allows a change of sign copy by adding, removing or rearranging said letters, symbols or numerals.

"Sign, Residential Builder": A temporary on-premise sign identifying the builder or general contractor of a residential construction site.

"Sign, Residential Nameplate": means a sign permitted for the sole purpose of identifying the inhabitant residing therein, the house name, or identifying the address of the house. The sign may contain no advertising of any kind.

"Sign, Residential Real Estate": A temporary on-premise sign identifying existing residential buildings and/or lots for sale or lease on all residentially zoned and platted lots.

"Sign, Restricted Parking": A temporary or permanent sign in a parking lot that restricts parking for any reason.

"Sign, Roof": Any sign that is:

- (a) Erected on a vertical framework supported by and located immediately and entirely over the roof of a building; or
- (b) Attached to a fascia extending above or below the projection of the fascia; or
- (c) Painted or otherwise affixed on a roof; or
- (d) Displayed above the eave line of a sloped roof or parapet of a flat roof.

"Sign, Sandwich Board": A portable sign consisting of two panels of equal size, which are hinged at the top and placed on the ground or pavement so as to be self-supporting.

“Sign, Special Purpose”: A temporary sign that is either on-premise or off-premise that provides identification or information pertaining to a special event or occurrence sponsored by a non-profit or civic organization.

“Sign Structure”: See sign, monument.

“Sign, Subdivision Entry”: Any permanent on-premise sign identifying a residential subdivision.

“Sign, Subdivision Marketing/ Open House”: A temporary sign used to market or advertise residential subdivisions/open houses within the City and to direct interested persons to the subdivision/open house location.

“Sign, Temporary”: Any sign constructed of cloth, canvas, light fabric, cardboard, wallboard, or other like materials, with or without frames, and any type sign not permanently attached to the ground, wall, or building, intended to be displayed for a short period of time only.

“Sign, Temporary Site Development”: means a sign permitted to identify a project under construction including the project name, project address, general contractor, and architect.

“Sign, Traffic Control”: means a permitted sign for the purpose of identifying parking areas and directing the flow of traffic on private property.

“Sign, Vehicular”: Any sign which is attached to or supported by a vehicle or trailer, or is located within a vehicle and is yet visible.

“Sign Walker (Human Sign)”: A sign held by or attached to a human for the purpose of advertising or providing information about a business, commodity, service, product, or other commercial activity. A person dressed in a costume for the purpose of advertising or providing information about a business, commodity, service, product, or other commercial activity shall constitute a human sign. Human signs do not include T-shirts, hats, or other similar clothing.

“Sign, Wall”: means a sign attached to, painted on, or erected against the wall of a building or structure with the exposed face of the sign in a plane parallel to the face of the wall and not projecting more than nine (9) inches from the face of the wall at any point.

“Sign, Wayfinding”: A government sign that provides direction to locations and facilities.

“Sign, Window”: Any sign affixed to, or painted on, any internal and/or external surface of a window, or is located less than ten (10') feet from the window of any establishment.

“Significant Recharge Feature”: A feature that, based on a surface exposure of solutioned or fractured limestone or on the presence of topography indicative of a karst sink, is likely to provide a conduit for infiltrating surface water to the Edwards Aquifer and the City of Sunset Valley drinking water supply.

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

"Site": A space of ground occupied or to be occupied by a structure.

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

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

"Special Flood Hazard Area": see *Area of Special Flood Hazard*.

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

"Start of Construction": Commencing any site clearing, excavation or grading. For purposes of the flood loss control provisions of this Code, **"Start of Construction"** (fmr other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)) includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations of the erection of temporary forms; nor does it include the installation on the property of accessory building, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

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

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

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

"Street, Local Street": A roadway providing access to individual adjacent properties.

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

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

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

"Street, Through Street": A roadway with two or more outlets.

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

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

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

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

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

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

"Stucco": Portland cement stucco (traditional) only. Stucco does not include synthetic stucco or Exterior Insulation and Finish System (EFIS).

"Subdivider": Any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner, or land sought to be subdivided.

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

"Subsequent permit": means all permits needed for a project except for the first permit needed for a project.

"Substantial Damage": means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial Modification and Repair": Repairs, additions, upgrading or alterations to, or the replacement of, an underground storage tank system or any component part thereof, except routine maintenance activity performed on the tank and fuel delivery system. The term shall include, but not be limited to, tank repairs, such as interior and exterior relining or recoating, and the installation of new or replacement piping.

"Substantial Improvement": means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Sumpage": Liquids that enter a primary, secondary or tertiary containment system other than by direct precipitation or runoff.

"Surface area of a sign": means the total surface including frame and mounting, but shall include only one-half of a freestanding back-to-back sign, provided the freestanding sign's sides are back to back or angled with no greater separation between sides at its widest point than four (4) feet and provided that both sides have the identical sign.

"Surveyor": A licensed State Land Surveyor or a Registered Public Surveyor, as authorized by State statute to practice the profession of surveying.

"TABC": Texas Alcoholic Beverage Commission

"Tasting": Proving one or more individual alcohol sample(s), or a glass of wine, to a patron or patrons for on premise consumption the purpose of allowing the patron or patrons to taste wine products. Tastings are permitted as an accessory use only to the retail sale of wine products produced on premise.

"Tavern, Bar, Lounge or Private Club, Dance Hall, Night Club": A tavern, bar, lounge, dance hall or nightclub shall mean an establishment, the primary activity of which is the sale and consumption on the premises of beer, wine or other liquors, as determined by at least 51% of gross sales. Private club shall mean any organization or association of persons, whether unincorporated or incorporated, including fraternal and veteran organizations and all organizations required to be licensed by the Texas Alcoholic Beverage Commission, which sells, stores, possesses or regularly provides and dispenses or makes available alcoholic beverages at its meeting place or on the premises thereof to its members and their guests regardless of whether or not a fee is charged therefore and regardless of whether or not the dispensation of alcoholic beverages is incidental to or the primary function of the operation of such organization or association.

"Temporary Construction Storage": A temporary, enclosed, lockable structure or shelter subject to removal by order of the City Council used to store small tools and small materials connected to the construction on the lot where the temporary construction storage is located.

"Temporary Field or Construction Office": A structure or shelter, subject to removal by order of the City Council, used in connection with a development or building project for housing on the site of temporary administrative and supervisory functions and for sheltering employees and equipment. Not to be used for human habitation.

"Temporary site development sign": means a sign permitted to identify a project under construction including the project name, project address, general contractor, and architect.

"Temporary Special Use": An event or activity with duration of less than 30 days in a Zoning District other than SF Single Family, that involves an activity not normally associated with the Certificate of Occupancy or Zoning Use of the proposed location. This includes outdoor sales events, festivals and carnivals. For the Toney Burger Center, this will include any use of the facilities or grounds for an event not sponsored by the Austin Independent School District.

"Temporary Tree Protection Device": means physical barriers, at least four feet in height, installed prior to construction for the purpose of preventing damage to trees. Such devices include chain-link fence, vinyl construction fencing or other similar temporary barriers that is nonintrusive to the tree canopy and critical root zone.

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

"Tract": A defined area of land.

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

"Trail": A path through a grassland or woodland area for the passage of people and animals. In commercial areas a path, not composed of concrete and used to connect pedestrians to destinations within the development will also be considered trails.

"Tree": means any woody plant having one or more well defined stems or trunks with a more or less definitely formed crown and usually attaining a mature height of at least eight feet.

"Tree Inventory": means a drawing showing the tag number, species, size, and approximate location of all existing protected, heritage and ancestral trees.

"Tree Protection Plan": means a plan providing the method of protecting trees during construction that may include protection details, standards, notes and construction plans in accordance with generally accepted methods and may be detailed in the Urban Forest Management Plan.

“Tree Replacement Plan”: means a plan providing the method of replacement for protected, heritage or ancestral trees proposed to be removed. The plan may include the location, size and species of all new trees proposed as replacements for protected, heritage or ancestral trees being removed and/or fees in lieu of replacement trees.

“Tree Survey”: means a drawing of the proposed preliminary plat or site plan showing the size, location, species and critical root zone of existing trees, protected, heritage or ancestral trees proposed to be removed or transplanted, and a table summarizing all protected, heritage and ancestral trees. All trees having a DBH of four inches or more must be shown on the tree survey.

“Tree Topping”: means the severe cutting back of limbs to stubs larger than three inches in diameter within the tree’s crown to such a degree that removal of the top canopy disfigures and invites disease to the tree.

“Two-Family”: An attached housing unit designed to provide shelter and contain two separate family units with each unit separated by a common wall.

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

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

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

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

“Uplands zone”: All lands and waters that are not included within the critical water quality zone or the water quality transition zone.

“Urban Forest Management Plan”: means the standards and specifications based on generally accepted practices developed by the City Arborist for sound arboricultural practices, techniques and procedure, which shall serve as guidelines for trees throughout the City. This plan includes but is not limited to tree selection, planting, pruning, alteration, treatment, protection and removal.

"Utility Easement": An interest in land granted to the City, to the public generally, and/or to a private utility corporation, over or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.

"Utility lines": All wires and lines used to provide telephone, cable television, and electricity to any structure, including guy wires and other supporting devices.

"Variance": An adjustment in the application of the specific requirements of this Land Development Code to a particular parcel of property under the procedures set forth in this Code.

"Vegetation, native": Any plant species with a geographic distribution indigenous to all or part of the State of Texas. Plant species which have been introduced by man are not native vegetation.

"Vegetative Filter Strip": A strip of permanent vegetation above ponds, diversions and other structures to retard flow of runoff water, causing deposition of transported material, thereby reducing sediment flow.

"Veterinary Clinic": An establishment for the diagnosis and treatment of disease and injuries of animals, by a person trained and authorized to treat animals medically. Animals may be kept on the premises for treatment measures.

"Violation": For purposes of the flood loss control provisions of this Code, means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3 (b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (3)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

"Visual Screen": A device designed to divide, conceal or protect from view. A screen may be a structure or vegetation.

"Wall": A wall shall be defined as an opaque structure constructed of masonry, concrete, stone, brick or other materials which either screens a portion of the site from view or retains earth. Such walls shall include but not be limited to architectural buffers, water quality pond walls and retaining walls.

"Wall sign": means a sign attached to, painted on, or erected against the wall of a building or structure with the exposed face of the sign in a plane parallel to the face of the wall and not projecting more than nine (9) inches from the face of the wall at any point.

"Wastewater": see **sewage**.

"Water Quality Controls": mean detention/sedimentation basins, sedimentation/filtration basins, filtration basins and retention/irrigation, retention, wet ponds, irrigation, vegetative filter strips or other water quality control structures or systems designed to provide water quality benefits through the treatment of stormwater run-off.

"Water Quality Transition Zone": Lands and waters as defined Chapter 4, Division 4.2, Section 4.201 of this Code.

"Water Surface Elevation": means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

"Wine" or "Vinous liquor": The product obtained from the alcoholic fermentation of juice of sound, ripe grapes, fruits, berries, or honey, and includes wine coolers.

"Winery": A retail establishment, in possession of the "G" license as issued by TABC, where wine or vinous liquor is produced on premises for on-premise consumption and sale as well as for off-premise consumption. Additional accessory uses may include a tasting room to dispense wine for on-premise consumption, meeting facilities, prepared food sales, and a retail sales area.

"Xeriscape": Landscape methods which conserve water through the use of drought tolerant plants and planting techniques.

"Zone": means a zoning district as shown on the official zoning map of the City.

"Zoning": Control of the use and development of land, whether improved or not, for the benefit of citizens in the community and the public welfare.

"Zoning Commission": The agency appointed by the City Council as an advisory body to it and which is authorized to recommend changes in the zoning.

"Zoo (Private)": A facility housing and displaying live animals, reptiles or birds, privately owned and operated for a fee or for the promotion of some other enterprise.

Division 1.3: Interpretation and Rules of Construction

Sec. 1.300 General Rules of Construction

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

- (a) Computation of time. In computing a period of days, the day of the act or event from which the designated period of days begins to run is excluded, and the last day of the period of days is included, unless the last day is not a working day. If the last day of the period is not a working day, the period runs until the end

of the next day which is a working day. In computing a period of less than seven days, Saturdays, Sundays, and City holidays are excluded.

- (b) Internal Reference. A reference without further identification to a chapter, division, part, or section is a reference to a chapter, division, part, or section of this Land Development Code. A reference within a particular chapter, division, section, or subsection to an division, section, subsection, or other numbered or lettered divisional unit without further identification is a reference to a unit of the next larger unit of this Land Development Code in which a reference appears. For example, a reference in this subsection to subsection (a) is a reference to subsection (a) of Section 1.300; a reference to Division 1.3 is a reference to Division 1.3 of Chapter 1 .
- (c) Headings. Section and subsection headings contained herein are for convenience only and do not govern, limit, modify, or in any manner affect the scope, meaning, or intent of any provision of the Land Development Code.
- (d) Illustration. In case of any difference of meaning or implication between the text of any provision and any illustration, or table, the text shall control.
- (e) "Shall", "must", "will", and "may". "Shall", "must", and "will" are always mandatory and not discretionary. "May" is discretionary.
- (f) Tenses and numbers. Words used in the present tense include the future, and words used in singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (g) Conjunctions. Unless the context clearly indicates the contrary, conjunctions are interpreted as follows:
 - (1) "And" indicates that all connected items or provisions apply.
 - (2) "Or" indicates that the connected items or provisions may apply singly or in any combination.
 - (3) "Either...or" indicates that the connected items or provisions shall apply singly but not in combination.

Sec. 1.301 Conflict with Private Restrictions

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

Sec. 1.302 Inconsistent Provisions

- (a) The provisions of this Land Development Code establish procedures to be followed in connection with regulations governing the use and development of land. The requirements of this Land Development Code shall control over any previously enacted and inconsistent provision of an ordinance of the City of Sunset Valley. *(Amended 03/06/01)*
- (b) Provisions of this Land Development Code shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare. Wherever a requirement of this Land Development Code is at variance with another requirement of this Land Development Code, any statute or City ordinance, the most restrictive, or that imposing the higher standard shall apply.

Division 1.4: Extensions (Amended 03/03/98)

Sec. 1.400 Extension of Deadlines

To the extent otherwise permitted by State statute or federal law, an applicant and the City Council may extend by agreement any deadline set forth in the Land Development Code.

Division 1.5: City of Sunset Valley as Developer (Adopted 03/06/01)

Sec. 1.500 Applicability of Land Development to City of Sunset Valley

In those circumstances in which the City of Sunset Valley as a property owner is engaged in development, the Land Development Code applies to these development activities unless the City is otherwise exempted by provisions of this Code or by another Ordinance and except as set forth below.

- (a) The City does not have to pay itself any fees or post any fiscal security or bond.
- (b) None of the timetables and deadlines established herein apply to the City when the City is an applicant under this Land Development Code.
- (c) When the City is required to prepare a development application, the City Administrator on a case-by-case basis may waive specific elements or contents of the application when such elements or contents are not required by this Code and are unnecessary or wasteful.
- (d) The following Land Development Code provisions are inapplicable to the City when the City is an applicant or seeks to take action with regard to its own property or rights of way: §2.305(b), § 2.307(b)(1) & (c), § 2.406, § 2.504(b) & (c), § 2.514, § 3.102(g) & (h), § 3.103, § 3.104, § 3.200(e), § 3.201(b)(c)(d) & (f)(5) & (6), § 3.202(b)(6)(7)(11) & (12), § 3.203(b), § 3.204(d), § 3.309, § 3.311, § 3.312(l), § 3.314, § 4.106(c), § 4.106(f), § 4.106(g), § 4.106(h), § 4.402(c) & (e), § 5.303, § 6.801, § 6.802, § 6.803, § 6.804, § 6.805, § 6.806, § 8.106, § 9.104, § 9.304, § 9.305, § 9.307, § 9.308, § 9.310, § 11.108, § 11.114, § 11.115, § 12.107, § 13.102(c) & (d), § 13.103, § 13.204, Chapter 14, Chapter 15, § 16.300, § 16.301, and Chapter 17.
- (e) Except as to matters of zoning, the City Council may grant the City a variance from any provision in this Code for any of the reasons identified in Land Development Code Section 1.101 upon notice and hearing. No other substantive or procedural variance requirements apply to the City of Sunset Valley when it is an

applicant on non-zoning matters.

(1) The Board of Adjustment decision on any variance requested when the City is an applicant shall be governed by the standards set forth in Section 1.01 of the Land Development Code.

- (f) Nothing in Division 1.5 shall prohibit the City from amending zoning law and reclassifying the zoning categories of particular property as otherwise provided for in this Land Development Code.
- (g) The imposition of any duty on the City of Sunset Valley in its role as developer or applicant under this Code does not bestow on any person any rights as against the City.

Division 1.6: Grandfathering Provisions (Amended 01/10/06)

Sec. 1.600 Grandfathering Established by Date of Initial Application

Except as otherwise provided in this Division, an applicant must comply with current ordinances, rules and regulations in effect on the date the first application for a project is filed with the City. Those ordinances, rules and regulations govern subsequent permits for the project filed within two years from the date the first application is filed. Subsequent permit applications filed more than two years after the date the first application is filed with the City shall be governed by the ordinances, rules and regulations in effect on the date the subsequent application is filed.

Sec. 1.601 Exceptions (Amended 1/10/06)

- (a) An applicant to whom Section 1.600 applies shall have the right, without otherwise forfeiting any rights under this section, to take advantage of changes to the Sunset Valley Land Development Code if such new version of the Land Development Code would enhance or protect the project.
- (b) The most current versions of each of the following Land Development Code provisions and ordinances are applicable to any project and these provisions and ordinances are exempted from Section 1.600:
 - (1) ordinances or those portions of the Land Development Code adopting updated versions of the uniform building, fire, electrical, plumbing, or mechanical codes promulgated by a recognized national code organization; or
 - (2) fees imposed in conjunction with permits or applications; or
 - (3) regulations for utility connections; or
 - (4) public works projects undertaken by governmental entities other than the City; or
 - (5) new amendments to the Land Development Code or new ordinances to the extent they are expressly exempted from this Division (or its predecessor ordinance) or specific Sections of this Division (or the predecessor ordinance);

- (6) ordinances or code amendments the City is required to enact pursuant to federal or state law; or
- (7) regulations that are exempt under state or federal law from the Uniformity of Requirements section of Chapter 245 of the Texas Local Government Code.

Sec. 1.602 Procedure - Applicable to all Applications and Requests for Approval (*Amended 1/10/06*)

- (a) The filing of an application or request for approval shall include all information required by this Code for the application or approval. Where forms have been promulgated by the City, information shall be provided on such forms.
- (b) City of Sunset Valley staff shall review the completed form referred to in subsection (a) as well as the application and all supporting documentation to determine whether the application filed includes all documents or information necessary to comply with this Code's requirements relating to the form and content of the application.
- (c) If the application fails to include the necessary documents or information, within ten (10) business days of filing the Deputy City Administrator or other Sunset Valley staff shall provide the applicant with written notice of the failure that specifies the necessary documents or information required and not included. The notice shall specify that the application will expire forty-five (45) days after the date the application was filed, if the applicant does not provide the necessary documents and information described within ten (10) business days of receipt of the notice.
- (d) If the applicant fails to provide the documents or information specified in the notice within the time requested, the application expires forty-five (45) days after the filing date.
- (e) The provisions of this Division regarding expiration of an application for incompleteness are in addition to and do not supersede any other provisions of this Code regarding expiration of an application, approval, or permit.
- (f) If the notice provisions of Section 1.602(c) are invalidated for any reason, the notice provisions permitted by Texas Local Government Code Section 245.002 shall apply to the filing of any application or request for approval.

Sec. 1.603 Deadlines and Expiration Dates Not Extended

This Division does not extend a deadline for, or expiration date of, an application or approval under City of Sunset Valley ordinances.

Sec. 1.604 Updating Submittals; Requirements (*Amended 1/10/06*)

- (a) This Division does not prohibit the City from requiring updated tree surveys, engineering reports, or other submittals required under the City's codes or ordinances when an application is not granted or denied before such surveys, reports or other submittals become outdated or inaccurate.
- (b) The City may require compliance with requirements relating to the form and content of an application in effect at the time the application was filed even though the application is filed after the date an applicant

accrues rights under Section 1.602.

Sec. 1.605 No Vested Rights

This Division does not create any property rights or vested rights in any applicant or other individual or entity. The City Council may amend or repeal all or part of this Division, making such repeal or amendment effective immediately upon all pending and future applications.

Sec. 1.606 State Law Primacy

As applied to those sections of this Land Development Code other than Chapter 4, this Division may be preempted by state statute.

Sec. 1.607 Application Defined (*Amended 1/10/06*)

As used in Division 1.6, “**application**” means an application submitted to the City of Sunset Valley in conformance with City ordinances for approval of site development plans, site plans, subdivisions, construction plans, resubdivisions, replatting, building permits, landscaping permits, watershed permits, construction permits, or any other endeavor for which an approval or permit is required by this Code.

Sec. 1.608 Fair Notice Requirements (*Adopted 1/10/06*)

Applicants are required to provide the City of Sunset Valley fair notice of each application.

- (a) To provide fair notice of any first application for a project, an applicant must provide the following:
 - (1) Proposed project name, address, legal description, and jurisdiction;
 - (2) The rules under which the applicant requests review;
 - (3) The basis of any request for review under rules other than those in effect on the date of the application;
 - (4) Project application history;
 - (5) Project land use(s), the configuration of such uses, and the layout of proposed infrastructure and public lands and facilities to be dedicated to the public;
 - (6) Existing and proposed zoning categories;
 - (7) Acreage of project property;
 - (8) Identify existing contiguous roadways;
 - (9) Watershed status and classification;
 - (10) Proposed provider and location of all utilities; and
 - (11) Summary of the project.

- (b) To provide fair notice of a subdivision application, an applicant must provide the following:
 - (1) The information required in subsection (a) above;
 - (2) Zoning approvals, if any;
 - (3) Zoning ordinance numbers, if any;
 - (4) Site plan approvals, if any; and
 - (5) Subdivision approvals; if any.

- (c) To provide fair notice of a watershed or site plan application, an applicant must additionally provide the

following:

- (1) The information required in subsection (a) above;
- (2) The information required in subsection (b) above, if applicable; and
- (3) Utility or storm sewer length.