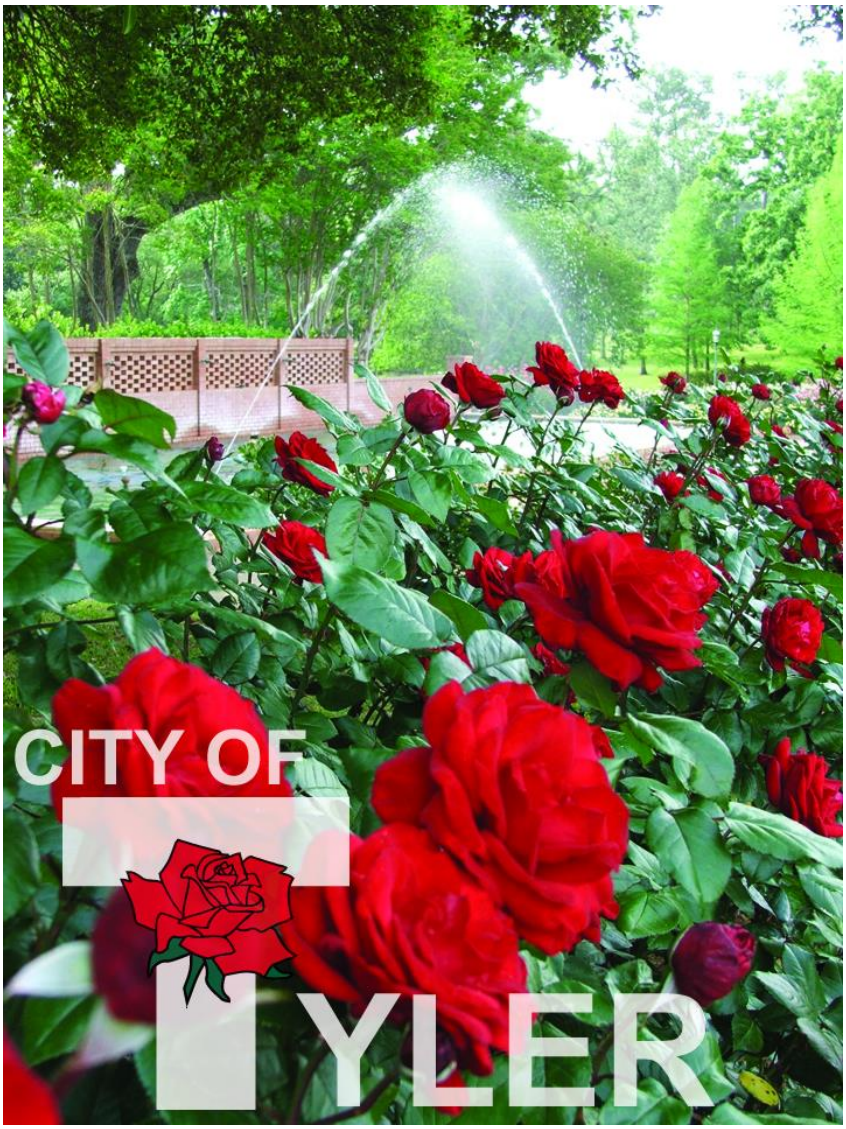

Unified Development Code

Chapter 10 of the Tyler Code of Ordinances

Amended August 24, 2016, Amended January 27, 2016, Amended June 24, 2015, Amended December 10, 2014, Amended October 22, 2014, Amended April 23, 2014, January 22, 2014, Amended August 28, 2013, Amended May 22, 2013, Amended April 10, 2013, Amended February 27, 2013, Amended November 13, 2012, Amended October 10, 2012, Amended September 12, 2012, Amended April 25, 2012, Amended June 8, 2011, Amended February 9, 2011, Amended January 26, 2011, Amended November 10, 2010, Amended March 10, 2010, Amended January 27, 2010, Amended August 26, 2009, Amended September 23, 2009, Amended June 10, 2009, Amended March 25, 2009, Amended March 11, 2009

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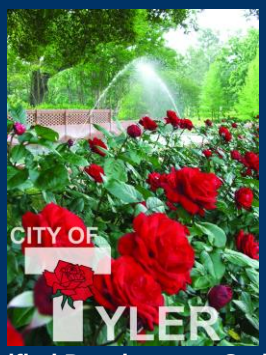

Unified Development Code

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DIVISION A. Legal Framework

Sec. 10-1. Title

This chapter will be known and cited as the Unified Development Code (UDC) of Tyler, Texas. References herein to "this code" will be interpreted as referring to the Unified Development Code.

Sec. 10-2. Legal Authority

a. Empowerment to Zone

1. The unified development code will be drawn with reasonable consideration to the character of each district and its peculiar suitability for particular uses and to encourage the most appropriate use of land.
2. The regulations in this code will be uniform throughout each district for each class or kind of buildings or structures or uses of land, but the regulations in one district may differ from those in other districts.

b. Compliance

All land, buildings, structures, or appurtenances located within the city which are hereafter occupied, used, erected, altered, or converted, must be used, placed, and erected in conformance with the development regulations prescribed for the zoning district in which such land or building is located, except where provided in this code.

c. Minimum Requirements

The standards in this code are minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, and welfare of those persons residing in or visiting the city.

Sec. 10-3. Relationship to Other Laws, Rules, and Requirements

a. This code is not intended to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties. However, where this code imposes a greater restriction upon the use or building height, or requires larger open spaces than are required by other laws or parties, the provisions of this code will apply.

b. The issuance of any permit, certificate, or approval in accordance with the standards and requirements of this code does not relieve the recipient responsibility of complying with all other applicable requirements. In interpreting and applying the provisions of this code, the provisions contained herein will be held to be the minimum requirements.

Sec. 10-4. Creation of Building Site

No permit for the construction of a building upon any tract or parcel within the city may be issued by the building official unless the parcel or tract is part of a plat of record, properly approved by the planning and zoning commission, and filed in the Plat Records of Smith County, Texas. (0-2003-38, 7-23-03)

Sec. 10-5. Certificate of Occupancy

No building hereafter erected, converted, or structurally altered may be used or occupied and no land or building may be changed in use unless or until a Certificate of Occupancy (CO) has been issued by the building official. This requirement does not apply to single-family attached, detached, or duplex dwellings, or to the routine change of occupancy of individual dwelling units in a multifamily apartment.

a. A CO will confirm that the building or proposed use of land or building complies with all City Building and Health Codes and ordinances.

b. A CO must be applied for coincident with the application for a building permit and will be issued after the completion of the erection or alteration of such building or land provided such construction has been made in complete conformity to this ordinance.

Sec. 10-6. Classification of Unlisted Uses

a. Classification

When uses of land, buildings or other structures arise that have not been classified in this code, the planning director will make an administrative decision as to the appropriate use category and zoning district(s) in which it will be allowed.

b. Appeals

The decision of the planning director concerning the appropriate district for an unlisted use may be appealed to the zoning board of adjustment pursuant to Article VIII Division F. (ORD. 0-97-62, 12/10/97) (O-2003-38, 7-23-03)

Sec. 10-7. Applicability

This code applies to all lands and waters within the corporate limits of the City of Tyler. Where specifically stated, provisions of this chapter shall also apply to the City of Tyler Extra Territorial Jurisdiction. All structures and land uses constructed or commenced and all enlargements of, additions to, changes in and relocations of existing structures and uses are subject to the requirements of this code.

Sec. 10-8. Purposes and Intents

a. The purposes of this code are to:

1. protect and promote the health, safety and general welfare of the people of Tyler;
2. implement the policies and goals in the Tyler 1st Comprehensive Plan and other officially adopted plans;
3. enhancing residents' quality of life;
4. protect the character of established residential neighborhoods;
5. maintain orderly and compatible development patterns that promote and appropriate mix of land uses and protect property values;
6. concentrate commercial development in compact, mixed-use districts;
7. maintain economically vibrant and visually attractive business and commercial areas;
8. promote downtown Tyler as a destination for arts and cultural institutions;
9. create new housing opportunities in downtown Tyler;
10. retain and expand the city's industrial and employment base;
11. accommodate mixed-use, pedestrian-oriented development patterns;
12. ensure adequate light, air, privacy, and access to property;
13. enhance Tyler's public realm with trees, attractive streetscapes, and public gathering places;

14. promote a desirable visual environment through creative development techniques, urban design standards, and sign regulation;
15. promote natural resource conservation and environmentally responsible development practices;
16. promote rehabilitation and reuse of older buildings;
17. provide sufficient housing for households at all income levels and all stages of the life cycle;
18. promote appropriate location and design of housing and commercial development in the extraterritorial jurisdiction;
19. ensure provision of adequate public facilities and services;
20. establish clear and efficient development review and approval procedures; and
21. accommodate the orderly and beneficial development in accordance with the preceding purposes.

Sec. 10-9. Rules of Language and Interpretation

Sec. 10-10. Interpretations

The requirements herein are considered to be minimum requirements. Where the provisions of this code impose greater restrictions than those of any other code or regulations, the provisions of this code will govern. Where the provisions of any other code or local regulations impose greater restrictions than those of this code, the provisions of such other code or local regulation will govern.

When referring to this code, the following rules of interpretation will be applied, except when the context clearly requires otherwise:

a. The particular shall control the general.

b. In the case of any difference of meaning or implication between the text of this code and any chart, graph, illustration or table, the text will govern.

c. The words "must" and "will" are always mandatory and are not discretionary. The words "should" and "may" are permissive and discretionary.

d. Words used in the present tense include the future tense; words used in future tense include the present tense; words in the singular include the plural, and words in the plural include the singular.

e. The words "building" and "structure" shall be construed as though followed by the words, "or a portion thereof".

f. The word "lot" includes the words, "parcel", "plot," or "tract," but does not include leased lands.

g. The word "occupied" shall be construed as though followed by the words, "or intended, arranged or designed to be occupied".

h. Terms not herein defined shall have the meaning assigned to them in the city building code. Terms not defined herein or in the building code will have the meaning customarily assigned to such terms.

i. All public officials, boards, departments, and agencies to which reference is made are those of the City of Tyler unless otherwise indicated in the code.

Sec. 10-11. Zoning Map

a. The boundaries of the zoning districts are hereby established and shown on a map designated as the City of Tyler Zoning Map.

b. The City is divided into "Zoning Districts" which are restricted to residential use; for office, limited commercial or educational use; for commercial, mixed use or educational, industrial/manufacturing use.

c. The use and area regulations shall be uniform in each individual zoning district, and shall be classified.

d. The map and all notations, references, and other information shown thereon are a part of this development code and will have the same force and effect as the code.

e. The map will be filed and maintained as follows:

1. One copy must be filed with the city clerk and retained as the original record and must not be changed in any manner.
2. One copy must be filed with and maintained by the planning department, which must post all changes and subsequent amendments for public observation and for the issuance of building permits.
3. Reproductions for informational purposes may from time-to-time be made of the official zoning map.
4. Any person aggrieved or affected by any amendments made to the adopted zoning map may appeal the revision by filing a request for rezoning with the planning department. Such requests must be made within six months of the effective date of map revisions.

f. Zoning District Boundaries

1. The following guidelines must be observed in preparing the zoning map and in making any changes to the district boundaries.
2. Where the districts designated on the map are bounded by a street, alley, or lot line, the boundary of the district will be the center line of the street, alley, or lot line unless otherwise indicated on the map.
3. Where uncertainty exists as to the boundaries as shown on the official zoning map, the following rules will apply:

   (a) Boundaries indicated as following a railroad line or right-of-way, will be deemed to be located midway between the main tracks of the railroad line, or in the middle of the right-of-way.

   (b) Boundaries indicated as approximately following the city limits, will be construed as following the city limits.

   (c) Boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water, will be construed as following such centerline.
4. Where the district boundaries are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries will be construed to be property lines; and where the districts designated on the map are bounded approximately by lot lines, the lot line, not to exceed a distance of 25 feet, will be construed to be the boundary of the district.

5. In the case of a district boundary line dividing a property into two parts, the district boundary line, not to exceed a distance of 25 feet, will be construed to be the property line nearest the least restricted district.

6. Boundaries indicated as parallel to or extensions of features indicated in the paragraph above will be so construed. Distances not specifically indicated on the original zoning map will be determined by the scale of the map or by dimensions.

7. Where physical features, such as streets, railroad lines, rivers, streams and such, existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered above, the planning director must make a written interpretation of the District boundaries. (Ord. No. 0-2010-20, 3/10/10)

8. Whenever a street or alley is vacated, adjacent districts will extend to the center line of the vacated street or alley right-of-way. (ORD. 0-97-62, 12/10/97)(ORD. 0-98-68, 8/26/98)

Sec. 10-12. Legal Nonconforming Lot

a. A "legal nonconforming lot" is a tract-of-record lot, which was platted prior to the adoption of an otherwise applicable zoning ordinance that fails to meet the lot area or lot width standards of that ordinance.

b. For the purposes of zoning compliance review, any legal nonconforming lot as defined by this chapter, in separate ownership, and not of contiguous frontage with other lots in the same ownership, may be used as a building site even though it has neither sufficient land to conform to the minimum lot area requirements nor sufficient lot width to conform to the minimum lot width requirements of the district. A legal nonconforming lot that does not meet lot area or lot width requirements must still meet the other requirements of the district.

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DIVISION B. Transitional Provisions

Sec. 10-13. Applications Submitted Before [April 24, 2008]

Complete applications that are pending approval before April 24, 2008 may be reviewed and approved in accordance with the applicable zoning or subdivision ordinances in effect before April 24, 2008. All development applications submitted on or after April 24, 2008 must be reviewed under the terms of this development code.

Sec. 10-14. Buildings Approved or Under Construction

Nothing in this code will require any change in the plans, construction, or designated use of a building under construction and scheduled to be completed within one year of the date of passage of this code, nor will it require any change in plans, construction, or designated use of a building or other structure for which a building permit has been issued within six months after the effective date of this code, provided construction is started within sixty days of the effective date of this code.

Sec. 10-15. Permits issued before [April 24, 2008]

Any building, development, or structure for which a final building permit was issued before April 24, 2008 may be completed in conformance with the issued building permit and other applicable permits and conditions, even if such building, development, or structure does not fully comply with provisions of this development code. If building is not commenced and diligently pursued within the time allowed under the original permit or any extension granted, then the building, development or structure must be constructed, completed, and occupied only in strict compliance with the standards of this development code.

Sec. 10-16. Violations Continue

Any violation of the previous ordinances will continue to be a violation under this development code and be subject to penalties and enforcement under Article X, Division B. If the use, development, construction or other activity that was a violation under the previous ordinances complies with the express terms of this development code, enforcement action will cease, except to the extent of collecting penalties for violations that occurred before the effective date of this code. The adoption of this development code does not affect nor prevent any pending or future prosecution of, or action to abate, violations of the previous ordinances that occurred before April 24, 2008.

Sec. 10-17. Nonconformities

Any nonconformity under previous zoning and subdivision ordinances will also be a nonconformity under this development code, as long as the situation that resulted in the nonconforming status under the previous regulation continues to exist. If, however, a nonconforming situation under previous zoning and subdivision ordinance becomes conforming because of the adoption of this code , or any subsequent amendment to it, then the situation will no longer be considered a nonconformity.

Sec. 10-18. – 19. Reserved

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DIVISION A. Residential Districts

Sec. 10-20. Establishment of Residential Districts

The following residential districts are established in the City of Tyler:

Abbreviation	District Name
RE	Residential Estate
R-1A	Single-Family Residential
R-1B	Single-Family Residential
R-1C	Single-Family Residential
R-1D	Single-Family-Attached/Detached
R-2	Two-Family (existing only)
R-MF	Multi-Family Residential
R-MH	Manufactured Home Residential
PUR	Planned Unit Residential
PXR	Planned Mixed Residential
PMF	Planned Multifamily

(Ord. No. 0-2011-45; 6/8/11)

Sec. 10-21. District Purpose Statements

a. RE Residential Estate District

The RE district is primarily intended to accommodate development of detached, single-family housing on minimum one acre lots.

b. R-1A Single Family Residential District

The R-1A district is primarily intended to accommodate development of detached, single-family housing on large lots.

c. R-1B Single-Family Residential District

The R-1B district is primarily intended to accommodate development of detached, single-family housing on smaller, individual lots.

d. R-1C Single-Family Residential District

The R-1C district is a carryover district from the former zoning ordinance. It is primarily intended to accommodate existing and future development of detached, single-family housing, garage apartments (also known as mother-in-law units), and to accommodate existing two-family housing.

e. R-1D Single-Family-Detached and Attached District

The R-1D district is primarily intended to accommodate single-family-detached and single family attached housing, on separately platted lots, such as townhouses and rowhouses, in the same district for the purpose of increasing residential development densities in North Tyler and all other areas where a mix of such housing types is desirable. (Ord. No. 0-2010-20; 3/10/10)

f. R-2 Two-Family (Duplex)

The R-2 district is a carryover district from the former zoning ordinance. It is primarily intended to allow existing two-family zoning to remain as is, although no subsequent two-family zoning will be permitted.

g. R-MF Multi-Family Residential District

The R-MF district is primarily intended to accommodate multifamily development at a maximum density of 24 dwelling units per acre.

h. R-MH Manufactured Home Residential District

The R-MH district is primarily intended to accommodate manufactured housing parks as a special use and manufactured housing units on individually platted lots.

i. PUR Planned Unit Residential

The PUR district is primarily for the medium to high density development of unique and innovative forms of detached single-family housing utilizing individually platted lots. A PUR development utilizes the total space within a development by creating common open spaces, scenic and recreational areas, and other spaces, which will compensate for the reduction of land area dedicated for the residential structure.

It is the intent of the PUR to provide for residential developments which may utilize private streets, owned and maintained by a Homeowners Association or dedicated public streets. The PUR district is not intended as a convenience to circumventing regulations set forth in other residential districts, or as a tool for mass variance, without provisions of common areas. (Ord. No. 0-2014-33; 4/23/14)

j. PXR Planned Mixed Residential

The PXR is primarily intended to provide for medium-density development of innovative forms of detached and attached single-family housing on individually platted lots. The PXR district is also intended to permit, where appropriate pursuant to the Tyler 1st Comprehensive Plan and Future Land Use Guide, a mixture of single-family attached and detached housing types in areas using individually platted lots. The PXR district is not intended as a convenience to circumventing regulations set forth in other residential districts or as a tool for mass variance. (Ord. No. O-2010-119; 11/10/10)

k. PMF Planned Multifamily District

The PMF district is primarily intended to provide for the medium- to high-density development of condominiums, apartments, and nursing homes. A PMF development may include common open spaces, scenic and recreational areas.The PMF district is not intended as a convenience to circumventing regulations set forth in other residential districts or as a tool for mass variance. (Ord. No. O-2010-119; 11/10/10) (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-22. Allowed Uses

Uses are allowed in residential districts in accordance with Table 10-48.

Sec. 10-23. Dimensional Standards

All development in residential districts must comply with Table 10-23 Dimensional Standards in Residential Districts.

Table 10-23. Dimensional Standards for Residential Districts

Residential Districts	RE	R-1A	R-1B	R-1C	R-1D	R-2	R-MF	R-MH	PUR	PXR	PMF
Minimum lot area (sq. ft.)	43,560	9,000	6,000	6,000	3000	7,500	12,500	6,000		2,700	
Minimum lot area per unit (sq. ft.)	43,560	9,000	6,000	6,000	3000	3,750	2,100	6,000		2,700	
Minimum street frontage (ft.)	50	35	35	35	35	35	45	35	25	25	25
Minimum frontage (ft.) to private way										25	25
Setbacks											
Front *	50	25	25	25	25	25	25	25		25	
Rear	50	25	25	25	15	25	25	10		15	
Side interior	12.5	7.5	6	6	0	6	25	10		7.5	
Side, corner	25	12	12	12	12	12	12	15	12	12	25
District boundary								25			
Maximum lot coverage (%)	30	50	50	50	60		50			60	
Maximum height (ft.)	42	42	42	42	42	42	50[1]	18	42	42	
Building separation (ft.)							15	20			15
Minimum per dwelling unit (sq. ft.)							300[2]				300
Minimum width (ft.)							15				15
Maximum slope (%)					10		10				10

(Ord. No. 0-2010-20; 3/10/10) (Ord. No. O-2010-119; 11/10/10) (Ord. No. 0-2011-45; 6/8/11) (Ord. No. 0-2014-97; 10/22/14)

* See section 10-92 for reduced front setbacks for alley loaded parking.

[1] Buildings allowed to exceed stated maximum height if front, side and rear setback are increased at least one foot (above minimum setbacks) for each one foot of additional building height (above stated maximum).

[2] The following elements may be designated as usable open space in the PUR, PXR, and PMF districts: pools, tennis courts, walkways, patios, open air gazebos and pavilions, and covered or underground easements. The following elements may not be included in the calculation of usable open space: enclosed buildings, street and alley rights of way or easements, driveways, parking areas, or drainage channels.

[3] The following elements may not be included in the calculation of usable open space in the PXR district streets and alley rights-of-way or easements, individually platted lots without open space easements, private yards, and patios. One-third of the total open space requirement in the PXR district may be provided off site if approved on the site plan. A Homeowners Association (HOA) is required to improve, operate, and maintain all jointly owned open spaces, recreational areas and buildings, service and parking areas. (Ord. 0-2010-20, 3/10/10) (Ord. No. 0-2010-119; 11/10/10) (Ord. No. 0-2014-97; 10/22/14)

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DIVISION B. Commercial and Mixed Use Districts

Sec. 10-24. Establishment of Commercial and Mixed Use Districts

The following commercial and mixed use districts are established in the City of Tyler:

Abbreviation	District Name
C-1	Light Commercial
C-2	General Commercial
DBAC	Downtown Business, Arts, and Culture
PMXD-1	Planned Mixed Use-1
PMXD-2	Planned Mixed Use-2
PCD	Planned Commercial District

Sec. 10-25. District Purpose Statements

a. C-1 Light Commercial District

The C-1 district is primarily intended to provide for commercial development and business activities that are located at the edge of residential areas but which serve an area larger than nearby neighborhoods. Areas zoned C-1 district must be restricted to commercial activities, primarily if not exclusively conducted indoors, with limited or no outdoor display or storage of merchandise.

b. C-2 General Commercial District

The C-2 district is primarily intended for heavier commercial development that serves a citywide and regional market area, and for establishments requiring outdoor display and storage of merchandise.

c. DBAC Downtown Business, Arts, and Culture District

The DBAC district (formerly C-3) is primarily intended to implement the Tyler 1st Comprehensive Plan, Chapter 4, Downtown Master Plan by accommodating development and redevelopment in downtown that creates a walkable, mixed-use city center with residential, commercial, entertainment, arts, institutional, park, and government land uses, and by establishing guidelines and controls for the development and redevelopment of the downtown area, shown on the Future Land Use Guide, with a mix of commercial, residential, cultural, office, and existing light manufacturing uses. The district is further intended to ensure that future development is compatible with the existing development and will enhance the economic, cultural, and historical significance of downtown Tyler. The voluntary preferred design guidelines are kept on file in the planning department.

d. PMXD-1 Planned Mixed-Use District-1

The PMXD-1 district is primarily intended to implement the Tyler 1st Comprehensive Plan by promoting a mix of residential, retail and service, office, institutional, park, and government uses. The PMXD-1 district is intended to be applied in areas designated for medium density mixed-use on the Future Land Use Guide, namely at or near key intersections of major arterial roadways, and other areas with access to a full range of public facilities and infrastructure.
The PMXD-1 district is further intended to promote the following objectives:

1. Create new compact, medium-density development and redevelopment patterns that provide a mix of residential and non-residential uses in the same building or in close proximity to enhance opportunities for residents to live, work, shop and enjoy leisure within a walkable, urban village environment.
2. Provide more opportunities to drive less and thereby reduce the growth rate of traffic congestion.
3. Ensure appropriate transitions between mixed-use districts and single-family residential neighborhoods.
4. Improve access management on arterial and collector roads in order to enhance traffic function.
5. Improve the aesthetic appearance of arterial and collector roads.

All developments created in a PMXD-1 district must be designed and developed in accordance with an approved site development plan or a written narrative detailing the development parameters of sufficient detail that it can be evaluated and submitted for approval to the Planning Commission and City Council. Where narrative is submitted and approved by the City Council, future site plans may be approved by staff when they are consistent with the standards included in the narrative. The district is not intended as a convenience to circumventing regulations set forth in other commercial or residential districts or as a tool for mass variance. (Ord. No. 0-2010-119; 11/10/10)

e. PMXD-2 Planned Mixed Use District-2

The PMXD-2 district is primarily intended to implement the Tyler 1st Comprehensive Plan by accommodating a combination of high-density office, institutional, retail and service, and residential uses that function as a center of economic activity for residents of Tyler, Smith County, and the East Texas region. The PMXD-2 district is intended to be applied in areas designated for high density, mixed-use development on the Future Land Use Guide, namely at or near key intersections of major arterial roadways and in the city center. The PMXD-2 district is further intended to promote the same objectives of the PMXD-1 district listed in Sec. 10-25(d) above, and to also create sufficient residential and employment density within half-mile centers to be "transit-ready" for location of potential future public transit.

All developments created in a PMXD-2 district must be designed and developed in accordance with an approved site development plan or a written narrative detailing the development parameters of sufficient detail that it can be evaluated and submitted for approval to the Planning Commission and City Council. Where narrative is submitted and approved by the City Council, future site plans may be approved by staff when they are consistent with the standards included in the narrative. The district is not intended as a convenience to circumventing regulations set forth in other commercial or residential districts or as a tool for mass variance. (Ord. No. 0-2010-119; 11/10/10)

f. PCD Planned Commercial Development District

The purpose of the PCD district is to provide for the development of planned commercial facilities. The PCD district will be designated where retail and commercial facilities are needed throughout the city. All developments created in a PCD district must be designed and developed as a unit according to an approved site development plan. The district is not intended as a convenience to circumventing regulations set forth in other commercial districts or as a tool for mass variance. (Ord. No. 0-2010-119; 11/10/10)

Sec. 10-26. Allowed Uses

Uses are allowed in commercial and planned districts in accordance with Table 10-49.

Sec. 10-27. Dimensional Standards

All development in commercial and office districts must comply with the standards in Table 10-27.

Table 10-27 Dimensional Standards for Commercial and Industrial Districts

Commercial and Industrial Districts	C-1	C-2	DBAC	PMXD -1	PMXD-2	PCD	M-1	M-2
Minimum lot area (square feet)	7,000	14,000	2,500	5 acres c d	5 acres c d	a	15,000	15,000
Minimum frontage (feet)	70	80	25	a	a	a	80	80
Minimum building sep. (same lot)	15	15	0	a	a	a	15	15
Maximum height (feet)	42	45		55	165	e	45'+ 1'/ addl 1' setback	45'+ 1'/ addl 1' setback
Minimum height or story	1	1	25 ft	25 ft	25 ft	a	na	na
Maximum height (stories)	2.5		20	5	15	a	na	na
Minimum setbacks								
Front yard setback	10	10	0	a	a	a	10	10
Rear yard setback	10 b	10 b	0 b	a b	a b	a b	25 b	25 b
Adjacent to R district (rear)	25 b	25 b	0 b	a b	a b	a b	25 b	25 b
Adjacent to R district (side)	10 b	10 b	b	b	b	b	25 b	25 b
Side yard setback, interior	0 b	0 b	0 b	a b	a b	a b	0 b	0 b
Side yard setback, corner	15	15	0	a	a	a	15	15
Maximum lot coverage (%)	60	60	f	a	a	a	50	60

a. Determined by the developer and subject to approval by the planning and zoning commission and city council as part of the site development plan.
b. See Article VI, Division B for bufferyard requirements which are part of the setback.
c. Recommended; total development area for a PMXD-1 or PMXD-2 may be fewer than 5 acres subject to approval by the planning and zoning commission and city council as part of the site development plan.
d. Exceptions to the 5-acre minimum: 1) projects smaller than five acres that are considered to be a phase or extension of an existing mixed use development and 2) single buildings or a building complex in which a mix of two or more land uses is proposed (e.g., condominiums and retail stores). (Ord. No. 0-2009-19; 3/11/09) (Ord. No. 0-2011-45; 6/8/11)
e. Maximum height is 45 feet plus 1 foot additional for each additional foot beyond a 10 feet setback when abutting a non-residential district and a 25 feet setback when abutting a residential district.
f. 100% building coverage is allowed, however, all parking lots must reserve 15% of the total parking area for landscaping. See Section 10-295 for landscape area requirements. (Ord. No. 0-2012-38; 4/25/12) (Ord. No. 0-2014-8; 1/22/14) (Ord. No. 0-2014-97; 10/22/14)

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DIVISION C. Industrial Districts

Sec. 10-28. Establishment of Industrial Districts

The following industrial districts are established in the City of Tyler:

Abbreviation	District Name
M-1	Light Industrial
M-2	General Industrial

Sec. 10-29. District Purpose Statements

a. M-1 Light Industrial District

The M-1 district is primarily intended to provide for the location and development of low impact industries and supporting commercial and public uses, which generate relatively low levels of noise, smoke, odor, dust, or intense light. These industrial and manufacturing uses may require good accessibility to air, rail, or street transportation routes.

b. M-2 General Industrial District

The M-2 district is primarily intended to provide for location and development of medium and heavy impact industries and supporting commercial and public uses, which may generate noise, odor, smoke, dust, or intense light. These industrial and manufacturing uses must provide access to air, rail, or street transportation routes. Provision may also be made for outdoor operations and storage.

Sec. 10-30. Allowed Uses

Uses are allowed in industrial districts in accordance with the nonresidential district use table in Sec. 10-49.

Sec. 10-31. Dimensional Standards

All development in industrial districts must comply with the standards in the industrial districts dimensional standards table in Sec. 10-27. (Ord. 0-2010-20, 3/10/10)

DIVISION D. Overlay and Special Purpose Districts

Sec. 10-32. Establishment of Overlay and Special Purpose Districts

The following overlay and special purpose districts are established in the City of Tyler:

Abbreviation	District Name
AG	Agricultural
AR	Adaptive Reuse
RPO	Restricted Professional Office
MU-O	Municipal Use Overlay
INT	Institutional
OSP	Open Space and Parkland District
CC-O	Commercial Corridor Overlay
HD-O	Historic District Overlay

(Ord. No. 0-2012-83; 10/10/12)

Sec. 10-33. District Purpose Statements

a. AG Agricultural District

The AG district is primarily intended to provide a location for land situated on the fringe of an urban area and used for agricultural purposes. The types and intensity of uses permitted in this district should encourage and protect agricultural uses until urbanization is warranted and the appropriate change in district classification is determined.

b. AR Adaptive Reuse District

The AR district is primarily intended to allow for the rehabilitation and reuse of residential buildings and other structures that are generally within but not exclusively, historic residential neighborhoods and the streets that form the boundary of such districts. The district provides property owners with the flexibility to use older homes for low-intensity commercial or office activities without detracting from the essential residential character of the area, nor allowing a proliferation of heavier commercial uses.

c. RPO Restricted Professional Office District

The RPO district is primarily intended to accommodate office uses that serve as a buffer between commercial and residential areas. It is also intended to facilitate the conversion of residential properties that are located in an area in transition from residential to other uses.

d. MU- O Municipal Use Overlay District

The Municipal Use category is available for all land owned by the City of Tyler that is used for municipal purposes. Traditionally all land uses related to a municipal purpose were allowed on land owned by the city and city owned land could be and was zoned in any category because all municipal purpose uses were allowed through the Use Chart. The purpose of this new category is to identify on the Zoning Map all of those tracts which are owned by the City and which are used for municipal purposes.

e. INT Institutional District

The purpose of the INT district is to provide for the development and regulation of medical facilities and hospitals, public buildings, religious institutions, as well as educational facilities and all related and accessory facilities, including classrooms, offices, assembly halls,

cafeterias, dormitories, indoor and outdoor recreational facilities, and physical plant. (Ord. No. 0-2009-100; 9/23/09)

f. OSP Open Space and Parkland District

The OSP district is primarily intended to preserve and enhance public open, natural, and improved park and recreational areas and private open, natural, and improved park and recreational areas that are open to the public and identified in the Tyler 1st Comprehensive Plan and on the Tyler 1st Future Land Use Guide.

g. CC-O Commercial Corridor Overlay District

The CC-O district is primarily intended to improve the aesthetic environment of the city's major commercial streets and arterial corridors through a process of redevelopment and reuse of private property by private interests and public infrastructure improvements in the public right-of-way. The CC-O district is further intended to:

1. Support, higher density, pedestrian- and transit-friendly development near intersections of major arterial streets, highways, and gateways to the City of Tyler.
2. Encourage infill and redevelopment that is compatible with the natural beauty of the Tyler area and provides an attractive sequence of buildings and land uses.
3. Increase the amount and positive visual and environmental effects of tree planting and landscaping in the city.
4. Provide pedestrians and bicyclists safe, comfortable, and attractive access to sidewalks, crosswalks, and private properties, while accommodating automobiles.
5. Enhance the traffic function of major roads by managing access to adjacent land uses (see Article V, Division D)
6. Provide effective and attractive street lighting.

h. HD-O Historic Overlay District

The HD-O district is primarily intended to implement the Tyler 1st Comprehensive Plan by establishing and preserving structures, sites or areas that have outstanding historical and cultural significance. As an overlay district, the HD-O is applied in conjunction with the underlying zoning district(s) for the area. The procedures for enacting the HD-O District are contained in Article VIII., Division I. (Ord. No. 0-2008-147; 11/19/08) (Ord. No. 0-2012-83; 10/10/12)

Sec. 10-34. Dimensional Standards

All development in overlay and special purpose districts must comply with the dimensional standards for overlay and special purpose districts in this chapter.

Table 10-34 Dimensional Standards for Overlay and Special Purpose Districts

Overlay and Special Districts	AG	AR	RPO	MU-O	INT	OSP	CC-O	HD-0
Minimum lot area (square feet)	1 acre	7,000	7,000	0	5 acres (for entire campus)	1 acre	Base zone applies	Base zone applies
Minimum street frontage (feet)	35	35	35	0	200		a	
Minimum building sep. (same lot)	0	15	25	0	15		a	
Maximum height (feet)	42	42	42	N/A		35	a	
Adjacent to Residential Districts			42	42	42+1' / addl 1' setback	--	42+1' / addl 1' setback	
Adjacent to All Other Districts			60 + 1' / addl 1' front & rear setback	N/A	120 + 1' / addl 1' front & rear setback	--	120 + 1' / addl 1' front & rear setback	
Maximum height (stories)	2.5	2.5	2.5	N/A			a	
Setbacks							a	
Front yard setback	25 res; 100 livestock 50 poultry	25	10	0	25	15		
Rear yard setback	25 res; 100 livestock 50 poultry	25	10	0	10			
Side yard setback, interior	7.5 res only	6	6; 25 for multi-bldg complex	0	5	--		
Side yard setback, corner	12 res only	12	12	0	12			
Adjacent to R district (rear)			25 & b	10	25		25	
Adjacent to R district (side)			B	10	25		25	
Adjacent ROW (side or rear)			B	10	25		25	
Maximum lot coverage (%)	35	60	60	100	60	25		

(Ord. No. 0-2012-83; 10/10/12) (Ord. No. 0-2014-97; 10/22/14)

a. Determined by the developer and subject to approval by the planning and zoning commission and city council as part of the site development plan.
b. See Article VI, Division B for bufferyard requirements.

Sec. 10-35. – 39. Reserved

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DIVISION A. Use Table Overview

Sec. 10-40. Use Groups

The use table classifies land uses into five major groupings: Residential, Public and Civic, Commercial, Industrial, Agricultural, and Other. These are referred to as "Use Groups."

Sec. 10-41. Use Categories and Standards

Each use group is further divided into "Use Categories." These categories classify land uses based on common characteristics, such as the type of products sold, site conditions, or the amount of activity on the site. The "Use Standard" column in the use table provides a cross-reference to additional standards that apply to some uses, whether or not they are allowed as a permitted use or special use.

Sec. 10-42. Determination of Use Category

When a land use cannot be classified into a Use Category or appears to fit into multiple categories, the planning director is authorized to determine the most appropriate Use Category.

Sec. 10-43. Permitted Uses

Uses identified with an "X" in the use table are permitted by-right in the designated zoning districts, subject to compliance with all other applicable provisions of this chapter.

Sec. 10-44. Planned Uses

Uses identified with a "P" in the use table require a site development plan. Development is to be consistent with the approved site development plan. If the property is undeveloped, any proposed use shall be consistent with design parameters approved with the zone change.

Sec. 10-45. Special Uses

Uses identified with an "S" in the use table may be allowed in the designated zoning districts if approved in accordance with the special use approval procedure in Article IX, Division A. Approved special uses are subject to compliance with all other applicable provisions of this chapter.

Sec. 10-46. Temporary Uses

Uses identified with a "T" in the use table are uses that require a temporary use permit pursuant to Article IX, Division B.

Sec. 10-47. Prohibited Uses

Uses that have no letter associated with them in the uses table are expressly prohibited. Uses not listed in the use table are also prohibited.

Sec. 10-48. Residential District Use Table

USE GROUP Use Category *Use Sub-Category* Specific Uses	RE	R-1A	R-1B	R-1C	R-1D	R-2	R-MF	R-MH	PUR	PXR	PMF	Use Standards
RESIDENTIAL												
Household Living												
Single-Family Residential Detached	X	X	X	X	X	X			P	P		
Single-Family Residential Attached (Townhouse) (Rowhouse)					X	X				P	P	
Two-Family Duplex						X				P	P	
Garage Apartment				X	X	X	X				P	
Modular Housing	X	X	X	X	X				P	P		
Manufactured Home								X				
Multi-Family (Apartment, Condominium)							X				P	
Manufactured Housing/ Mobile Home Park								X				
Group Living												
Assisted Living, Retirement Center							X			P	P	
Skilled Nursing Home/Rehabilitation							X				P	
Community Residence (6 or fewer residents)	X	X	X	X	X	X	X			P	P	
Community Residence (7 or more residents)							X			P	P	
Crisis Center (6 or fewer)	S	S	S	S	S	S	S			P	P	
Halfway House							S			P	P	
Rescue Mission/Home							S				P	
PUBLIC/CIVIC												
Cultural Facilities and Libraries	S	S	S	X	X	X	X			S	P	
Day Care Center (Child or Adult)							S				P	
Parks and Open Space	X	X	X	X	X	X	X	X	P	P	P	
Animal Park												
Golf Course	X	X	X	X	X	X	X	X	P	P	P	
Zoo												
Public Facilities	X	X	X	X	X	X	X	X	P	P	P	
Post Office	X	X	X	X	X	X	X	X	P	P	P	
Public Safety (Police/Fire)	X	X	X	X	X	X	X	X	P	P	P	
Major Utilities	S	S	S	S	S	S	S	S	S	S	S	
Minor Utilities	X	X	X	X	X	X	X	X	X	X	X	
Religious Assembly												
Church, Temple, Synagogue, Mosque	X	X	X	X	X	X	X	X	P	P	P	
Church Activity/Recreational Center	X	X	X	X	X	X	X	X	P	P	P	
School												
College or University												
College Dormitory (Off-Campus)							X				P	
College Fraternity/Sorority House							X				P	
Elementary School	X	X	X	X	X	X	X	X	P	P	P	
Junior High or High School	X	X	X	X	X	X	X	X	P	P	P	
Pre-School/Kindergarten	X	X	X	X	X	X	X	X	P	P	P	

School Student/Activity Center/Field(Public)	X	X	X	X	X	X	X	X	P	P	P	
USE GROUP **Use Category** ***Use Sub-Category*** **Specific Uses**	**RE**	**R-1A**	**R-1B**	**R-1C**	**R-1D**	**R-2**	**R-MF**	**R-MH**	**PUR**	**PXR**	**PMF**	**Use Standards**
COMMERCIAL												
Entertainment												
Indoor												
Club/Social Organization	S	S	S								S	
Country Club (Private)	S	S	S	S	S	S	S	S		P	P	
Outdoor												
Rodeo Grounds												
Funeral and Internment Service												
Cemetery, Mausoleum (Per State Law: No new cemeteries allowed within city limits.)	X	X	X	X	X	X	X	X	X	X	X	
Columbarium	S	S	S	S	S	S	S	S	S	S	S	
Mortuary/Funeral Home/Crematory												
Lodging												
Bed & Breakfast							S				P	
Boarding/Rooming House							X				P	
Campground												
R.V. Park												
INDUSTRIAL												
Oil & Gas Exploration (Drilling Activity)	S	S	S	S	S	S	S	S	S	S	S	
Oil & Gas Exploration (Producing Well)	S	S	S	S	S	S	S	S	S	S	S	
Sand/Gravel Extraction	S	S	S	S	S	S	S	S	S	S	S	
OTHER												
Accessory Uses	X	X	X	X	X	X	X	X	X	X	X	
Accessory Structures	X	X	X	X	X	X	X	X	X	P	P	
Community Center (Public or Private)	S	S	S	S								
Barber/Beauty Shop One-Chair (Residential)	S	S	S	S	S	S	S	S	S	S	S	
Day Care At Home (Adults) maximum 6	S	S	S	S	S	S	S	S	S	S	S	
Day Care At Home (Children) maximum 6	S	S	S	S	S	S	S	S	S	S	S	
Home Occupation	X	X	X	X	X	X	X	X	X	X	X	
Photography Studio	S	S	S	S	S	S	S	S	S	S	S	
Piano Lessons	X	X	X	X	X	X	X	X	X	X	X	
Swimming Lessons	X	X	X	X	X	X	X	X	X	X	X	
Temporary												
Concert, Outdoor (Temp.)	T	T	T	T	T	T	T	T	T	T	T	Subject to noise ordinance
Model Home	X	X	X	X	X	X	X	X	P	P	P	
Revival (Outdoor)	T	T	T	T	T	T	T	T	T	T	T	Subject to noise ordinance

(Ord. 0-2010-20, 3/10/10) (Ord. No. 0-2011-45; 6/8/11) (Ord. No. 0-2014-33; 4/23/14) (Ord. No. 0-2014-97; 10/22/14)

Sec. 10-49. Nonresidential District Use Table

USE GROUP Use Category *Use Sub-Category* Specific Uses	AG	AR	RPO	C-1	C-2	DBAC	PMXD-1	PMXD-2	PCD	INT	M-1	M-2	MU	OSP	Use Standards
RESIDENTIAL															
Household Living															
Single-Family Residential Detached	X	X													
Single-Family Residential Attached (Townhouse) (Rowhouse)						X	X	X							
Manufactured Home	S														
Model Home (Temporary)	X														
Modular Housing	X														
R.V. Park	S				S								X		
Security Office Quarters (Manufactured Home)					S					S	S	S			
Multi-Family (Apartment) (Condominium)						X	X	X							
Group Living															
Assisted Living				X	X	X	P	P	P	X					
Skilled Nursing Home/Rehabilitation				X	X	X	P	P	P	X					
Rehab and Recovery Facility (Alcoholic/Narcotic)				S	X	X	X		P	X					
Community Residence (6 or fewer residents)	X	X				S	S	S							
Community Residence (7 or more residents)						S	S	S							
Crisis Center	S			X	X		P	P	P		X				
Halfway House				S	S		S	S	S	S	S				
Homeless Day Resource Facility						S					S	S			
Rescue Mission/Home				S	S	S	S	S							
PUBLIC/CIVIC															
Correctional/Detention Facility						S	S				S	S			
Cultural Facilities and Libraries		X	X	X	X	X	P		P	X	X		X		
Hospital						X	S			X					
Parks and Open Space	X												X		
Amphitheater						X	P		P				X	S	
Animal Park	X					X	P						X	S	
Concerts, Fairs, Festivals				T	T	T	T	T		T			X	T	
Fairgrounds/Exhibition (Permanent)					X						X	X	X		
Golf Course	X	X	X	X	X	X	P	P	P	X	X	X	X	X	
Public/Private Park	X	X	X	X	X	X	P	P	P	X			X	X	
Rose Field (Municipal)	X												X	X	
Zoo	S				S						S	S	X	S	
Passenger Terminals													X		
Airfields, Airports, Landing Strips					S				S		S	S	X		
Bus Station/Terminal/Depot					X	X	P		P		X	X	X		
Heliport, Helistop Unlimited					S				S		S	S	X		
Heliport, Limited					S	S	S		S	S	S	S	X		
Public Assembly															
Community Center				X	X	X	P	P	P	X	X	X	X		
Convention Facilities (Public or Private)				S	X	X	S	S	S		X	X	X		
Stadium (Public or Private)					X	X	S	S	S		X	X	X		
Public Facilities															
Post Office	X	X	X	X	X	X	P	P	P	X	X	X	X	X	
Public Safety (Police/Fire)	X	X	X	X	X	X	P	P	P	X	X	X	X		

USE GROUP Use Category *Use Sub-Category* Specific Uses	AG	AR	RPO	C-1	C-2	DBAC	PMXD-1	PMXD-2	PCD	INT	M-1	M-2	MU	OSP	Use Standards
Major Utilities	X	S	S	S	S	S	S	P	P	S	S	S	X	S	
Minor Utilities	X	X	X	X	X	X	P	P	P	X	X	X	X	X	
Religious Assembly															
Church, Temple, Synagogue, Mosque	X	X	X	X	X	X	P	P	P	X	X	X	X	X	
Church Activity/Recreational Center	X	X	X	X	X	X	P	P	P	X	X	X	X	X	
Revival (Outdoor)	T	T	T	T	T	T	T	T	T	T	T	T	T	T	
School															
College, University, or Seminary						X				X					
College Dorm on Campus										X					
College Fraternity/Sorority House										X					
Elementary School		X	X	X	X	X	P	P	P	X					
School Student/Activity Center/Field (Public)	X	X	X	X	X	X	P	P	P	X	X	X		X	
Secondary School		X	X	X	X	X	P	P	P	X					
Pre-School/Kindergarten		X	X	X	X	X	P	P	P	X					
COMMERCIAL															
Agriculture															
Stables	X												X	X	
Farming															
Cattle Pens	X													S	
Dairy Farm	X													S	
Farm/Farmland-Crop Production	X										X			S	
Feed Lot	X											X	X		
Fish Pond	X				X				P		X	X	X		
Fruit/Nut Orchard	X										X			S	
Grain Storage Elevator	X											X		S	
Greenhouse, Plant Nursery	X				X	S	P	P	P		X	X		X	
Livestock	X										X			S	
Livestock Auction Facility	X													S	
Livestock Exhibition	T				T									T	
Poultry Production	X													S	
Tree Farm	X												X	S	
Animal Services															
Kennel (Commercial)					X	X	P	P	P		X	X			
Pet Grooming (No Overnight Stay)		X		X	X	X	P	P	P		X				
Pet Shop (No Outdoor Pens)				X	X	X	P	P	P		X				
Pet Shop (Outdoor Pens)					X		P	P	P		X				
Veterinary Clinic (No Outdoor Pens)			S	X	X	X	P	P	P						
Veterinary Clinic (Outdoor Pens)					X		P	P	P						
Banks & Financial Services															
Automatic Teller Machine (ATM)		S	X	X	X	X	P	P	P	X	X	X	X		
Bank				X	X	X	P	P	P						
Credit Union/Bureau			X	X	X	X	P	P	P	X					
Pawn Brokerage Shop					X				P		X				
Savings & Loan				X	X	X	P	P	P						
Bail Bonds					X	X					X	X			
Construction Sales and Service															
Bldg. Material/Home Supply Store					X	X	P	P	P		X				
Bldg. Material/Home Supply Str.(W/ Outdoor Storage)					X		P	P	P		X				

USE GROUP Use Category *Use Sub-Category* Specific Uses	AG	AR	RPO	C-1	C-2	DBAC	PMXD-1	PMXD-2	PCD	INT	M-1	M-2	MU	OSP	Use Standards
Cabinet/Woodwork Shop (Repair Only)					X		P	P	P		X	X			
Contractor's Shop/Storage Yard					S		S	S	P		X	X			
Electrical Plumbing, A/C Heat (Wholesale)					S		P	P	P		X	X			
Lumber/Building Materials Sales Yard					X		P		P		X	X			
Eating and Drinking Establishments															
Bakery (Retail)			X	X	X	X	P	P	P						
Cafe, Coffee Shop, Tea Room			X	X	X	X	P	P	P				X		
Commissary				X	X	X	P	P	P		X	X			
Delicatessen				X	X	X	P	P	P	X			X		
Donut Shop				X	X	X	P	P	P				X		
Food Truck Park, Minor				S	X	X	P	P	P		X	X			
Food Truck Park, Major				S	S	S	S	S	S		S	S			
Ice Cream Parlor (With or W/out Drive-Thru)				X	X	X	P	P	P						
Private Club			X	X	X	X	P	P	P	X	X				
Restaurant (With or W/out Drive-Thru)				X	X	X	P	P	P		X		X		
Entertainment															
Indoor															
Club/Social Organization	S			X	X	X	P	P	P		X		X		
Concert, Facility				X	X	X	P	P	P	X	X	X	X		
Country Club (Private)	S			X	X		P	P	P		X	X			
Dance Hall, Nightclub, Disco				X	X	X	P	P	P		X	X			
Theater, Playhouse		S		X	X	X	P	P	P		X		X		
Theater-Cinema				X	X	X	P	P	P		X				
Outdoor															
Amphitheater					S	X	S	S	S		S	S	X	S	
Carnivals/Circuses					T	T	T	T	T	T	T	T	T		
Concert Facility					S	X	S	S	S	S	S	S	X	S	
Concert, Outdoor (Temporary)	T														Subject to noise ordinance
Race Track (Horse/Dog)	S										S	S			
Race Track (Motorized)											S	S			
Recreational Field	T	T	T	T	T	T	T	T	T	T	T	T	T	T	
Rodeo Grounds	S										S	S	S	S	
Theater, Drive-In					X	X	S	S	S		X	X			
Funeral and Interment Service															
Cemetery, Mausoleum (Per State Law: No new cemeteries allowed within city limits.)	X	X	X	X	X	X	P	P	P	X	X	X	X	X	
Columbarium	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
Monument Sales Lot					X		S	S	P		X	X			
Mortuary/Funeral Home/Crematory					X	X	S	S	P		X				
Gas Station				X	X	X	S	S	P		X	X			
Lodging															
Bed & Breakfast		S	S	X	X	X	P	P	P						
Campground	S														
Hotel, Motel, Resort					X	X	P	P	P	S					
Medical, Dental, or Optical															
Dentist's Office (3 maximum)		X	X	X	X	X	P	P	P	X					
Dentist's Office (4 or more)				X	X	X	P	P	P	X					
Pharmacy (Apothecary)			X	X	X	X	P	P	P	X					

USE GROUP Use Category *Use Sub-Category* Specific Uses	AG	AR	RPO	C-1	C-2	DBAC	PMXD-1	PMXD-2	PCD	INT	M-1	M-2	MU	OSP	Use Standards
Physician's Office (3 maximum)		X	X	X	X	X	P	P	P	X					
Physician's Office (4 or more)				X	X	X	P	P	P	X					
Psychologist Office (3 maximum)		X	X	X	X	X	P	P	P	X					
Psychologist Office (4 or more)				X	X	X	P	P	P	X					
Optometrist's Office (3 maximum)		X	X	X	X	X	P	P	P	X					
Optometrist's Office (4 or more)				X	X	X	P	P	P	X					
Laboratory, Medical			X	X	X	X	P	P	P	X					
Office															
Abstract Office		X	X	X	X	X	P	P	P		X				
Accounting Office		X	X	X	X	X	P	P	P		X				
Advertising/Public Relations Agency		X	X	X	X	X	P	P	P		X				
Architect's, Engineer's, Planner's Office		X	X	X	X	X	P	P	P		X				
Attorney's Office		X	X	X	X	X	P	P	P		X				
Collection Agency			X	X	X	X	P	P	P		X				
Data Processing Service		X	X	X	X	X	P	P	P	X	X				
Employment Agency			X	X	X	X	P	P	P		X				
Geologist/Land Man Office		X	X	X	X	X	P	P	P		X				
Insurance Office		X	X	X	X	X	P	P	P		X				
Laboratory, Research				X	X	X	P	P	P	X	X				
Answering Service Office		X	X	X	X	X	P	P	P	X	X				
Photocopy/Fax Service Facility			X	X	X	X	P	P	P	X	X				
Print Shop				X	X	X	P	P	P		X				
Protection Service Office		X	X	X	X	X	P	P	P		X				
Stocks & Bonds Brokerage Office		X	X	X	X	X	P	P	P		X				
Studio (Broadcasting/ Recording)				X	X	X	P	P	P		X				
Tax Consultant/Financial Office		X	X	X	X	X	P	P	P		X				
Utility Company Office				X	X	X	P	P	P		X				
Office Park			X	X	X	X	P	P	P		X				
Parking Garage/Lot (Commercial)					X	X	P	P	P	X	X	X			
Personal and Consumer Service															
Art Studio, Instructional or Gallery		X	X	X	X	X	P	P	P	X			X		
Barber/Beauty Shop (Commercial)			X	X	X	X	P	P	P		X				
Barber/Beauty Shop (Maximum 2 Chairs)		X	X	X	X	X	P	P	P		X				
Barber/Beauty Shop One-Chair (Residential)	S														
Business, Professional School				X	X	X	P	P	P	X	X	X			
Catering Service		X	X	X	X	X	P	P	P				X		
Cleaning/Laundry Pick-Up Station				X	X	X	P	P	P		X				
Community Health/Welfare Center				X	X	X	P	P	P						
Day Care At Home (Adults) maximum 6	S														
Day Care At Home (Children) maximum 6	S														

USE GROUP Use Category *Use Sub-Category* Specific Uses	AG	AR	RPO	C-1	C-2	DBAC	PMXD-1	PMXD-2	PCD	INT	M-1	M-2	MU	OSP	Use Standards
Day Care Center (Adults or Children)				X	X	X	P	P	P	X					
Framing Shop		X	X	X	X	X	P	P	P		X				
Handicraft, Ceramic, Art Workshop		X	X	X	X	X	P	P	P		X				
Home Occupation	X	X													
Laundry/Cleaning (Self-Serv.)				X	X	X	P	P	P		X				
Optical/Eyewear Store		X	X	X	X	X	P	P	P	X	X				
Photography Studio	S	X	X	X	X	X	P	P	P		X				
Piano Lessons	X	X	X	X	X	X	P	P	P	X					
Swimming Lessons	X	X													
Tailor/Seamstress Shop		X	X	X	X	X	P	P	P						
Tanning Salon				X	X	X	P	P	P						
Tattoo Studio					X						X	X			
Travel Agency/Bureau		X	X	X	X	X	P	P	P						
Retail Sales and Service															
Antique Mall, Multiple Dealers		S		X	X	X	P	P	P						
Antique Shop (No Outdoor Display)		X		X	X	X	P	P	P						
Antique Shop (With Outdoor Display)					X	T	P	P	P						
Arts and Crafts Supply Store		X	X	X	X	X	P	P	P						
Auto Supply (W\O Install)				X	X	X	P	P	P		X	X			
Bicycle Shop				X	X	X	P	P	P		X	X	X		
Book Store				X	X	X	P	P	P	X					
Camera, Photography Store				X	X	X	P	P	P		X				
Cleaning Plant (Commercial)					X	X	P	P	P		X				
Clothing/Apparel (Custom Made)		X	X	X	X	X	P	P	P		X				
Clothing/Apparel Store				X	X	X	P	P	P		X				
Confectionery Shop (Retail)				X	X	X	P	P	P						
Convenience Store				X	X	X	P	P	P		X		X		
Department Store				X	X	X	P	P	P		X				
Discount Store				X	X	X	P	P	P		X				
Drug Store				X	X	X	P	P	P		X				
Feed/Seed Store					X	X	P	P	P		X	X			
Flea Market (Indoor Only)				X	X	X	P	P	P		X				
Flea Market (With Outdoor Display)					X				P		X				

USE GROUP Use Category *Use Sub-Category* Specific Uses	AG	AR	RPO	C-1	C-2	DBAC	PMXD-1	PMXD-2	PCD	INT	M-1	M-2	MU	OSP	Use Standards
Florist		X	X	X	X	X	P	P	P						
Food, Grocery Store				X	X	X	P	P	P						
Fruit-Vegetable/Produce Market					X	X	P	P	P		X	X			
Fruit-Vegetable Stand				T	X	X	P	P					X		
Furniture/Appliance (Sales & Service)				X	X	X	P	P	P						
Gift Shop		X	X	X	X	X	P	P	P		X		X		
Hardware Store				X	X	X	P	P	P		X				
Jewelry (Custom Made)		X	X	X	X	X	P	P	P		X				
Jewelry Store				X	X	X	P	P	P		X				
Key/Locksmith Shop				X	X	X	P	P	P		X				
Lawn & Garden Shop (No Outdoor Display)				X	X	X	P	P	P		X				
Lawn & Garden Shop (W/Outdoor Display)					X		P	P	P		X				
Lawn/Garden Equipment Sales & Service Store					X	X	P	P	P		X				
Meat/Seafood Market (No Processing)				X	X	X	P	P	P		X	X			
Medical Appliance Store			X	X	X	X	P	P	P	X					
Music Store				X	X	X	P	P	P						
Outdoor Display					X	T	P	P	P	T	X	X			
Outdoor Storage					X		P	P	P		X	X			
Outdoor Vending Machine				X	X	X	P	P	P		X	X			
Second Hand Store				X	X	X	P	P	P						
Sewing Machine Sales & Service				X	X	X	P	P	P		X				
Shoe Repair Shop				X	X	X	P	P	P		X				
Shoe Store				X	X	X	P	P	P						
Shoes, Boots, Purses (Custom Made)		X	X	X	X	X	P	P	P		X				
Swimming Pool Sales / Supplies					X	X	P	P	P		X	X			
Taxidermy Shop					X	X	P	P	P		X	X			
Tobacco Store				X	X	X	P	P	P						
Video Store				X	X	X	P	P	P						
Self-Service Storage Facility					X	X	S	S	P		X	X			
Sexually Oriented Business											X	X			
Sports and Recreation (Participant)															
Indoor															
Archery Range					X	X	P	P	P		X	X	X		
Bingo Parlor				S	X	X	P	P	P		X	X			
Bowling Alley				X	X	X	P	P	P		X	X			
Commercial Amusement Center				X	X	X	P	P	P		X	X			
Commercial Recreation Center				X	X	X	P	P	P		X	X			
Firearms Range					X	X	P	P	P		X	X	X		
Pool Hall, Game Room				X	X	X	P	P	P		X	X			
Private Recreational Club				X	X	X	P	P	P		X	X			

USE GROUP Use Category *Use Sub-Category* Specific Uses	AG	AR	RPO	C-1	C-2	DBAC	PMXD-1	PMXD-2	PCD	INT	M-1	M-2	MU	OSP	Use Standards
Skating Rink				X	X	X	P	P	P		X	X			
Outdoor															
Archery Range									S		S	S	X	S	
Commercial Amusement Park				S	X	X			P		X	X	X		
Commercial Recreation Park				S	X	X			P		X	X	X	X	
Day Camp	X				X				P		X	X	X	X	
Firearms Range					S				S		S	S	X	S	
Fish Pond (Commercial)					X				P		X	X		X	
Go-Cart Track					S				S		S	X		S	
Golf Course, Miniature Golf, and Driving Range					S				S		S	S	X	S	
Marina/Boat Dock					S		S	S	S		S	S	X		
Riding Stable/Club	S				S								X	S	
Rodeo Grounds											S	S	X	S	
Skating Rink (Outdoor)					X	X	P	P	P		X	X	X	S	
Skeet/Trap Range					S				S		S	S	X	S	
Telecommunications/Broadcasting Towers/Buildings				S	S	S	S	S	S	S	S	S			
Vehicle & Equipment Sales, Rental & Service															
Automobile/Light Truck/Motorcycle Dealership					X		P	P	P		X	X			
Auto Detail Shop				X	X				P		X	X			
Auto Glass, Muffler, Seat Cover, Headliner Shop					X				P		X	X			
Automobile Rental Agency					X		P	P	P		X	X			
Auto/Truck/Equipment Auction Facility					X		P		P		X	X			
Battery Service Shop					X				P		X	X			
Car Wash				X	X		P	P	P		X				
Tire Sales & Service Center (With Outdoor Display)					X				P		X	X			
Tire Sales & Service Center (w/o Outdoor Display)				X	X	X	P	P	P		X	X			
Motor Vehicle Repair															
Auto and Motorcycle Service Garage					X	X	S	S	P		X	X			
Auto Supply (W\ Install)					X	X	P	P	P		X	X			
Auto/Truck Paint & Body Shop							P	P	P		X	X			
Transmission Repair Shop					X	X			P		X	X			
Vehicle Towing Service					S						X	X			
Heavy Equipment/Vehicle Sales/ Rental															
Boat Dealership					X				P		X	X			
Heavy Equipment/ Machinery Rental Yard					X						X	X			
Heavy Machinery Dealership (Sales & Service)					S						X	X			
Manufactured Housing Sales Lot					X						X	X			
R.V. Dealership					X				P		X	X			

USE GROUP Use Category *Use Sub-Category* Specific Uses	AG	AR	RPO	C-1	C-2	DBAC	PMXD-1	PMXD-2	PCD	INT	M-1	M-2	MU	OSP	Use Standards
Truck Stop (Fuel, Service)					X						X	X			
Truck/Heavy Equipment Rental Facility					X				P		X	X			
Truck/Tractor (Sales, Rental, & Service)					X				P		X	X			
INDUSTRIAL															
Manufacturing, Production & Industrial Service															
Limited															
Electronic/Electrical Equipment Mfg.												X			
Food Manufacturing/ Processing Plant						X					X	X			
Furniture/Fixtures Manufacturing Plant												X			
Lithographic Shop/ Commercial Printer				X	X				P		X				
Meat/Fish Packing Plant												X			
Milk Distribution Station					X						X	X			
Newspaper Printing Plant					X	X			P		X	X			
Poultry Processing Plant												X			
Printing/Publishing Plant						X					X	X			
Sheet Metal Fabrication Shop											X	X			
Sign Contractor's Shop/Yard					X						X	X			
General															
Acid Manufacturing Plant												X			
Auto/Truck Assembly Plant												X			
Boat Manufacturing Plant											X	X			
Chemicals/Allied Products Mfg. Plant												X			
Fabricated Metal Production Facility												X			
Fertilizer Plant											X	X			
Grain/Feed Processing Plant	X										X	X			
Foundry/Metals Manufacturing Plant												X			
Home Appliance Manufacturing Plant												X			
Industrial/Commercial Equipment Mfg.												X			
Motor Freight Terminal											X	X			
Pulp-Paper Mill												X			
Railroad Depot					X	X					X	X			
Railroad Freight Terminal												X			
Sand, Gravel, Stone, Earth, Mineral Extraction	S	S	S	S	S	S	S	S	S	S	S	S			
Sand, Gravel, Stone, Earth, Mineral Sales											X	X			
Textile Mill												X			
Tire Retreading/ Vulcanizing Plant											X	X			
Wood Products Mfg. Plant (10+ Employees)											X	X			
Oil/Gas Treatment															
Oil & Gas Exploration (Drilling Activity)	S	S	S	S	S	S	S	S	S	S	S	S	X		
Oil & Gas Exploration (Producing Well)	S	S	S	S	S	S	S	S	S	S	S	S	X		
Oil & Gas Field Equipment Sales/Rental											X	X			
Oil & Gas Treatment/ Processing Plant												X			
Petroleum Refinery												X			
Petroleum Tank Farm												X			
Research Laboratory															
Laboratory Mfg.											X	X			
Warehousing and Wholesaling															
Frozen Food Locker Plant					X				P		X	X			

USE GROUP Use Category *Use Sub-Category* Specific Uses	AG	AR	RPO	C-1	C-2	DBAC	PMXD-1	PMXD-2	PCD	INT	M-1	M-2	MU	OSP	Use Standards
Hauling & Storage Facility					X				P		X	X			
Warehouse & Distribution Center					X				P		X	X			
Waste and Disposal															
Junk/Salvage Yard												S			
Sanitary Landfill												S	X		
Recycling Facilities															
Building Materials Salvage Yard												X			
Industrial Recycling Plant												X	X		
Recycling Center/Collection (Cans, Glass, Paper)					X	X	P		P		X	X	X		
Recycling Center (Hazardous Material)												X			

(Ord. 0-2009-19, 3/11/09) (Ord. No. 0-2011-8; 1/26/11) (Ord. No. 0-201-45, 6/8/11) (Ord. No. 0-2012-38; 4/25/12) (Ord. No. 0-2014-113; 12/10/14) (Ord. No. 0-2016-8; 1/27/16)

DIVISION B. Use Category Descriptions

Sec. 10-50. Residential Use Categories

a. Household Living

Includes all residential dwelling units occupied by a household on a month-to-month or longer basis. Typical use types include detached single-family dwellings, attached single-family dwellings; multi-family dwellings; duplexes, accessory dwelling units; manufactured home parks; and planned residential developments.

b. Group Living

Includes residential uses other than household living, such as assisted living units, nursing homes, community residences for special populations such as the elderly, persons with disabilities, persons recovering from addition or domestic abuse, and the homeless; caretaker typically on duty from 8 to 24-hours/day; provides common kitchen/dining facilities.

1. **Typical Use Types**

(a) Assisted Living

A group living facility that provides health and living services for persons who because of age, illness or infirmity cannot live independently but do not require continuous nursing care.

(b) Community Residence

A single dwelling unit occupied on a relatively permanent basis in a family-like environment by unrelated persons with disabilities.

(1) **Small**

Small community residences house no more than 6 residents plus staff, are certified by the State of Texas, and are supervised by full-time paid professional support staff whenever residents are present.

(2) **Large**

Large community residences are either not licensed or certified by the State of Texas, or are not supervised, or have 7 or more persons plus staff, whether licensed or not.

(c) Crisis Center

A secure public or private facility established to offer assistance, temporary shelter and counseling to individuals who have suffered a crisis in their personal lives and which may be in danger of physical or psychological harm.

(1) **Small**

Small crisis centers house no more than 6 residents plus staff, whether licensed or not.

(2) **Large**

Large crisis centers have 7 or more persons plus staff, whether licensed or not.

(d) Halfway House

A licensed group residential facility for housing inmates on release from more restrictive custodial confinement, or for housing other individuals, initially placed in such a facility, in lieu of more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to aid residents in their return to society, thus enabling them to live independently.

(e) Rehabilitation and Recovery Facility

A residential facility which provides housing and care to not more than six persons, regardless of legal relationship, who have demonstrated a tendency towards alcoholism, drug abuse, living together with not more than two supervisory personnel, as a single housekeeping unit.

(f) Rescue Mission/Home

A group residential facility, usually operated by a nonprofit, charitable, or religious organization, which provides temporary boarding and/or lodging and ancillary services on the premises to primarily indigent, needy, homeless, or transient persons.

(g) Skilled Nursing Home/Rehabilitation Center

A facility that provides medical, nursing, and/or rehabilitation services for persons who require 24-hour skilled nursing supervision and care.

c. Industrialized Housing

Pursuant Texas Occupations Code, Chapter 1202.253, or successor, a municipality may adopt regulations that require single-family or duplex industrialized housing or duplex industrialized housing to:

1. have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for each county in which the properties are located;
2. have exterior siding, roofing, roofing pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located;
3. comply with municipal aesthetic standards, building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, square footage, and other site requirements applicable to single-family dwellings; or
4. be securely fixed to a permanent foundation.

d. Impediments to Fair Housing

The City of Tyler has many residential zoning districts which allow for a variety of housing types. The allowed housing categories include single-family detached homes, single-family attached homes (i.e. duplexes, townhouses and rowhouses), garage apartments, loft apartments, apartment complexes and manufactured homes. In addition, the zoning districts allow for a variety of lot sizes ranging from a minimum size of 3,000 square feet to 43,560 square feet (one acre). The maximum density allowed for apartment complexes is 24 units per acre, and there is no minimum density required. These zoning districts are found in all areas of

the City. This affirmatively demonstrates that there are no impediments to fair housing in the City of Tyler. (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-51. Public and Civic Use Categories

a. Correctional/Detention Facility

A public facility, operated by Smith County, the State of Texas, or the federal government, or by a commercial entity under contract to one of these governments, used for long-term incarceration of individuals convicted of crimes. Such facilities include minimum and maximum security prisons for adults and juvenile detention centers for minors.

b. Cultural Facilities and Libraries

Includes arts, culture, and performing arts facilities, such as museums, theaters, libraries, and art exhibit spaces.

c. Day Care Centers

Uses providing care, protection, and supervision for children or adults on a regular basis away from their primary residence.

d. Hospital

Uses providing medical or surgical care to patients and offering inpatient (overnight) care.

e. Parks and Open Space

Includes active and passive recreation, social, and multi-purpose uses typically associated with public parks, public open spaces, outdoor recreation areas, and associated buildings. (*see also* Sports and Recreation (Outdoor)). Typical uses include animal parks, ball fields, botanical gardens, fairgrounds and permanent exhibition sites, recreational vehicle parks, and zoos.

f. Passenger Terminals

Facilities serving for passenger arrival and departure by travel modes such as aircraft, bus, or train. Typical uses include airports, landing strips, bus stations and depots, and heliports.

g. Public Assembly

Includes convention centers and stadiums.

h. Public Facilities

Includes uses such as police and fire stations and post offices.

i. Religious Assembly

Religious uses commonly involving public assembly as customarily occurs in churches, synagogues, mosques, and temples.

j. School

Includes all primary, elementary, middle, and high schools (both public and private, and charter or religious). Also includes colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree usually in a campus setting.

Sec. 10-52. Commercial Use Categories

a. Animal Sales and Service

Includes enclosed retail sales, veterinary services, grooming, and boarding of small, domesticated household pets within a building and buildings designed or used for the care, observation, or treatment of domestic animals. Typical uses include kennels, pet shops, pet grooming shops, and veterinary clinics.

b. Banks and Financial Services

Includes financial or securities brokerage services, including but not limited to stand-alone automatic teller machines, banks, savings and loan offices, and consumer investment businesses. Also includes pawn shops and payday loan outlets.

c. Construction Sales and Service

Includes construction activities and incidental storage on lots other than construction sites; Also includes the retail or wholesale sale of materials used in the construction of buildings or other structures other than retail sale of paint, fixtures, and hardware, and excluding those uses classified under "Vehicle Sales and Service." Typical uses in this category include building material supplies stores, e.g., lumber yards, cabinet/woodworking shops, contractor's shops and storage yards, wholesale electrical, plumbing, air conditioning and heating outlets,

d. Eating Establishments

Any establishment primarily engaged in serving prepared food to the public, including those with outdoor seating areas. Typical uses include bakeries, cafes, coffee shops, delis, ice cream parlors, and restaurants.

e. Entertainment (Indoor)

Includes movie theaters, dance clubs, country clubs, social clubs, where alcohol may be served.

f. Entertainment (Outdoor)

Includes open air amphitheaters, rodeo grounds, and drive-in theaters.

g. Funeral and Interment Service

Includes establishments that provide services of preparing the dead for burial and arranging or managing funerals, including funeral homes, crematories, and cemeteries.

h. Gas Station

Includes establishments whose principal use is the dispensing and retail sales of motor vehicle fuels, oil, and accessories, where repair service or car wash facilities is incidental, and where no motor vehicle storage is present and where no motor vehicles are offered for sale.

i. Lodging

Includes all overnight accommodations intended for short term stays of less than 30 days for rent or lease. Includes bed and breakfast establishments, boarding or rooming houses,

j. Medical and Dental Clinic

Includes establishments where patients are treated on an outpatient basis by physicians, dentists, or optometrists; blood banks, also includes medical laboratories that serve such clinics; does not include facilities for overnight stays by patients.

k. Office

Professional, governmental, executive, management or administrative offices of private or governmental organizations.

l. Office Park

A large tract of land, often developed as a campus, that has been planned, developed, and is operated as an integrated facility for a number of separate office buildings and supporting ancillary uses.

m. Parking Garage/Lot (commercial)

Facilities that provide car parking for a fee or free of charge that are not an accessory activity to a principal use.

n. Personal and Consumer Service

Sale of any service to individual customers for their own personal benefit, enjoyment, or convenience. For example, consumer services include the provision of personal services such as beautician and barbering services, specialized instruction, laundry and dry cleaning services, and all other similar services.

o. Retail Sales and Service

Businesses that sell, lease, or rent new or used products to the general public that are not intended for resale. Typical uses include bookstore, clothing store, convenience stores, department stores, furniture and appliance stores, gift shops, hardware stores, lawn & garden centers, pharmacies, shoe stores, thrift shops, and video stores.

p. Self Service Storage Facility

Storage or warehousing service within a building for individuals to store personal effects and for businesses to store materials for operation of an industrial or commercial enterprise located elsewhere, where such storage space is not used for any retail, manufacturing, wholesale, business or service use.

q. Sexually Oriented Business

Includes adult bookstores, adult motion picture theaters, adult mini motion picture theaters, adult entertainment cabarets, adult model studios, massage establishments, or similar establishments.

r. Sports and Recreation (Participant)

1. **Indoor**

   Generally commercial uses, varying in size, providing daily or regularly scheduled entertainment-oriented activities in an indoor setting. Typical uses in this category include bingo parlors, bowling alleys, commercial amusement centers/game arcades, firearms ranges, pool halls, and skating rinks.

2. **Outdoor**

   Commercial uses, varying in size, providing daily or regularly scheduled recreation or entertainment-oriented activities. Such activities may take place outdoors or within a number of structures. Typical use types in this category include commercial amusement parks, day camps, firearms ranges, fish ponds (commercial), go-cart tracks, golf courses, riding stable/clubs, skating rink, and skeet/trap shooting ranges.

s. Vehicle and Equipment Sales and Service

Includes businesses engaged in direct sales of and service of passenger vehicles, light and medium trucks, and other consumer vehicles such as motorcycles, boats, and recreational vehicles. Also includes self service and staffed car washes, battery service shops, oil change shops.

t. Heavy Equipment and Vehicle Sales/Rental

Includes any business that sells, leases, rents, or wholesales from the premises automobiles, noncommercial trucks, motorcycles, trailers with less than 10,000 lbs. of gross cargo capacity, motor homes, and boat dealers, along with incidental maintenance. Also includes any businesses that sells, leases, rents or wholesales from the premises heavy construction equipment, farm implements, tractors, trucks, or aircraft, along with incidental maintenance.

u. Motor Vehicle Repair

A business or premises where repair work on or for motor vehicles, the replenishing of parts thereto, the changing of tires, the diagnosis of malfunctions of a motor vehicle, or the estimating of damage and necessary repairs is conducted. Typical motor vehicle repair use types include auto service garage auto supply store, w/installation; auto transmission repair shop; auto/truck paint & body shop and tire sales and service (w/ and w/o outdoor display).

v. Right-Of-Way Food Sales

Right-of-way food sales not in compliance with Tyler City Code Chapter 17 are prohibited and are illegal. Also, any food sales are subject to any applicable Orders of the Northeast Texas Public Health District. (Ord. No. 0-2012-38; 4/25/12) (Ord. No. 0-2014-113; 12/10/14)

Sec. 10-53. Industrial Use Categories

a. Manufacturing, Production and Industrial Service

1. **Limited**

   Includes facilities that manufacture finished parts or products, primarily from previously prepared materials, typical use types include eletronic/eletrical equipment manufacturing; food and beverage manufacturing and processing plant; furniture and fixtures manufacturing plant; lithographic shop/commercial printer; milk distribution station; newspaper printing plant; recycling collection (outdoor); reprographic service; sheet metal fabrication shop; and sign contractor's shop/yard.

2. **General**

   Includes facilities that manufacture finished or unfinished products, primarily from extracted or raw materials, or recycled or secondary materials, or bulk storage and handling of such products and materials, typical use types include animal slaughtering, rendering, and tanning boat manufacturing plant and yard chemical and acid manufacturing plant explosives manufacturing/storage fertilizer plant; foundry; grain/feed processing plant; home appliance manufacturing plant; industrial and commercial equipment manufacturing plant; metal fabrication and production facility; sand, gravel, stone, mineral extraction; textile mills; and wood products manufacturing plant.

b. Oil/Gas Treatment

Typical use types include bulk storage of flammable materials; oil & gas exploration (drilling); oil & gas exploration (producing well); oil & gas field equipment sales/rental; oil & gas treatment/processing plant; refinery; and petroleum tank farm.

c. Research Laboratory

A building or group of buildings used for scientific research, investigation, testing or experimentation, but not primarily facilities for the manufacture or sale of products.

d. Trucking/Freight Terminal

A building or area where freight is collected, stored, and/or dispatched for intrastate or interstate shipment.

e. Warehousing and Wholesaling

Typical uses include storage, wholesale sales, and materials distribution and equipment, including but not limited to storage warehouses, moving and storage firms, trucking or cartage operations, truck staging or storage areas, frozen food locker plants, hauling and storage facilities and warehouses and distribution centers.

f. Waste and Disposal

1. **Junkyard**

   Any land or structure used for a salvaging operation, including, among other things, the storage and sale of wastepaper, rags, scrap metal and discarded materials, and the collecting, dismantling, storage and salvaging of unlicensed, inoperative vehicles.

2. **Sanitary Landfill**

   A method of disposing of refuse in accordance with state and federal regulations.

g. Recycling Facility

Any business that engages in the collection, storage or processing of any type of aluminum, glass, paper, plastic, rubber, textile, landscape waste or other similar materials for the purpose of marketing the material for use in the manufacturing process of new, reused or reconstituted products. Typical use types include industrial recycling plant, recycling center (cans, glass or paper); recycling center (hazardous material); and recycling collection.

Sec. 10-54. Agricultural Use Group

a. Farming

Includes activities such as growing crops, managing livestock, forestry, tree farming, dairy farming, stock, and poultry farming; also includes storage, exhibition, and production of farm goods and products. Typical use types include dairy farm; crop production; grain elevator; livestock; livestock auction facility; orchard; and tree farm.

Sec. 10-55. Other Uses Not Yet Categorized

a. Accessory

A subordinate use that is incidental to and customary in connection with the principal building or use and is located on the same lot.

b. Drive-through Facilities

1. Facilities used to provide or dispense products or services, through an attendant or a window or an automated machine, to persons remaining in vehicles that are in a designated stacking aisle and not in a building or facility as defined in subsection 2 of this section. A drive-through facility may be in combination with other uses, such as a financial institution, personal service use, retail store, or eating establishment. A drive-through facility does not include a car wash, gas station or building or facility regulated by subsection 2 of this section.

2. Drive-through service areas used primarily for retail sale or delivery of pre-packaged foods or beverages for off-premises consumption. The use of an enclosed or unenclosed drive-through service area that allows passage of motor vehicles therein for the primary purpose of retail sale of, or retail delivery of, pre-packaged foods or beverages for off-premises consumption, is only allowed through the issuance of a Special Use Permit. For purposes of this subsection, the term "enclosed" means a drive-through service area allowing entry and exit of motor vehicles, that is used primarily for retail sale or delivery directly to the public, and which is completely enclosed or covered by, or the majority of the service area is enclosed or covered by, solid walls, windows or partitions on at least two (2) sides. For purposes of this subsection, the term "pre-packaged foods or beverages" shall include foods or beverages for off-premises human consumption that are not prepared on site at the location. Activity under this subsection is allowed only in the "M-2", General Industrial District, and only if the City Council approves the issuance of a Special Use Permit pursuant to Chapter 10, Article IX., Division A. (Ord. No. 0-2012-90; 11/13/12)

c. Home Occupation

A business use that takes place on the premises of a residential use, either within the dwelling unit or in an accessory structure or building, where the dwelling unit is the principal residence of the business operator.

d. Wireless Communication Facility

Facilities related to the use of the radio frequency spectrum for the purposes of transmitting or receiving radio signals. These may include, but is not limited to, radio towers, television towers, telephone exchanges, microwave relay towers, telephone transmission equipment buildings, and commercial mobile radio service facilities. The wireless communication facility use category includes all associated equipment unless the written context clearly indicates that another meaning is intended. The term "associated equipment" is to be read broadly and in context. Associated equipment may include, but is not limited to: antenna, equipment shelter or platform, lighting, monopole tower, mounting hardware, and supporting electrical or mechanical equipment.

1. **Freestanding**

   A wireless telecommunication facility that is attached to an existing pole, tower, or other structure including, but not limited to, a structure that can accommodate the future installation of two or more antenna systems.

2. **Colocated**

   A new tower, monopole, or other unattached structure erected to support wireless communication antennas and connecting appurtenances.

Sec. 10-56 - 59. Reserved

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Division C. Limited and Specific Use Standards

Sec. 10-60. Manufacturing

a. In the M-1 District, all manufacturing, assembly, repair, or work activity, other than permitted storage or sales, must take place inside an enclosed building.

b. In the M-2 District, all manufacturing, assembly, repair, or other manufacturing activities, may take place outside the enclosed building, provided it is surrounded by a sight-proof screen which restricts the public view of the activity. Offices that operate in conjunction with the manufacturing use must be conducted indoors. The following uses may require approval of the Northeast Texas Public Health District, the city fire marshal and/or other federal, state, and county regulatory agencies. The city may require additional restrictions designed to protect the public health, safety, and welfare.

1. Automobile or equipment salvage yard;
2. Building material salvage yard;
3. Salvage yard for any kind of material;
4. Scrap metal storage yard;
5. Used building materials storage yard; and
6. Any other operation which in the opinion of the planning director is similar in operation or appearance to the uses listed above.

Sec. 10-61. Reserved

Sec. 10-62. Manufactured Home Parks

a. Purpose

The purpose of this section is to provide for manufactured home parks which lease pad sites within the park. In such manufactured home parks, no buildings or land may be used and no building may be erected or structurally altered, unless otherwise provided in this section, except for one or more of the following uses, which are expressly prohibited in any other use district.

b. Required Conditions

1. Manufactured home parks will be permitted only on land zoned R-MH Manufactured Home Residential District.
2. Minimum area is 10 acres.
3. A manufactured home park must contain a minimum of 20 spaces.
4. The density must not exceed nine units per acre.
5. A solid wall or fence at least six feet in height must be erected and maintained along all boundaries of an R-MH District developed as a manufactured home park; except:
   (a) Where its boundary abuts another manufactured home development.

6. Park must have direct access to a street having a dedicated and accepted right-of- way of not less than 60 feet.
7. An internal street must be provided to each R-MH space. Each internal street must be paved to a width of not less than 25 feet. The internal streets must be continuous and connect to other internal streets or with public streets, or be provided with a paved cul-de-sac having a diameter of 95 feet. No internal street ending in a cul-de-sac may exceed 600 feet in length. (ORD. 0-97-62, 12/10/97)
8. Accessory buildings in the R-MH district must be at least 10 feet from any side or rear line of a plot, lot, or tract and will be subject to the front yard requirements provided in the residential dimensional standards table in Sec. 10-27.
9. Accessory structures in the R-MH district, such as an awning, cabana, carport, storage cabinet, or porch that has a floor area of 25 square feet or more will be considered the same as a manufactured home for establishing the minimum side yard clearance.

Sec. 10-63. Single-Family Attached and Multi-Family Residential Districts

a. Open Space Requirements

1. Each lot or parcel of land that is used for multi-family residences must provide 15 percent useable open space per unit.
2. The open space must be located on the same lot or parcel of land or adjacent land under unified control.
3. Pools, tennis courts, walkways, patios, and similar amenities may be located within areas designated as useable open space. Covered or underground easements with useable open space may be included as part of the recommended open space. Areas occupied by enclosed buildings (except gazebos and pavilions), street and alley rights-of-way and/or easements, driveways, parking and drainage channels may not be included in calculating useable open space. (Ord. No. 0-2014-97; 10/22/14)
4. Useable open space must be a minimum of 15 feet wide and have no slope greater than ten percent.
5. The city council may approve a decrease in the amount of required open space when the site plan includes unique design features or amenities that achieve an especially attractive and desirable development such as, but not limited to, terraces, sculpture, water features, preservation and enhancement of unusual natural features, or landscape sculpture (areas which are intensely landscaped).

Sec. 10-64. Outdoor Sales and Promotional Activities

a. Outdoor sales and promotional activities are permitted in accordance with the nonresidential use table in Sec. 10-49 and may be temporarily displayed or conducted outdoors in districts, provided:

1. The display or activity must be limited to the private walk or parking area in front of the store.
2. The special sales merchandise displayed outdoors, e.g., a "tent sale" or "parking lot sale," and its location, are approved by the planning director, through issuance of a temporary use permit (TUP).

3. The special promotional devices, or promotional activities, e.g., balloons, banners, etc., and their location, are approved by the planning director, through issuance of a Temporary Use Permit (TUP).

Sec. 10-65. Planned Districts

a. A planned district may be established only on a tract that is in single ownership or under unified control.

b. All parking, loading areas, and walks within a planned district must be paved with hard surface material meeting applicable city specifications.

c. Any part of the project area not used for buildings or other structures, or for parking, loading, or access ways, must be landscaped with grass, trees, shrubs, and pedestrian walks in compliance with the city landscape ordinance.

d. A planned district must be located in a way that acceptable access to major thoroughfares and those thoroughfares must be adequate to carry the additional traffic generated by the uses in the planned development.

Sec. 10-66. Townhouses

a. There may be up to six attached townhouses in one continuous row or group.

b. No dwelling unit may be constructed above another unit.

c. All townhouse or accessory structures within a contiguous group must be at least 15 feet from any portion of a townhouse or accessory structure of another townhouse group.

d. Each lot or parcel of land that is used for townhouse residences must provide 15 percent useable open space per unit.

Sec. 10-67. Two-Family Residences in R-1C

a. Expansion of two-family occupancy is prohibited in an R-1C district. Parcels developed for single-family occupancy may not be redeveloped or modified at a higher density. Undeveloped parcels in the district are limited to single-family housing.

b. All property developed and currently used for two-family occupancy in the R-1C district are permitted to continue as such.

c. Any property developed as two-family housing may resume such use after any period of time in which such occupancy has been discontinued.

d. For those properties permitted the continuation of existing two-family occupancy, the right is reserved to rebuild if the structure(s) are totally or partially destroyed or damaged by fire, explosions, acts of God, or the public enemy, under the following conditions:

1. The structure(s) may be restored to their original dimensions and two-family occupancy continued if the repairs or rebuilding are initiated within 120 days of destruction or damage. If repairs or rebuilding is not initiated within the 120 days, as evidenced by the issuance of a building permit, any repairs or new construction will conform to all of

the regulations of the R-1B Single Family Residential District, including the limit of single-family occupancy.

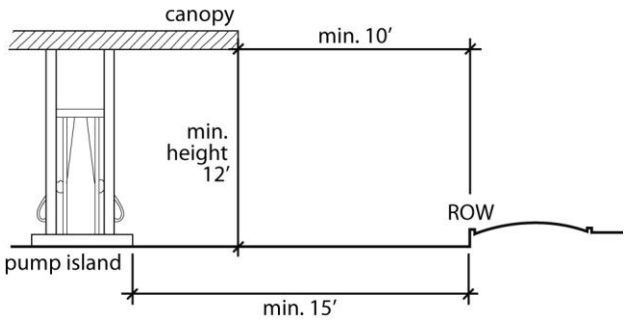
2. If the structure is damaged to an extent that is less than 50 percent of the assessed value as listed on the records of the Smith County Appraisal District, the structure(s) may be repaired or reconstructed to original dimensions and continue to be used for two-family occupancy if such repairs or reconstruction are completed within one year from the date of such damage.

Sec. 10-68. Gas Stations

The sale of gasoline or other motor fuels is permitted in accordance with the use tables in Sec. 10-49, provided:

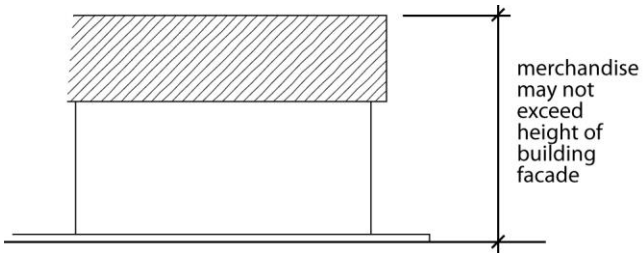
a. That pump islands are located a minimum of 15 feet from any public right-of-way.

b. That island canopy overhangs are located at least 10 feet from any public right-of-way, have a minimum height of 12 feet and supportive posts of such canopies are located at least 15 feet from any public right-of-way.



c. Outdoor Display and Service

1. Gas stations in industrial districts may openly display merchandise commonly sold by such operations, provided that the display does not extend to a height greater than that of the front facade of the main building, nor the vertical area of the display, exceed 50 percent of the vertical area of the front facade of the main building.



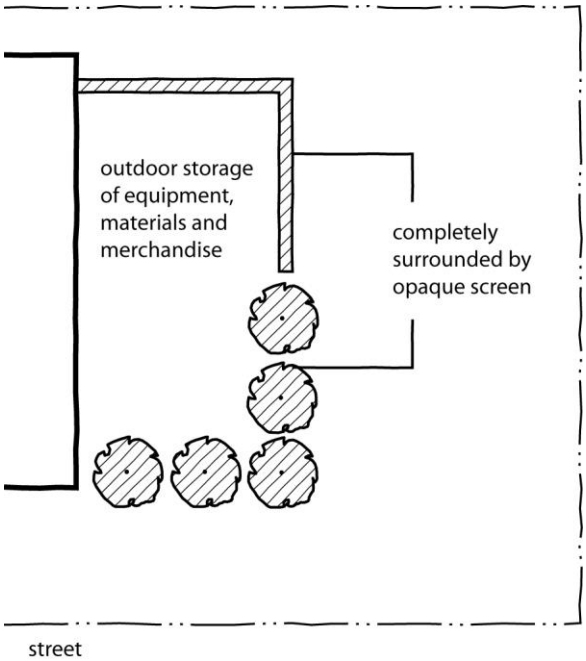
2. Gas stations may be used for the storage of rental trucks or trailers, if paved parking is provided for the trucks and trailers, and these rental vehicles do not occupy required off street parking spaces.

3. Areas used for outdoor storage or display must be maintained so that excessive dust, fumes or odors will not be produced by continued use.

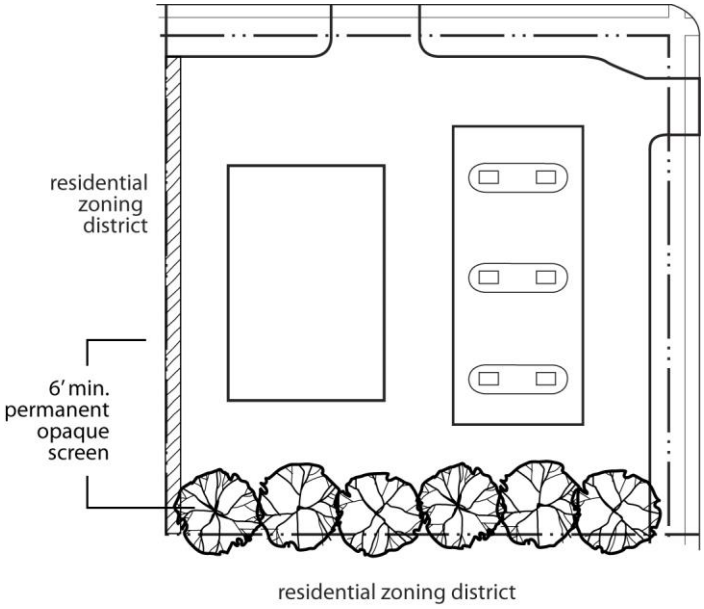
4. Areas devoted to required parking spaces, loading areas, vehicle maneuvering, public sidewalks, or street right-of-way may not be used for display or sales.

d. Screening

1. Outdoor storage of equipment, materials, and merchandise for sale on the service station premises is permitted. Outdoor storage of equipment, materials, or merchandise not actively offered for sale or use must be surrounded by an opaque screen which restricts their view from the public.



2. In all districts in which service stations are permitted, a permanent opaque screening fence, wall, or landscaped buffer must be provided along any side or rear property line which abuts property zoned for residential purposes. The opaque screening fence must be a minimum height of six feet, measured from finished grade to the top of the screen. All fences and buffer areas must be maintained in a safe and orderly condition.



e. Overnight Stays

Sleeping facilities required by security personnel employed upon the premises are permitted in the M-1 and M-2 districts. No other overnight accommodations, including residential uses, are allowed.

Sec. 10-69. Wireless Transmission Facilities

Broadcasting and Communication Towers/Antennas

1. **Purposes**

(a) To provide for broadcasting or reception towers or antennas situated on non-residential sites that are intended for transmitting or receiving television, radio, cellular, or telephone communications.

(b) To establish guidelines for the placement of towers and antennas.

(c) To encourage the joint use of new and existing tower sites.

(d) To balance the need of providers of telecommunications services to provide quick, effective, and efficient service with the safety and welfare of the public pursuant to federal law.

2. **Required Conditions**

Any commercial, radio, television, cellular, or microwave towers, reflectors, antennas, or support structures constructed after the effective date of this ordinance (3/26/03) are prohibited in Residential districts.

3. **Special Use Permit and Site Plan Required**

Broadcasting and communications towers or antennas may not be constructed unless the planning and zoning commission has reviewed, and city council has approved, a Special Use Permit (SUP) and site plan pursuant to Article IX, Division A.

4. **Procedures**

Any person wishing to construct a new broadcasting or communication tower/antenna must make application to the planning department for a special use permit. A detailed site plan must be submitted with the SUP application for each tower/antenna location, and must contain the following:

(a) Location of proposed tower/antenna, including the zoning and land use of adjacent property.

(b) All significant structures within one-half mile of the proposed tower/antenna location. Significant structures include all publicly or privately owned buildings or structures (excluding utility poles) or street or traffic light standards, that are equal to or greater than 20 feet below the requested antenna height. This information will be used to determine where co-location sites exist in lieu of the construction of new towers/antennas.

(c) Propagations for the area as provided for the initial site determination (if applicable).

(d) Photo or architectural simulation of the proposed tower/antenna development site from adjacent properties and rights-of-way.

(e) A detailed landscape/screening plan to include the complete pad site. The landscape/screening plan must be consistent with the design and material of the surrounding properties. Additional requirements as to landscaping, lighting, screening, accessways, driveways, signs, and other like requirements may be imposed by the planning and zoning commission and city council for the protection of adjoining and surrounding properties.

(f) Name, address, and telephone number of the person or entity responsible for removal of a tower/antenna in the event of abandonment. Should any of this information change after a SUP has been approved, such updated information must be provided to the planning department within 10 days.

(g) Copies of FAA application or approval.

(h) Explanation justifying the requested height of the tower/antenna.

(i) Written confirmation from owners or authorized agents or structures identified as significant according to subsection d.2 above that details the reason(s) why the proposed tower/antenna cannot be co-located on a significant structure or building.

(j) Engineering documents verifying new towers are able to accommodate no less than three but not more than five carriers based on structural data.

(k) Adequate land area must be provided to accommodate up to three carriers but no more than five.

(l) The application will be placed on the next available meeting of the planning and zoning commission. Any decision by the commission to deny a SUP for a tower or antenna will be in writing and supported by substantial evidence contained in a written record. Pursuant to Article IX, Division A, denial of a SUP may be appealed to the city council.

(m) Upon appeal, the application for a SUP for a tower/antenna will be placed on the next scheduled city council meeting designated for hearing zoning matters. The city council must approve or deny the application for the SUP for a tower/antenna no later than 90 days after the original filing with the planning department. If the application is not denied within said 90-day period, then the application will be deemed approved. Any decision by the city council to deny an SUP for a tower/antenna must be in writing and supported by substantial evidence in a written record.

5. Administrative Approval for Changes to Existing Towers/Antennas

Broadcasting and communication towers or antennas which are to be constructed on previously permitted towers, antennas, buildings, or structures within any zoning district will not require a special use permit and may be approved by the planning director subject to the following:

(a) The planning director must approve or reject the request within 60 days the filing of the request with the planning department. If the application is not denied within the 60-day period, then it will be deemed approved.

(b) Written record. Any decision by the planning director to deny a request for a change or alteration to a previously permitted tower, antenna, building, or structure must be in writing and supported by substantial evidence contained in a written record. The written decision of denial by the planning director must also indicate that the applicant may appeal, within 10 days, the decision of the

planning director to the planning and zoning commission and the city council. In the event of such an appeal, the provisions of Article VIII, Division G herein will govern.

(c) If the tower or antenna will increase the overall height of the existing tower, antenna, building, or structure by more than 15 feet, then an SUP will be required and the provisions of subsection d. will govern.

(d) All requirements and provisions in subsection d. are provided so that the planning director is able to ensure that all permitted collocation sites adhere to current safety and aesthetic standards.

6. **Tower/Antenna Height**

(a) No commercial radio, television, cellular, or microwave reflector tower/antenna or support structure may exceed 150 feet in height. Tower/antenna height is approved as part of the SUP or administrative approval process under this section.

(b) Publicly owned towers/antennas will not be subject to maximum height requirements.

7. **Entire Lot**

For purposes of determining whether the installation of a tower/antenna complies with district development regulations, setback requirements, and other zoning regulations, the dimensions of the entire lot will control, even though the towers/antennas may be located on portions of such lots.

8. **Antenna Support Structure**

(a) Towers/antennas and required accessory buildings located within commercial and industrial zones must comply with the building setbacks for the specific zoning district.

(b) A minimum setback for towers/antennas and required accessory buildings equal to the height of the tower/antenna is required from any residential zone boundary line.

9. **Grandfathered Towers/Antennas**

Any tower or antenna lawfully existing on March 26, 2003 may continue to exist under the standards existing at the time that the tower/antenna was originally permitted. However, any changes or alterations to such previously permitted towers/antennas will be subject to this ordinance.

10. **Federal Requirements**

All towers/antennas must meet current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other federal agency having authority to govern towers/antennas.

11. **Abandoned Towers/Antennas**

Any tower/antenna that has not been in operation for a continuous period of 12 months will be considered abandoned, and the owner or person in control must remove it within 90 days after receipt of written notice from the city. If such tower/antenna is not removed within 90 days, the city may remove it at the owner's expense. If there are multiple users on a single tower/antenna, the city will not direct

the owner or person in control to remove it until all users cease using the tower/antenna.

12. **Public towers/antennas**
All publicly owned antennas or communications structures are be permitted in any district, provided that a license, lease, or other form of approval has been obtained from the city. (Ord. 0-99-72, 9/22/99) (Ord. No. 0-2003-11, 3/26/03) (Ord. No. 0-2012-83; 10/10/12)

Sec. 10-70. Television Satellite Dish Regulations

a. Purpose

To provide for installation of satellite dish antennas greater than three feet in diameter designed or used for reception of television or other electronic communications broadcast or relayed from an earth satellite.

b. Required Conditions

1. Administrative approval of site plan by a building official.
2. The satellite dish may be a solid, open mesh or bar configured structure, in the shape of a shallow dish or parabola.
3. A satellite dish may be located in a residential district provided the dish is:
   (a) not located in a front yard, an exterior side yard of a corner lot, or in the front yard or exterior rear yard of a through lot.
   (b) In compliance with setback requirements for accessory structures for the district in which it is located.
   (c) ground-mounted
4. Satellite dishes that are attached to a structure will be considered a part of the structure.
5. Freestanding satellite dishes will be considered an accessory building.
6. The dish height does not exceed 12 feet above the existing grade.
7. Only one satellite dish antenna is permitted per lot.
8. Satellite dish antennas with a diameter measuring less than three feet may be installed in a manner consistent with typical television antennas. All dishes must be attached to the main building or in the back yard.
9. Satellite dish antennas in residential districts may be used only for private, non-commercial purposes.

c. All satellite dish antennas, in any zoning district, constructed and erected prior to the effective date of this ordinance, which do not conform to this section will be accepted as legal non-conforming antennas and will be subject to this ordinance. (ORD. 0-97-62, 12/10/97)

Sec. 10-71. Sexually Oriented Businesses

a. Purpose and Limitations

1. It is the purpose of this section to regulate sexually oriented businesses to promote the health, safety, morals, and welfare of city citizens, and to establish reasonable and uniform regulations.
2. These regulations prevent concentration of sexually oriented businesses within the city and prevent the establishment of these types of businesses near sensitive areas.
3. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
4. It is not the intent or effect of this ordinance to determine which sexually oriented materials constitute obscenity. By issuing a sexually oriented business license pursuant to this section, the City of Tyler does not warrant in any way that the operator of the business is in compliance with, or will remain in compliance with, state laws regulating obscenity. Obscenity is determined by the specific provisions of Texas Penal Code Chapter 43 or successor, and by local community standards. Obscenity is not determined by the city of Tyler or by this ordinance. In issuing a sexually oriented business license, the city only warrants that, at the time of issuance, the operator is in compliance with the minimum requirements of city building, zoning, fire, and health ordinances.
5. The city council finds that sexually oriented businesses, because of their very nature have a deleterious effect on both the existing businesses around them and surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values. Numerous studies, reports, and findings concerning the harmful effects of sexually oriented businesses on surrounding land uses and neighborhoods have been produced and reviewed, including studies from Abilene and Dallas, Texas.
6. It is the intent of the city council that the locational regulations of this section are promulgated pursuant to the Chapter 243, Texas Local Government Code, or successor statute (Ord. No. 0-99-48, 7/7/99)

b. Classification

Sexually oriented businesses are classified as follows:

1. Adult arcades;
2. Adult bookstores or adult video stores;
3. Adult cabarets;
4. Adult motels;
5. Adult motion picture theaters;
6. Adult theaters;
7. Escort agencies;
8. Nude model studios; and

9. Sexual encounter centers.

c. License Required

1. It is illegal to operate a sexually oriented business without a valid license, issued by the city for the particular type of business.
2. An application for a license must be made on a form provided by the planning department. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. Applicants who must comply with subpart Q "Additional Regulations Pertaining to Exhibition of Sexually Explicit Films and Videos" of this section shall submit a diagram meeting those requirements.
3. The applicant must be qualified according to this ordinance and the premises must be inspected and found to be in compliance with the law by the health district, fire department, and building official.
4. A person who wishes to operate a sexually oriented business and who is an individual, must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20% or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified as required herein and each applicant shall be considered a licensee if a license is granted.

d. Issuance of License

The building official will approve the issuance of a license to an applicant within 30 days after receipt of an application unless the applicant:

1. Is under 18 years of age.
2. Or spouse is overdue in payment to the city of taxes, fees, fines or penalties assessed against applicant or imposed upon spouse.
3. Has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
4. Or spouse has been convicted of a violation of this ordinance, other than the offense of operating a sexually oriented business without a license, within two years immediately preceding the application.
5. Is residing with a person who has been denied a license by the city to operate a sexually oriented business within the preceding 12 months, or residing with a person whose license to operate a sexually oriented business has been revoked within the preceding 12 months.
6. Cannot show the premises to be used for the sexually oriented business have been approved by the health district, fire department, planning department, neighborhood services, and the building official as being in compliance with applicable laws and ordinances.
7. Has not paid any applicable fees.
8. Has been employed in a sexually oriented business in a managerial capacity within the preceding 12 months and has demonstrated inability to operate or manage a sexually

oriented business premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

9. Or the proposed establishment is in violation of or is not in compliance with any section of this ordinance.

10. Or spouse has been convicted of a crime involving any of the following offenses as described in Chapter 43 of the Texas Penal Code, or successor statute:

    (a) Prostitution;

    (b) Promotion of prostitution;

    (c) Aggravated promotion of prostitution;

    (d) Compelling prostitution;

    (e) Obscene display or distribution;

    (f) Obscenity;

    (g) Employment harmful of minor;

    (h) Sale, distribution or display of harmful material to a minor;

    (i) Sexual performance by a child;

    (j) Possession or promotion of child pornography; or

    (k) Any of the following offenses as described in Chapter 21 of the Texas Penal Code, or successor statute: (i) public lewdness; (ii) indecent exposure; indecency with a child; or

    (l) Sexual exploitation by mental health service provider; as described in Chapter 81 of the Texas Civil Practice and Remedies Code, or successor statute; or

    (m) Sexual assault or aggravated sexual assault as described in Chapter 22 of the Texas Penal Code, or successor statute; or

    (n) Incest, solicitation of a child, or harboring a runaway child as described in Chapter 25 of the Texas Penal Code, or successor statute; or

    (o) Criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses; for which less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; or less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or less than five years have elapsed since date of the last conviction or date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period; or has been convicted, or whose spouse has been convicted, of an offense listed in herein may qualify for a sexually oriented business license only when the time period required herein has elapsed.

11. The license, if granted, shall state on its face the name of the person(s) to whom it is granted, the expiration date, and address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

e. Fees

An annual fee for a sexually oriented business license must be paid in an amount kept on file in the planning department.

f. Inspection

1. An applicant or licensee shall permit representatives of the police department, fire department, health district, neighborhood services department, building inspection department, and planning department to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.
2. It is unlawful for any operator of a sexually oriented business or agent or employee to refuse to permit a lawful inspection of the premises by a representative of the police department at any time it is occupied or open for business.

g. Expiration of License

1. Each license will expire one year from date of issuance and may be renewed only by making application as provided in subpart c. Application for renewal should be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the license will not be affected.
2. When the building official denies renewal of a license, the applicant will not be issued a license for one year from the date of denial. If, subsequent to denial, the Building Official finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

h. Suspension

The building official will suspend a license for a period not to exceed 30 days if it is determined that a licensee or employee has:

1. Violated or is not in compliance with any section of this code.
2. Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises;
3. Refused to allow an inspection of the sexually oriented business premises as authorized by this ordinance;
4. Knowingly permitted gambling by any person on the sexually oriented business premises;
5. Demonstrated inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner thus necessitating action by law enforcement officers.

i. Revocation

1. The building official will revoke a license if a cause of suspension as set out herein occurs and the license has been suspended within the preceding12 months.
2. The building official will revoke a license if it is determined that the Licensee or employee:
    (a) gave false or misleading information in the material during the application process;

(b) has knowingly allowed possession, use or sale of controlled substances on the premises;

(c) has knowingly allowed prostitution on the premises;

(d) has knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

(e) has been convicted of an offense listed herein for which the time period required herein has not elapsed;

(f) On two or more occasions within a twelve-month period, committed an offense occurring in or on the licensed premises of a crime listed herein;

(g) has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in or on the licensed premises. The term "sexual contact" shall have the same meaning as defined in Section 21.01 Texas Penal Code, or successor statute. (This does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in a public place or within public view); or

(h) A licensee is delinquent in payment to the city for hotel occupancy taxes, ad valorem taxes or sales taxes related to the sexually oriented business.

3. When the building official revokes a license, the revocation will continue for one year and the licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective. If, subsequent to revocation, the building official finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked under subpart (e), an applicant may not be granted another license until the appropriate number of years required there under has elapsed.

j. Appeal

If the building official denies the issuance of a license, or suspends or revokes a license, written notice of the action and the right to appeal will be sent to the applicant, or licensee, by certified mail, return receipt requested. The aggrieved party may appeal the decision of the building official to the zoning board of adjustment in accordance with section 10-771. The filing of an appeal stays the action of the building official in suspending or revoking a license until the zoning board of adjustment makes a final decision.

k. Transfer of license

A licensee must not transfer a license to another, nor may a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

l. Locations of Sexually Oriented Businesses

1. The location of sexually oriented businesses is allowed in the industrial zoning districts, subject to the distance and licensing requirements of this ordinance.

2. Sexually oriented businesses must not be located within 800 feet of:

   (a) A religious institution;

   (b) A public or private elementary or secondary school;

(c) A boundary of a residential district as defined in this section;

(d) A public park adjacent to a residential district as defined in this section; or

(e) The property line of a lot devoted to a residential use as defined in this section.

3. Measurement must be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a religious institution or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district or residential lot.

4. The operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business is prohibited. The distance between any two sexually oriented businesses must be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

5. Any sexually oriented business lawfully operating on the date of enactment of this ordinance that is in violation of this section will be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed three years, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming uses must not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is nonconforming.

6. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a religious institution, public or private elementary or secondary school, public park, residential district or residential lot within 800 feet of the sexually oriented business. This provision applies only to renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or has been revoked.

m. Additional Regulations for Escort Agencies

1. An escort agency must not employ any person under the age of 18 years.

2. It is illegal for any person under the age of 18 years to act as an escort or agree to act as an escort.

n. Additional regulations for Nude Model Studios

1. A nude model studio must not employ any person under the age of 18 years.

2. It is illegal for a person under the age of 18 years to appear in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years of age was in a restroom not open to public view or persons of the opposite sex.

3. It is illegal to appear in a state of nudity or knowingly allow another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

4. A nude model studio must not place or permit a bed, sofa, or mattress in any room on the premises except that a sofa may be placed in a reception room open to the public.

o. Additional Regulations for Adult Theaters and Motion Picture Theaters

1. It is illegal to allow knowingly a person under the age of 18 years to appear in a state of nudity in or on the premises of an adult theater or adult motion picture theater.
2. It is illegal for a person under the age of 18 years to appear knowingly in a state of nudity in or on the premises of an adult theater or adult motion picture theater. It is a defense to prosecution under this subpart if the person under 18 years was in a restroom not open to public view of persons of the opposite sex.
3. It is illegal for the owner, manager, operator, assistant manager, assistant operator, ticket seller, ticket taker, usher or any other person connected with or employed by any motion picture theater or drive-in motion picture theater to show or exhibit at a motion picture theater or drive-in motion picture theater in the city, or to aid or assist in such showing or exhibition, any motion picture, film, slide or other exhibit which is visible from any public street in which the pubic area, bare buttocks or bare female breasts of the human body are shown.

p. Additional Regulations for Adult Motels

1. Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and vacated two or more times in a period of time that is less than 10 hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this section.
2. It is illegal for the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business license to rent or sub-rent a sleeping room to a person and, within 10 hours from the time the room is rented, rent, or sub-rent the same sleeping room again. The terms "rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration.

q. Additional Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos

1. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one 150 square feet of floor space, a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, must comply with the following requirements:

    (a) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead light fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of the floor area. The diagram must also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of

all areas of the interior of the premises to an accuracy of plus or minus six inches. The building official may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) The application must be sworn to be true and correct by the applicant.

(c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the building official or designee;

(d) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(e) The interior of the premises shall be configured so that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises must be configured so that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(f) It is the duty of the owners and operator, as well as any agent and employees present in the premises, to ensure that the viewing area remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection q.1. of this section.

(g) The premises must be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) footcandle as measured at the floor level.

(h) It is the duty of the owners and operator, as well as any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

2. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(a) Upon application for a sexually oriented business license, the application must be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more projection stations and the location of all projection screens and sound fixtures and designating any portion of the premises in which patrons will not be permitted. The diagram must also designate the place at which the permit will be conspicuously posted, if granted. A professional prepared diagram in the nature of an engineer's or architect's blueprint will not be required; however each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the

various dimensions of all areas of the premises to an accuracy of plus or minus six inches. The building official may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) The application must be sworn to be true and correct by the applicant.

(c) No alteration in the configuration or location of a projection station or projection screen may be made without prior approval of the building official or designee;

(d) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated at each projection station at all times that any patron is present on the premises.

(e) The exterior of the premises shall be configured so that the screens are not visible from any public thoroughfare or from adjacent property. Additional screening may be required if deemed necessary by the building official.

(f) It will be the duty of the owners and operator, as well as of any agent and employees present in the premises, to ensure that the viewing and lobby areas remain unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection a. of this section.

3. It is illegal for a person having a duty set out in this section to fail knowingly to fulfill that duty.

r. Enforcement

1. A conviction violating subpart (c). or (l). is punishable by a fine in an amount kept on file by the planning director.
2. A conviction violating a provision of this section other than subparts (c) or (l) is punishable by a fine in an amount kept on file by the planning director.
3. It is a defense to prosecution that a person appearing in a state of nudity did so in a modeling class operated:

   (a) By a proprietary school licensed by the state, a college, junior college, or university supported entirely or partly by taxation;

   (b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation;

   (c) In a structure:

      (1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

      (2) Where in order to participate in a class, a student must enroll at least three days in advance of the class; and

      (3) Where no more than one nude model is on the premises at any one time.

(4) It is a defense to prosecution that each item of descriptive, printed, film or video material offered for sale or rental, taken as a whole, contains serious literary, artistic, political or scientific value.

(5) A person who operates or causes to be operated a sexually oriented business without a valid license or otherwise violates this section is subject to a suit for injunction as well as prosecution for criminal violations.

(6) A person who operates or causes to be operated, a sexually oriented business in violation of the State obscenity laws in Texas Penal Code Chapter 43, or successor statute, is subject to those penalties set forth in State law. (Ord. No. 0-99-48, 7/7/99) (0-2012-38, 4/25/12)

s. Amendment of this Section

Subpart (l) of this section may be amended only after compliance with the procedure required to amend a zoning ordinance. Other subparts of this section may be amended by vote of the city council. (ORD. 0-97-62, 12/10/97) (0-2012-38, 4/25/12)

Sec. 10-72. Display of Sexually Explicit Materials to Minors

a. Business establishments open to persons under the age of 17 years shall not display an item, product, book, pamphlet, newspaper, magazine, film, poster, disc, video, video cassette or any other medium of display, the cover or contents of which are readily available to minors and contain photographs of any of the following:

1. Human sexual intercourse, masturbation or sodomy;
2. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts;
3. Less than completely and opaquely covered human genitals, buttocks or that portion of the female breast below the top of the areola; or
4. Human male genitals in a discernible turgid state, whether covered or uncovered.

b. In this section "readily available to minors" means to locate an item so that, without obtaining assistance from an employee of the business establishment:

1. The contents contain photographs of any of the areas or activities in subsection a. and are within reach of persons under the age of 17 years for handling and inspection of the contents thereof; or
2. The cover or outside packaging on the item contains photographs of any of the areas or activities listed in subsection a. and is visible to persons under the age of 17 years.

In no way is this section intended to regulate literature, printed words, descriptions, drawings, illustrations, artwork, paintings, sculptures, cartoons or sketches. (Ord. No. 0-2012-38; 4/25/12)

Sec. 10-73. Day Care Center

a. Purpose

1. A day care center is considered a commercial operation intended to provide for day care facilities, licensed by the State of Texas, under public or private auspices, where care is

provided for more than six children or adults who are apart from their own family or relations during a part of the day.

2. Day care centers are commercial operations located within shopping malls, shopping centers, freestanding buildings, or similar facilities.

b. Required Conditions

The operator of a day care center must obtain administrative approval showing compliance with the following:

1. The center is located in one of the following zoning districts: INT, C-1, C-2, DBAC, PMXD-1, PMXD-2, and PCD.
2. No day care center may be part of a single-family or multi-family dwelling.
3. A solid wall or fence a minimum of four feet high must be provided around play areas.
4. All passenger loading and unloading areas and outdoor play areas must be located as to avoid conflict with vehicular traffic.
5. Any legally existing day care center operating under a special use permit at the time of adoption of this ordinance will be considered a legal day care center, subject to complying with the above conditions. (ORD. 0-97-62, 12/10/97) (Ord. No. 0-2012-38; 4/25/12) (Ord. No. 0-2012-83; 10/10/12)

Sec. 10-74. Day Care Home (Children or Adult)

a. Purpose

A day care home is a home-based day care operation, licensed by the State of Texas, which provides day care for no more than six children or adults who are apart from their own family or relatives during a part of the day.

b. Special Use Permit and Site Plan Required

A special use permit and site plan are subject to approval by the planning and zoning commission and city council for all day care homes. (O-2003-38, 7-23-03)

c. Required Conditions

1. A day care home should not detract from the residential character of the neighborhood and should be compatible with existing residential usage.
2. A day care home must be incidental to the use of a dwelling unit for residential purposes and be limited in extent.
3. Only members of the immediate family permanently residing at the premises may be employed in the day care home.
4. In no case may a day care home be open to the public earlier than 6:00 a.m. or later than 10:00 p.m.
5. A solid wall or fence a minimum of four feet high must be provided around play areas.
6. All passenger loading and unloading areas and outdoor play areas must be so located as to avoid conflict with vehicular traffic.

7. Copies of any state registration or applications for registration must accompany all SUP applications. (ORD. 0-97-62, 12/10/97) (Ord. No. 0-2012-38; 4/25/12) (Ord. No. 0-2012-83; 10/10/12)

Sec. 10-75. Home Occupations

a. Purpose

The purpose of this section is to provide for certain types of restricted occupational uses within residential districts.

b. Permitted Uses

A home occupation is business that is operated on the premises of a residential use. A home occupation is intended for gainful employment, however, it must be clearly incidental and subordinate to the use of the premises as a principal residence.

c. General Requirements

1. The permitted home occupations are shown on the residential and nonresidential use tables in sections 10-48 and 10-49.
2. The uses listed as home occupations are the only ones allowed, except as governed by Number 3 below.
3. If an unlisted use is requested as a home occupation, it may be allowed only after approval is given according to the procedures set out in Section 10-6. (Ord. 0-2010-20, 3/10/10)

d. Required Conditions

1. The home occupation must be incidental to the use of the residential property as an owner-occupied residence.
2. The exterior character or appearance of the principal dwelling unit, accessory structures, or lot may not be altered in a manner adversely affects or diminishes the residential character or quality of life of the surrounding neighborhood, with the exception of permitted signage in Sec. 10-408.
3. Up to 25 percent of the gross floor area of the principal dwelling unit may be used by the home occupation or for storage purposes in connection with the home occupation. The floor area of a dwelling unit, in this case, must include the floor area of all heated, ventilated, and thereby habitable rooms within the dwelling unit, including basements and habitable attic space.
4. One person outside of the immediately family may be employed in the Home Occupation.
5. In no case may a home occupation be open to the public.
6. No more than one home occupation is permitted within any single dwelling unit or on a single residential property.
7. Outdoor storage of materials used in conjunction with a home occupation is prohibited
8. There may be no deliveries to or from a residence involving a home occupation with a vehicle larger than a one ton truck.
9. No explosive materials will be allowed in conjunction with a home occupation.

10. A home occupation must not produce offensive noise, vibration, smoke, electrical interference, dust, odors, or heat. Any noise, vibration, smoke, electrical interference, dust, odors or heat detectable beyond the property lines or beyond the walls of the dwelling unit or accessory structure, if the unit is part of a multi-family structure, must constitute a violation of this section. The judgment of the planning director will be considered decisive and final in this matter unless formally appealed to the planning and zoning commission within 15 days of written notification. (O-2003-38, 7-23-03)

11. All home occupations are subject to periodic inspections. (ORD. 0-97-62, 12/10/97) (Ord. No. 0-2012-38; 4/25/12) (Ord. No. 0-2012-83; 10/10/12)

Sec. 10-76 Mobile Food Units and Food Truck Parks

a. Purposes and Intents

1. The purpose of this section is to allow for Mobile Food Units to operate within the City on private property and City-owned property for a limited period of time. This section also allows for Food Truck Parks as a principal use. This section does not apply to push-carts which require appropriate Northeast Texas Public Health District permits and Transient Vendor Permits. Mobile Food Units operating within the public right-of-way require a Transient Vendor Permit and must comply with the operational requirements in this section and Chapter 17 of this Code.

2. This section is intended to implement elements of the Tyler 1st Comprehensive Plan and the Industry Growth Initiative by supporting small-business start-ups, diverse cuisine options, and tourism-inducing environments.

b. Required Permits and Inspections

1. All required permits must be displayed in a location that is easily viewable by the public.

2. All Mobile Food Units shall obtain all applicable permits and inspections from the City of Tyler (including Fire Department) and the Northeast Texas Public Health District, or successor. All Mobile Food Units operating within Smith County must be authorized to do so.

3. All Mobile Food Units on private property and City-owned property shall require a Transient Vendor Permit issued by the Planning Director, unless exempt as follows:

   a. Mobile Food Units operating under an approved Parks and Recreation Department Special event permit.

   b. Mobile Food Units operating under an approved Temporary Use Permit issued for a special event.

   c. Mobile Food Units operating under an approved permit issued by the Water Quality and Production Manager for Lake event permits.

c. Operational Requirements

1. Mobile Food Units may only operate in locations subject to the conditions of an approved permit. Mobile Food Units also operating within a Food Truck Park shall also be subject to the Park's rules and restrictions.

2. All Mobile Food Units must park on an improved surface unless they are located at an approved Food Truck Park and subject to the Park's conditions.

3. No Mobile Food Unit may be located on a vacant lot.

4. All Mobile Food Units shall provide self-closing lidded trash receptacles. The trash receptacle must be placed outside next to the unit for use by patrons of the unit. The area around the unit must be kept clean and free from litter, garbage, and debris.

5. All Mobile Food Units shall provide fire prevention tools as required by the City of Tyler Fire Department.

6. Each Mobile Food Unit shall report to its designated commissary at least once a day for food, supplies, cleaning, and servicing and as required by the Northeast Texas Public Health District, or successor.

7. Mobile Food Units shall not utilize portable seating unless located at an approved Food Truck Park and subject to the Park's conditions therein.

8. All Mobile Food Units operating under a Transient Vendor Permit, not within an approved Food Truck Park, shall provide documentation that the Unit's patrons and employees have access to permanent restroom facilities.

9. All Mobile Food Units not within an approved Food Truck Park, shall provide documentation from all restaurants within 300 feet from front door expressly allowing them to do so.

10. Mobile Food Units shall be removed from approved locations daily unless the conditions of Subsection d.1.b. of this Section are met.

11. Mobile Food Units may not stop for more than six consecutive hours at any one location to sell or serve food provided however this shall not apply to Mobile Food Units within Food Truck Parks or operating under an approved Temporary Use Permit or a permit issued by the Parks and Recreation Department. The Mobile Food Unit shall move at least 50 feet away from its previous location once the six hour period has expired and shall not return to the previous location within a one hour period of time. (Ord. No. 0-2016-76; 8/24/16)

12. Any unauthorized connection to the water system and/or unauthorized dumping of grease into the sanitary sewer system in conjunction with the operation of a mobile food unit in any way is strictly prohibited and is unlawful.

13. The use of portable generators to supply electricity to a Mobile Food Unit is prohibited.

14. No Mobile Food Unit shall operate within an access driveway or fire lane.

d. Food Truck Parks

1. The City shall allow for two types of Food Truck Parks (minor and major). Each type of Food Truck Park shall be considered a primary use on a property and therefore is subject to all development standards applicable to the zoning of the property, including off-street parking requirements. All Food Truck Parks shall require a Certificate of Occupancy and be subject to the following requirements:

   a. All Food Truck Parks shall comply with all applicable regulations of the Northeast Texas Public Health District, adopted building codes, International Fire Code, this chapter, and all other applicable federal state and local laws. All Food Truck Parks shall be on legally platted lots.

   b. All Mobile Food Units shall be removed from the Food Truck Park upon closing of the park. If a commissary is provided on-site and the Mobile Food Unit is approved to use the site's commissary, then the Mobile Food Unit will not have to be removed from the site each day.

   c. On-site Manager: There must be a designated manager of the site that is responsible for the orderly organization of Mobile Food Units, the cleanliness of the site, and the site's compliance with all rules and regulations during business hours.

   d. Restrooms: At least one permanent restroom within 500 feet of each Mobile Food Unit must be made accessible to Food Truck Park patrons while the Food Truck Park is open.

   e. Food Truck Parks may be standalone establishments or may be located on a property with other permanent uses (i.e. retail establishments). These properties shall be designed to be able to accommodate all required development standards for all primary uses.

   f. Food Truck Parks that are eligible to sell alcohol may do so provided they meet the requirements of the Texas Alcoholic Beverage Code, Texas Alcoholic Beverage Commission and Tyler City Code. Alcohol shall only be sold from a fixed location.

   g. Mobile Food Units shall not be parked on unimproved surfaces and at a minimum be parked on compacted gravel base.

   h. Signs: One on-premise sign is permitted at the entrance(s) identifying the Food Truck Park subject to the sign regulations for the applicable zoning district. Each Mobile Food Unit may have attached signage.

   i. Distance requirements (property line measurement): A Food Truck Park shall not be less than 100 feet from another Food Truck Park.

j. Food Truck Parks adjacent to single-family zoned or used property (not including a mixed-use structure), shall provide a Type C bufferyard.

k. No Temporary Use Permits that allow for Mobile Food Units shall be permitted within Food Truck Parks.

l. All Food Truck Parks not located in the "DBAC", Downtown, Business, Arts and Culture District shall provide off-street parking (see Sec. 10-360). On-site off-street parking for Minor Food Truck Parks may be provided on compacted gravel base. Off-street parking may be provided by way of shared or joint off-site parking arrangements within 1,000 feet of the park.

m. Park owners are encouraged to provide for an aesthetically-pleasing environment which includes shade and seating elements in addition to pervious groundcover. The Planning Director may allow for alternative compliance as it pertains to landscaping requirements for standalone Food Truck Parks.

n. All Food Truck Parks shall comply with the noise regulations in City Code Section 4-90.

o. All Food Truck Parks shall comply with all adopted floodplain regulations.

2. Minor and Major Food Truck Parks. Minor Food Truck Parks shall consist of two to four Mobile Food Units (MFUs) and are generally allowed as a by-right use in all commercial and industrial zoning districts (see Section 10-49). Major Food Truck Parks shall consist of five or more MFUs and are considered a special use and subject to site plan approval. The site plan required for a Major Food Truck Park or Minor Food Truck Park in "C-1" shall provide the following information for review:

a. The land area included within the property, the zoning classification of adjacent properties, and all public and private rights-of-way and easements bounding and intersecting the site;

b. A legal description of the platted lots of the proposed site and the boundaries thereof;

c. The location of each proposed permanent structure on the site and pads for Mobile Food Units, and identification of any proposed outdoor entertainment locations and fixed seating areas.

d. The location, width, and surface material of driving lanes and Mobile Food Unit pads;

e. The location of fire hydrants;

f. The dimensions and capacities of parking areas and loading areas;

g. All pedestrian walks, patios and open areas for use by tenants or the public;

h. The location, height, and materials of all screening mechanisms;

i. The location, size, height, and orientation of all lighting and signs;

j. Location and screening of refuse containers, mechanical equipment, and outside storage or display;

k. Location and number of provided seating and eating areas, including the number of fixed seats and tables;

l. All proposed phasing of the park (if applicable);

m. Location, height, separation of buildings, including location of restrooms;

n. Location and type of electrical outlets provided for each corresponding pad site. Major Food Truck Parks are required to provide electrical hookups for each MFU and may provide water hookups; and (Ord. No. 0-2016-76; 8/24/16)

o. Any other items required by the Planning and Zoning Commission and City Council.

3. Violations, Suspension/Revocation, and Enforcement. Any permit issued by the City will become void should the holder's Northeast Texas Public Health District permit be suspended or revoked. The on-site manager for a Food Truck Park or property allowing a transient Mobile Food Unit is required to ensure that no more than the maximum number of Mobile Food Units is located on the site at any given time. Failure to comply with this numerical limitation authorizes the Building Official or designee to suspend and/or revoke the Certificate of Occupancy. The Planning Director is authorized to revoke and withhold Transient Vendor Permits for vendors and/or locations at their discretion if there are documented repeated violations of this section. The Director of Utilities in accordance with Tyler City Code Chapter 19 is authorized to discontinue water service to any property in violation of unauthorized connection to the sewer system and/or unauthorized dumping of grease into the sanitary sewer system. City Code Enforcement Department personnel, Planning Department personnel, Building Inspections personnel, and Police Department personnel have full and complete authority to enforce all provisions of this section and have authority to issue citations for violations thereof. (Ord. No. 0-2014-113; 12/10/14)

Sec. 10-77. Reserved

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DIVISION D. Accessory Buildings and Structures

Sec. 10-78. Purpose

The section is intended to provide for accessory buildings or structures that are incidental or secondary to the primary use of the main building or land. (Ord. No. 0-2012-38; 4/25/12)

Sec. 10-79. General Requirements for Accessory Buildings and Structures

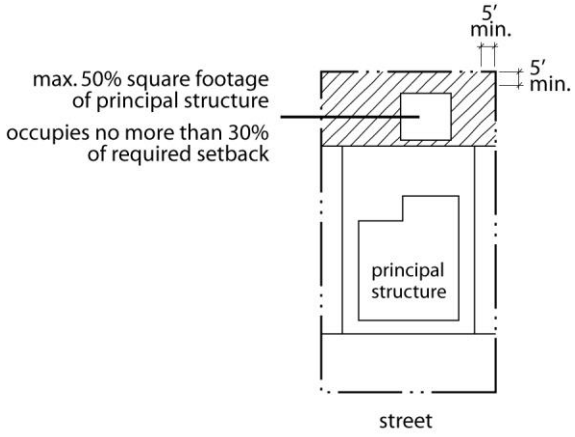
a. Construction of any accessory building or structure may begin only after construction of the principal structure on the lot has begun.

b. An accessory building or structure may be used only after the principal structure on a lot is completed and occupied.

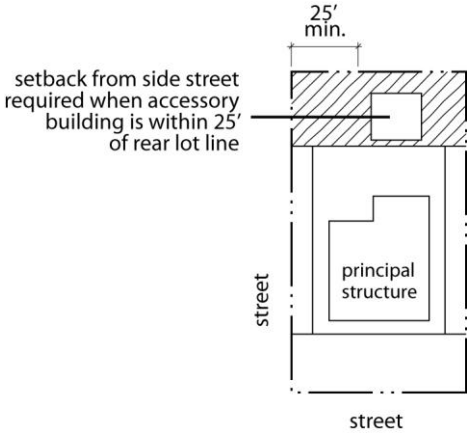
c. The square footage of an accessory building or structure may not exceed 50 percent of the square footage of the principal structure.

d. An accessory building or structure located closer than 10 feet to the principal building or structure will be regarded as part of the principal building for the purpose of determining the side and rear yard setbacks. (Ord. No. 0-2011-45; 6/8/11)

e. Accessory buildings or structures must not occupy more than 30 percent of the required rear yard and must not be nearer than five feet from any side or rear lot line, except that when a garage is entered from an alley, it must not be located closer than five feet to the rear alley line.



f. An accessory building or structure located within the rear yard setback on corner lots must be set back from the side street the same distance as the front yard setback . In cases where the street side setback is larger than the front yard setback, the accessory structure shall follow the same standards as the primary structure. (Ord. 0-2010-20, 3/10/10) (Ord. No. 0-2012-38; 4/25/12)



g. No accessory buildings or structure may be used for dwelling purposes except for permitted garage apartments.

h. Accessory buildings or structure must not exceed 16 feet in height.

i. No accessory building may project beyond a required side yard setback line along any street. (ORD. 0-97-62, 12/10/97)

j. Single Family and Two-Family residential swimming pools or spas shall comply with the following:

1. No swimming pool or spa shall be built or assembled upon a lot until a permit for construction of the primary structure on such lot has been obtained from the Building Official.

2. Swimming pools or spas shall not be located in the established front yard.

3. A minimum setback of five feet shall be required between the water line of any pool or spa and the primary structure.

4. A minimum setback of five feet shall be required between the water line of any pool or spa and the interior side or rear property line.

5. A minimum setback of 12 feet shall be required between the water line of any pool or spa and the side street property line.

6. Accessory structures such as slides and diving boards shall be located a minimum of five feet from any property line.

7. Swimming pool and spa setbacks for properties zoned Planned Residential shall be determined by the developer, shall be subject to approval by the Planning and Zoning Commission and City Council as part of the Site Development Plan, and shall comply with all private deed restrictions.

8. The requirements in this Section are in addition to the fencing requirements set forth in Chapter 6, "Buildings and Structures".

9. Portable spas are exempt from the setback requirements in this section. (Ord. No. 0-2009-19; 3/11/09) (Ord. 0-2010-20, 3/10/10)

k. Commercial and Multi-Family swimming pools or spas shall comply with the following:

1. No swimming pool or spa shall be built or assembled upon a lot until a permit for the construction of the primary structure(s) on the lot has been obtained from the Building Official.

2. A minimum setback of five feet shall be required between the water line of any pool or spa and the primary structure(s).

3. A minimum setback of five feet shall be required between the water line of any pool or spa and the property line(s).

4. Accessory structures such as slides and diving boards shall be located a minimum of five feet from any property line.

5. The requirements in this Section are in addition to the fencing requirements set forth in Chapter 6, "Buildings and Structures".

6. Swimming pool and spa setbacks for properties zoned Planned Commercial District, Planned Mixed-Use District or Planned Multi-Family District shall be determined by the developer, shall be subject to approval by the Planning and Zoning Commission and City Council as part of the Site Development Plan, and shall comply with all deed restrictions. (Ord. No. 0-2009-19; 3/11/09) (Ord. 0-2010-20, 3/10/10) (Ord. No. 0-2012-38; 4/25/12)

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DIVISION E. Temporary Uses

A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period. A prospective use, intended for limited duration, which may be located in a zoning district not permitting such a use as of right, but does not constitute continuity of a nonconforming use or building.

Sec. 10-80. Temporary Use Permit

The planning department may issue a temporary use permit (TUP) for the following uses, provided that the temporary use complies with regulations of this code governing area, parking, sanitation requirements, etc., for the district in which it is to be conducted and does not constitute a nuisance for adjacent properties. Refer to the residential and nonresidential use tables in sections 10-48 and 10-49 for other permitted temporary uses

a. Tents

1. All tents must comply with Fire Department Regulations.
2. Within all Office, Commercial, and Industrial districts; not to exceed a cumulative total of 30 days per lot per calendar year.
3. Seasonal tents used for nurseries, tree lots, or similar type uses, may be approved up to 90 days (maximum of two permits per calendar year per lot) at the discretion of the Planning Director.

b. All Other Attention Gathering Devices

Any other attention gathering devices within all zoning districts; location and duration shall be at the discretion of the planning director. (Ord. 0-2010-20, 3/10/10)

Sec. 10-81 – 89. Reserved

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DIVISION F. Nonconforming Uses and Structures

Sec. 10-90. Nonconforming Uses

Uses of land, buildings and other structures within the City which do not conform to all of the provisions of this Ordinance, may be allowed to continue even though the use or structure does not comply with the requirements of this Ordinance provided the use or structure can qualify as a legal Non-Conforming Use or Non-Conforming Structure under the following:

a. The regular and continuous occupancy or use of a building, structure or land, lawfully being occupied or utilized in the City at the time of the effective date of this Ordinance, or amendment thereto, or which was subsequently annexed by the City, which does not conform to the regulations prescribed for the zoning district in which it is situated, shall be deemed as a non-conforming use.

b. A building or structure, lawfully in existence and lawfully constructed at the time of the effective date of this Ordinance, or amendment thereto, or which was subsequently annexed by the City, which does not comply with all of the regulations of this Ordinance governing parking, signage or bulk and area requirements for the zoning district in which such building or structure is located, shall be deemed a non-conforming building or structure.

c. A use, building or structure, lawfully in existence and lawfully utilized, constructed, located and occupied in accordance with the provisions of the prior zoning ordinance, or which was a non-conforming use there under, and which use or structure does not now conform to the provisions of this Ordinance, shall be deemed a non-conforming use or structure.

Sec. 10-91. Regulations

The following will apply to all non-conforming uses, buildings or structures as identified above, and will govern the continued occupancy or use of same.

a. The use of land for outdoor storage purposes which does not conform to the provisions of this code must be discontinued within one year of the effective date of this code and provided, further, that the use of land which becomes nonconforming for such use or for any other use, by reason of a subsequent amendment to this code, must also be discontinued within one year from the date of adoption of the amendment.

b. The lawful occupancy or use of a building existing at the time of the effective date of this code may be continued for an indefinite period although such use does not conform to the provisions thereof.

c. If a nonconforming use of any building or premises is discontinued for a period of six months or longer, then such non-conforming use will be deemed to be permanently abandoned and may not be resumed unless in compliance with all zoning regulations.

d. No nonconforming use, except when required to do so by law or ordinance, may be enlarged or extended.

e. Nonconforming structures may be enlarged, extended, reconstructed or structurally altered if the new construction conforms to the requirements of this code and applicable building codes.

f. When a building or other structure, the use of which does not conform to the provisions of this code, is damaged by fire, explosions, the elements, act of God, or the public enemy, to the extent of more than 50% of its assessed value as listed on the records of the Smith County Appraisal District (SCAD), the building or other structure may not be restored except in conformity with the regulations of the zoning district in which it is located or as provided in this code. When damaged by less than 50% of its assessed value as reported by SCAD, a non-conforming building or structure may be repaired or reconstructed and used as before the time of damage, provided such repairs or reconstruction are completed within one year of the date of such damage.

g. An occupancy or use illegally established in violation of the provisions of any prior zoning ordinance will not be validated by the adoption of this unified development code. (ORD. 0-97-62, 12/10/97)

DIVISION G. Chapter Exceptions

Sec. 10-92. Exceptions

a. Height

1. The height regulations prescribed herein shall not apply to television or radio towers, television antennas, church spires, belfries, storage tanks, water and fire towers, stage towers or scenery lofts, cooling towers, chimneys, elevator and air conditioning penthouses and skylights.

2. The limitation on number of stories shall not apply to buildings used exclusively for storage purposes provided such buildings do not exceed the maximum height permitted in the district in which they are located.

b. General Area Exceptions and Modifications

1. Every part of a required yard shall be open to the sky, unobstructed by buildings or other structures, except for accessory structures in a rear yard, and except for the ordinary projection of sills, belt courses, cornices and ornamental features, not to exceed twenty-four inches (24").

2. Open or lattice enclosed fire escapes, required by law, projecting into a required yard not more than five feet (5'), and the ordinary projection of chimneys and pilasters, shall be permitted by the Building Official when placed so as not to obstruct light and ventilation.

3. Terraces, uncovered porches and ornamental features which do not extend more than twenty four inches (24") above the floor level of the ground (first) story, may project into a required yard, provided these projections are at least two feet (2') from the adjacent lot lines.

4. Where a lot or tract is used for educational, institutional, hotel, commercial, industrial or multi-family purposes, more than one main building may be located upon the lot or tract, but only when such buildings conform to all open space requirements for the district in which the lot or tract is located.

c. Front Yards

1. The front yards heretofore established in all C-1, C-2, DBAC and RPO Districts shall be adjusted in the following cases:

   (a) Where forty percent (40%) or more of the frontage on the same side of street between two intersecting streets is presently developed or may hereafter be developed with buildings that have, with a variation of five feet (5') or less, a front yard greater or lesser in depth than here required, new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings.

(b) Where forty percent (40%) or more of the frontage on one side a street between two intersecting streets is presently developed with buildings that do not have a front yard as described above, then:

(1) Where a building is to be erected on a parcel of land that is within 100 feet (100') of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent building on each side; or

(2) Where a building is to be erected on a parcel of land that is within 100 feet (100') of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.

(c) Interior lots having a frontage on two streets shall provide the required front yard on both streets.

2. The front yards heretofore established in AG, RE, R-1A, R-1B, R-1C, R-1D, R-MH and R-2 districts shall be adjusted in the following cases:

(a) If forty percent (40%) or more of the lots on the same side of a street, between the intersection of that street and two other streets or cul-de-sac, are developed with buildings, then the minimum front yard setback requirement on that side of the street shall be established by the existing building with the least front yard setback.

(b) Notwithstanding the provisions of Number 1 above, a front yard setback shall not be required which is greater than fifty feet (50').

(c) Through lots having frontage on two streets shall observe the required front yard setback on both streets regardless of which street frontage is deemed to be the "front yard" and the other the "rear yard" due to orientation of the main structure(s). (Ord. No. 0-2011-45; 6/8/11)

3. The front yards heretofore established in RE, R-1A, R-1B, R-1C, R-1D, PUR and PXR districts shall be reduced to 10 feet if:

(a) parking is provided through a rear loaded alley;

(b) no required parking is accessed from the street; and

(c) the building does not encroach on a 15-foot sight visibility triangle. (Ord. No. 0-2010-119; 11/10/10) (Ord. No. 0-2011-45; 6/8/11)

d. SideYards

The side yards heretofore established shall be adjusted in the following cases:

(1) For the purpose of side yard regulations, a two-family dwelling, or a multi-family dwelling, shall be considered as one (1) building occupying one (1) lot.

(2) Where a lot of record at the time of the passage of this Ordinance has a width of less than fifty feet (50'), the side yard on each side of a building may be reduced to a width of not less than ten percent (10%) of the width of the lot, but in no instance, shall it be less than five feet (5').

(3) A porte cochere, carport, or canopy may project into a required side yard provided every part of such porte cochere, carport, or canopy is unenclosed except for necessary structural supports and not less than five feet (5') from any side lot line.

e. Rear Yards

The rear yards heretofore established shall be adjusted where an industrial or commercial lot abuts on a railroad right-of-way and is served by a spur track. No rear yard shall be required. (Ord. 0-2010-20, 3/10/10)

DIVISION H. Alcoholic Beverages

Sec. 10-93. Local fee levied on alcoholic beverage permits

a. There is hereby levied on persons carrying on the business of manufacturing, distributing or dealing in alcoholic beverages, a local fee authorized by Texas Alcoholic Beverage Code Section 11.38(a) or successor, and not excepted by Texas Alcoholic Beverage Code Section 11.38(d), in an amount not to exceed one-half of the fee levied on such business by the state, consonant with provisions found in the appropriate sections of the Texas Alcoholic Beverage Commission or successor.

b. The fee shall be paid annually upon issuance or renewal of the Texas Alcoholic Beverage Commission permit. The fee shall be submitted to the City Planning Department.

c. The fee shall not apply to those permits specifically excepted from the fee by the Texas Alcoholic Beverage Code, including but not limited to mixed beverage permits during the three-year period following the issuance of the mixed beverage permit and private club registrations.

d. Upon failure to pay the fee required by this section, the City Attorney may notify the Texas Alcoholic Beverage Commission of such failure for cancellation of the Texas Alcoholic Beverage Commission permit.

e. It shall be unlawful for a permittee of the Texas Alcoholic Beverage Commission to sell an alcoholic beverage without payment of the City fee required by this section. Each individual beverage sale shall constitute a separate offense, punishable by a fine as set forth in Section 1-4. (Ord. No. 0-2012-89; 11/13/12)

Sec. 10-94. Certification; compliance with City ordinances

No person may sell alcoholic beverages and no license or permit to sell alcoholic beverages will be certified by the City of Tyler unless sale of alcoholic beverages at the location at which such activity is sought to be established and maintained is permitted under the Unified Development Code, as amended, this Division, and all other applicable ordinances, rules and regulations of the City. Certification under this section does not make a nonconforming use conforming. (Ord. No. 0-2012-89; 11/13/12)

Sec. 10-95. Sale of beer prohibited in residential/designated zoning districts

The sale of beer is prohibited at any location in the city that is within a residential zoning district (AR, RE, R-1A, R-1B, R-1C, R-1D, R-2, R-MF, R-MH, PUR, PXR and PMF). The sale of beer is prohibited in an RPO district, as well as in any identified portion of a mixed-use district (PMXD-1 and PMXD-2) that is restricted to residential uses. (Ord. No. 0-2012-89; 11/13/12)

Sec. 10-96. Sale of alcoholic beverages near a church, school, public hospital, day-care center or child-care facility; distance requirements

a. Churches and public hospitals

1. The sale of alcoholic beverages within three hundred (300) feet of a church or public hospital is unlawful and is hereby prohibited, unless a variance has been obtained pursuant to subdection d. of this Section.

2. As established in State law, the distance between the place of business where alcoholic beverages are sold and a church or public hospital shall be measured along the property lines of the street fronts and from front door to front door, and in a direct line across intersections.

b. Public and private schools

1. The sale of alcoholic beverages within three hundred (300) feet of a public or private school is unlawful and is hereby prohibited, except when the requirements of subsection 2. of this subsection b. are met, or unless a variance has been obtained pursuant to subsection d. of this Section. Said distance restriction may be extended pursuant to State law.

2. The sale of alcoholic beverages less than three hundred (300) feet of public or private schools is permissible and is allowed by right if all of the following requirements are met:

   (a) The building in which the alcoholic beverages are sold is a minimum of 20,000 square feet in size; and

   (b) A natural or man-made buffer exists, and continues to exist, between the premises on which the alcoholic beverages are being sold and the public or private school use. For purposes of this subsection, the term "buffer" shall mean one of the following:

      i. A permanent fence and/or wall at least six feet (6') in height, measured from finished grade to top of fence or wall, combined with any of the types of "Type C" Bufferyard as defined in Section 10-322.c.; or
      ii. A permanent fence and/or wall at least six feet (6') in height, measured from finished grade to the top of the wall or fence; or
      iii. A permanent fence and/or wall combined with an embankment, berm or hill, creating an effective buffer at least six feet (6') in height; and
      iv. All fences and buffer areas must be continuously maintained in a safe and orderly condition.

3. As established in State law, the distance between the place of business where alcoholic beverages are sold and a public or private school shall be measured as follows:

(a) in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or

(b) if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

4. Pursuant to State law, and as used in this subsection, the term "private school" shall mean a private school, including a parochial school, that:

(a) offers a course of instruction for students in one or more grades from kindergarten through grade 12; and

(b) has more than 100 students enrolled and attending courses at a single location.

5. Exceptions. Pursuant to State law, the regulations in this subsection b. do not apply to a license or permit holder who also holds a food and beverage certificate covering a premise that is within 300 feet of a private school.. Pursuant to State law, this subsection b. does not apply to the holder of a license or permit covering a premise where minors are prohibited from entering under Texas Alcoholic Beverage Code Section 109.53 or successor, and that is located within 300 feet of a private school.

c. Sales near day-care center or child-care facility

1. Pursuant to State law, this subsection c. only applies to a permit or license holder under Chapter 25 (Wine and Beer Retailers Permit), 28 (Mixed Beverage Permit), 32 (Private Club Registration Permit), 69 (Retail Dealer's On-Premise License) or 74 (Brewpub License) of the Texas Alcoholic Beverage Code, who does not hold a food and beverage certificate.

2. Pursuant to State law, and as used in this subsection c., the term "day-care center" shall mean a child-care facility that provides care at a location other than the residence of the director, owner, or operator of the child-care facility for seven or more children under 14 years of age for less than 24 hours a day, but at least two hours a day, three or more days a week. Pursuant to State law, and used in this subsection, the term "child-care facility" shall mean a facility licensed, certified, or registered by the Texas Department of Human Services to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services that it offers.

3. (a) The sale by a permit or license holder described in subsection c.1. of alcoholic beverages within three hundred (300) feet of day-care centers or child-care facilities is unlawful and is hereby prohibited, except when the

requirements of subsection (b) of this subsection c.3. are met, or unless a variance has been obtained pursuant to subsection d. of this Section.

(b) The sale of alcoholic beverages less than three hundred (300) feet of day-care centers or child-care facilities is permissible and is allowed by right if all of the following requirements are met:

(1) The building in which the alcoholic beverages are sold is a minimum of 20,000 square feet in size; and

(2) A natural or man-made buffer exists, and continues to exist, between the premises on which the alcoholic beverages are being sold and the day-care center or child-care facility use. For purposes of this subsection, the term "buffer" shall mean one of the following:

i. A permanent fence and/or wall at least six feet (6') in height measured from finished grade to top of fence or wall, combined with any of the types of "Type C" Bufferyard as defined in Section 10-322.c.; or

ii. A permanent fence and/or wall at least six feet (6') in height, measured from finished grade to the top of the wall or fence; or

iii. A permanent fence and/or wall combined with an embankment, creating an effective buffer at least six feet (6') in height; and

iv. All fences and buffer areas must be continuously maintained in a safe and orderly condition.

4. As established in State law, the distance between the location where alcoholic beverages are sold by a permit or license holder described in subsection c.1.and a day-care center or child-care facility shall be measured in a direct line from the property line of the day-care center or child care facility to the property line of the place of business, and in a direct line across intersections.

5. Exceptions. Pursuant to State law, this subsection c. does not apply to a permit or license holder described in subsection 1. who sells alcoholic beverages if:

(a) The permit or license holder and the day-care center or child-care facility are located on different stories of a multi-story building; or

(b) The permit or license holder and the day-care center or child-care facility are located in separate buildings and either the permit or license holder or the day-care center or child-care facility is located on the second story or higher of a multi-story building.

6. Exceptions. Pursuant to State law, this subsection c. does not apply to a foster group home, foster family home, family home, agency group home, or agency home as those terms are defined by Texas Human Resources Code Section 42.002, or successor.

d. Variances

Pursuant to State law, the City Council may waive the distance requirements in this Section 10-96 as set forth in this subsection d. The City Council may, after notice and a public hearing, grant a variance to the distance requirements herein through the issuance of a Special Use Permit pursuant to Chapter 10, Article IX., Division A., and if the City Council determines that enforcement of the distance requirement in a particular instance:

1. is not in the best interest of the public; or

2. constitutes waste or inefficient use of land or other resources; or

3. creates an undue hardship on an applicant for a license or permit; or

4. does not serve its intended purpose; or

5. is not effective or necessary; or

6. for any other reason, the City Council, after consideration of the health, safety and welfare of the public and the equities of the situation, determines that the variance is in the best interest of the community.

In making a determination under this subsection d., the City Council may also take into account the standards set forth in Sections 10-726 – 10-728, or any other factors that it considers relevant to its consideration. The prohibition in Section 10-728.d, prohibiting the granting of a variance through issuance of a special use permit, shall not apply to variances granted under this Section. The provision in Section 10-728.d., authorizing the Planning Director to grant minor changes to the conditions imposed in a Special Use Permit, shall not apply to variances granted under this Section.

e. Grandfathered Uses

If at the time an original alcoholic beverage permit or license is granted for the premises, the premises is lawfully in use or otherwise satisfies the requirements regarding distance from schools, churches, hospitals, day-care centers for child-care facilities in effect at that time, the premises will be deemed to satisfy the distance requirements for all subsequent renewals of a license or permit. This includes any requirements which would come into play on the sale or transfer of the premises or the business on the premises in which new original alcoholic beverage licenses or permits are required. (Ord. No. 0-2012-89; 11/13/12) (Ord. No. O-2013-30; 4/10/13)

Sec. 10-97. Possession or consumption of alcoholic beverages near homeless shelters or substance abuse centers

a. Pursuant to State law, it shall be unlawful for a person to possess an open container containing an alcoholic beverage, or to consume an alcoholic beverage, on a public street, public alley or public sidewalk, within one thousand (1,000) feet of the property line of a homeless shelter that is not located in a central business district or a substance abuse treatment center that is not located in the central business district.

b. Special temporary events, activities and festivals approved by the City Council are exempt from the provisions of subsection a. of this Section.

c. For purposes of this Section, the following definitions will apply:

1. Central Business District means a compact and contiguous greographical area of a municipality in which at least 90 percent of the land is used or zoned for commercial purposes and that is the area that has historically been the primary location in the municipality where business has been transacted. The "DBAC"

Downtown Business, Arts and Culture District constitutes the central business district for purposes of this Section.

2. Homeless shelter means a supervised public or privately operated shelter or other facility that is designed to provide temporary living accommodations to individuals who lack a fixed regular and adequate residence.

3. Open container means a container containing an alcoholic beverage that is no longer sealed , within the meaning assigned by Texas Alcoholic Beverage Code Section 109.35 or successor. (Ord. No. 0-2012-89; 11/13/12)

Sec. 10-98. Signs, Banners, and Hours of Operation

Signs (including banners) specifically related to sale of alcoholic beverages shall be governed by the Texas Alcoholic Beverage Code and any applicable regulations of the Texas Alcoholic Beverage Commission, as amended. Any applicable City sign regulations shall also govern signage, without regard to content.

The hours of operation, including days of the week and open and closing times, shall be as governed by the Texas Alcoholic Beverage Code and any applicable regulations of the Texas Alcoholic Beverage Commission, as amended. (Ord. No. 0-2012-89; 11/13/12)

Sec. 10-99. Enforcement; penalty

Any violation of this Division is unlawful and, except where otherwise provided, shall be subject to a penalty as set forth in Section 1-4. If there is any conflict between the penalties in this Division and the State law, then to that extent the State law controls. The Tyler Municipal Court will have jurisdiction of any offense under this Division and under the State law, only where the Constitution and the general laws of the State confer such jurisdiction. (Ord. No. 0-2012-89; 11/13/12)

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DIVISION A. Subdivisions

Sec. 10-100. Purpose

This Article sets out the procedure and standards for submitting plats, for subdividing property, for the layout and development of lots, land and subdivisions within the city limits and within Zone 2 of the extraterritorial jurisdiction, and to guide and assist developers in correct procedures to be followed and to furnish information of standards required. This Article is also intended to promote the safe, orderly, and healthful development of the city by controlling the location, width, design, and type of streets, sidewalks, storm sewers, culverts, bridges, utilities, and essential services required. (Ord. No. 0-2000-11, 3-1-2000) (Ord. No. 0-2003-50; 9/24/03)

Sec. 10-101. Applicability

a. Except as otherwise provided, these regulations apply to all subdivisions of land, located within both the city limits and within the city's extraterritorial jurisdiction.

b. The following types of subdivision do not require approval by the city. However, the city will not extend utilities, provide access to public roads or issue building permits for the development of any property which has not received final plat approval, except as otherwise provided by this code.

1. The division of land into two or more parts where all parts are larger than five acres, where each part has access, and where no new building or improvement is proposed and no required public improvement is to be dedicated.
2. The creation of a remainder of a tract caused by the platting of a portion of the tract, provided the remainder is larger than 20 acres.
3. The creation of a leasehold for agricultural use of the subject property, provided that the use does not involve the construction of a building(s) to be used as a residence or for any purpose not directly related to agricultural use of the land or crops or livestock raised thereon.
4. The division of property through inheritance, the probate of an estate, or by a court of law.

c. Except as provided above, no land may be subdivided or platted through the use of any legal description other than in accordance with a plat approved by the planning and zoning commission in accordance with these regulations.

d. No building permit or certificate of occupancy will be issued for any parcel or tract of land inside the city limits until such property has received final plat approval and is in substantial conformity with these subdivision regulations, and no private improvements may take place or be commenced except in conformity with these regulations.

e. Land within an industrial park may be subdivided by metes and bounds unless such division includes the planning or development of a new street or access easement, floodway easement, or extension of city owned water and/or sewer mains to serve the property. Such development must conform to all other rules and regulations set forth herein. (Ord. No. 0-2000-11, 3-1-2000)

Sec. 10-102. General Requirements for Public Improvements

a. Plats Straddling Municipal Boundaries

Whenever access to the subdivision or addition is required across land in another municipality, the development services engineer may request assurance from that municipality's Attorney that access is legally established, and from its engineer that the access road is adequately improved, or that a bond has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal or county boundary lines.

b. Character of the Land

Land that is unsuitable for subdivision or development due to flooding, utility easements, or other features which will reasonably be harmful to the safety, health, and welfare of the present or future inhabitants of the subdivision or addition and/or welfare of its surrounding areas, must not be subdivided or platted unless adequate methods are formulated by the owner and accepted by the development services engineer.

c. Adequate Public Facilities Policy

The land proposed for subdivision must be adequately served by essential facilities and services. Design of improvements must conform to the Design Guidelines for Subdivision Improvements. These services include street access, water, waste water disposal, and off-site drainage. No plat or replat may be approved unless it conforms to this policy and its standards. This policy may be further defined and supplemented by other city ordinances.

1. **Access**

All platted lots must have safe and reliable access for daily use and emergency purposes.

(a) Safe and reliable access to platted lots must be provided via an improved public street, private street, or an approved private way, and connected by improved public streets to an improved public thoroughfare. (Ord. No. 0-2014-97; 10/22/14)

(b) All subdivisions must have adequately designed access or approach as approved by the development services engineer. Where development phasing or constraints of the land prevent the provision of a second, separate means of access, the city may accept a temporary street connection, or a median divided street or entry to satisfy this requirement.

2. **Water**

All platted lots must be connected to a state approved water system.

(a) Except for lots along an approved cul-de-sac, all lots within the city limits and as appropriate in the ETJ must be provided service connections in accordance with City of Tyler utility standards and TCEQ regulations.

(b) Water service must be sufficient to meet the fire flow requirements of the proposed development, except where a suitable alternative means of fire protection is approved by the city fire chief.

(c) The city may accept development phasing, development restrictions, and/or the construction of improvements to maintain adequate fire protection.

3. **Waste Water**

All platted lots must be served by an approved means of waste water collection and treatment.

(a) On-site waste water treatment systems will not be permitted, except for the pretreatment of industrial waste, unless approved by Tyler Water Utilities.

(b) The projected waste water discharge of a proposed development must not exceed the capacity of the waste water system.

(c) The city may accept the phasing of development and/or improvements to the systems so as to maintain adequate waste water capacity.

(d) Where off-lot sewerage is not required or is not to be provided, on-site sanitary sewer facilities must be in accordance with Texas Commission on Environmental Quality rules as codified in Title 30, Texas Administrative Code, Chapter 285, (effective August 3, 2006) or as amended, and as approved by the On-Site Sewage Facility Designated Representative of Smith County.

(e) The developer of a subdivision in Zone 2 of the extraterritorial jurisdiction must obtain from a Smith County-designated agent a letter indicating whether or not the subdivision complies with the requirements of Texas Health and Safety Code Chapter 366, and Title 30 Texas Administrative Code Chapter 285, and Title 30 Subchapters A and G, Licenses and Responsibilities.

4. **Drainage**

Increased stormwater runoff attributable to new development must not exceed the capacity of the downstream drainage system or adversely affect adjoining or downstream property. Where the projected runoff would exceed capacity, the city may accept the phasing of development, the use of control methods such as retention or detention, and/or the construction of off-site drainage improvements as means of mitigation.

Sec. 10-103. Apportionment of Municipal Infrastructure Costs

a. General

The costs borne by a developer for any municipal infrastructure improvements required as a condition of approval may not exceed an amount roughly proportional to the cost of infrastructure improvements needed to serve the proposed development. This includes payments made via dedication, fees, or the payment of construction costs. The required public improvements will be determined by the developer's professional engineer and approved by a professional engineer retained by the City of Tyler.

b. Determination

Rough proportionality shall be determined by comparing the additional amount of traffic capacity which will be supplied to the transportation network by the requested infrastructure improvements to the number of vehicle trips created by the proposed development. If the traffic demand created by the proposed development is roughly equal to or greater than the increase in traffic capacity supplied by the requested improvements, then the improvements are proportional.

c. Supply Calculation

To calculate the supply being added to the transportation network by the requested improvements, the length of the street adjacent to the subdivision (in miles) is multiplied by

the number of additional lanes being added to the system and multiplied by the traffic capacity which the lane can carry. The length of street adjacent to a subdivision shall be determined by a survey provided by the owner. The number of lanes required for a street shall be based on the adopted Master Street Plan. If additional street width is constructed to allow for on street parking, the developer may get credit for an additional lane of traffic provided that the additional street width is at least nine feet wider than the minimum required street width. The capacity of a street is also based on the street's designation in the Master Street Plan. Table 10-103a lists the capacities for different street designations.

Table 10-103a. Roadway Capacity

Roadway Designation	Hourly Vehicle-mile Capacity per Lane Mile of Roadway
Major Arterial	600
Minor Arterial	580
Major Collector	460
Residential Collector	420
Local Street	420

Length of Improvement (miles)	x	Number of Lanes (lane)	x	Capacity (vehicle-miles/lane-mile)	=	Supply (vehicle-miles)

d. Demand Calculation

To calculate the demand created by a site, the peak hour traffic generated by the site is multiplied by the average trip length. According to the latest Tyler and Smith County Texas travel surveys, the average trip length for Tyler/Smith County is 6.1 miles. Many of Tyler's arterial roads are state highways which are maintained by TxDOT. For the proportionality calculation, only impacts to City maintained roads will be considered. To solely account for impacts to the City transportation network, the trip length has been reduced to 1.5 miles. The traffic generated by a site varies based on the use of the land. The peak hour traffic values for different uses are listed in Table 10-103b.

Table 10-103b. Peak Hour Generator Values

Land Use Category	Peak Hour Generator	Per Each
Residential		
Single-Family Detached Home	1.01	dwelling unit
Apartment	0.67	dwelling unit
Condominium/Townhouse (Owner Occupied)	0.52	dwelling unit
Townhouse (Rental)	0.73	dwelling unit

Land Use Category	Peak Hour Generator	Per Each
Mobile Home Park	0.60	dwelling unit
Assisted Living	0.38	bed
Institutional		
Elementary School	1.29	student
Middle School/Junior High	0.53	student
High School	0.41	student
Junior College	0.12	student
University	0.24	student
Library	7.02	1,000 sq.ft. General Floor Area (GFA)
Church	11.76	1,000 sq.ft. GFA
Hospital	1.61	1,000 sq.ft. GFA
Clinic	4.43	Full-Time Doctor
Recreational		
Park	1.59	acre
Marina	0.27	berth
Golf Course	4.59	hole
Movie Theater	45.91	screen
Health/Fitness Club	4.06	1,000 sq.ft. GFA
Recreational Community Center	2.69	1,000 sq.ft. GFA
Office		
General Office	1.55	1,000 sq.ft. GFA
Medical-Dental Office	4.45	1,000 sq.ft. GFA
Commercial		
Apparel Store	4.20	1,000 sq.ft. GFA
Arts and Crafts Store	6.21	1,000 sq.ft. GFA
Bank	53.46	1,000 sq.ft. GFA
Day Care Center	13.91	1,000 sq.ft. GFA

Land Use Category	Peak Hour Generator	Per Each
Electronics Superstore	4.50	1,000 sq.ft. GFA
Furniture Store	0.92	1,000 sq.ft. GFA
Gasoline/Service Station with Convenience Market	97.14	1,000 sq.ft. GFA
Hardware/Paint Store	11.18	1,000 sq.ft. GFA
Home Improvement Superstore	5.40	1,000 sq.ft. GFA
Hotel	0.87	room
Motel	0.76	room
New Car Sales	2.97	1,000 sq.ft. GFA
Nursery/Garden Center	11.00	1,000 sq.ft. GFA
Pharmacy/Drugstore (without Drive-Through)	11.07	1,000 sq.ft. GFA
Pharmacy/Drugstore (With Drive-Through)	9.51	1,000 sq.ft. GFA
Restaurant (Sit-Down)	20.00	1,000 sq.ft. GFA
Restaurant (Fast-Food)	54.81	1,000 sq.ft. GFA
Shopping Center	4.97	1,000 sq.ft. GFA
Supermarket	18.93	1,000 sq.ft. GFA
Toy/Children's Superstore	5.53	1,000 sq.ft. GFA
Tire Store	5.65	service position
Vehicle Lubrication Shop	4.60	service position
Vehicle Parts Sales (without installation)	6.44	1,000 sq.ft. GFA
Vehicle Service Center (with repair)	4.01	1,000 sq.ft. GFA
Industrial		
Light Industrial	1.08	1,000 sq.ft. GFA
Heavy Industrial	0.68	1,000 sq.ft. GFA

Land Use Category	Peak Hour Generator	Per Each
Manufacturing	0.75	1,000 sq.ft. GFA
Warehouse	0.61	1,000 sq.ft. GFA
Utilities	0.80	1,000 sq.ft. GFA

Total Peak Hour Generator (vehicles)	x	Trip Length (miles)	=	Demand (vehicle-miles)

Peak hour generators are based on values from Trip Generation, 7th Edition by the Institute of Transportation Engineers. Any land uses not identified in the table but listed in the appropriate Trip Generation manual may still be accepted. (Ord. No. 0-2013-77; 8/28/13)

Sec. 10-104. Waiver of Development Exactions

A property owner or applicant for preliminary or final plat approval may file a petition for relief from a dedication or construction requirement that is applied or imposed as a condition of approval of a conveyance plat, preliminary plat, or final plat. The procedures for filing such a waiver are set forth in this code.

a. Petition for Relief

The property owner or applicant must submit a written petition for relief to the planning department at least 10 days prior to the planning and zoning commission's consideration of the plat. The petition must list the reasons for the waiver request and must indicate the dedication and/or construction requirements for which relief is being requested.
An applicant may also submit a petition for relief from conditions of plat approval added by the commission in its consideration of a plat. This petition must be submitted no later than 10 days following the commission's action.

b. Consideration of Plat

After receipt of a petition for relief, the planning department will schedule consideration of the plat together with development exaction waiver within the 30-day time frame required by state law.

c. Study Required

The petitioner must provide a study in support of the petition at the time the written petition is filed. The planning director may extend the time for submitting the study upon the request of the applicant. The study must include the following information:

1. Total capacity of the city's public infrastructure system or improvements to be dedicated to the city to be utilized by the proposed subdivision, employing standard measures of capacity and equivalency tables that relate the type of development proposed to the quantity of system capacity. In no case may the calculation of the capacity used by a proposed commercial or multifamily development be based on development intensities less than the mid-point of intensity allowed by the particular zoning for the property or the specific use being sought. If the proposed subdivision is to be developed in

phases, such information must be provided for the entire development, including any phases already developed.

2. Total capacity to be supplied to the city's public infrastructure system by the proposed dedication of an interest in land or construction of capital improvements. If the development application is part of a phased development, the information must include any capacity supplied by prior dedications or construction of capital improvements.

3. Comparison of the capacity of the city's public facilities system to be consumed by the proposed subdivision with the capacity to be supplied by the proposed dedication of an interest in land or construction of capital improvements. In making this comparison, the impacts on the city's public facilities system from the entire development will be considered.

4. The effect of any city participation in the costs of oversizing the capital improvements to be constructed in accordance with the city's requirements.

d. Processing of Petition

The development services engineer will evaluate the petition and supporting study and make a recommendation to the planning and zoning commission based upon the petitioner's study and his own analysis. The development services engineer may use any reasonable methodology and information in evaluating the petitioner's study.

e. Consideration of Petition for Relief

The petition for relief will be considered by the planning and zoning commission when the plat is considered. Based upon the application, supporting study and the development services engineer's report, the commission will determine whether the application of the regulations for dedication or public improvements is roughly proportional to the nature and impact created by the development. The planning and zoning commission will take one of the following actions in considering the petition for relief:

1. Deny the petition for relief, and impose the standard or condition requiring dedication or construction of capital improvements in accordance with the regulations contained within this ordinance.

2. Recommend to City Council approval of the petition for relief, in whole or in part, for any dedication or construction requirement necessary to meet the criteria for final approval.

3. Accept alternative designs for the public infrastructure system or improvements to be dedicated to the city.

4. Delay the imposition of the requirement until the building permit a future phase of development. If a delay is granted, the future phase of development must be clearly defined. (Ord. No. 0-2011-45; 6/8/11)

f. Criteria for Approval

The City Council will determine whether the application of the regulations requiring dedication of an interest in land for public improvements or construction of capital improvements is roughly proportional to the nature and extent of the impacts created by the proposed development on such water, wastewater, roadway, or drainage system, and reasonably benefits the development. The commission will take into account the evidence submitted by the petitioner and the development services engineer's report and recommendation.

g. Appeals

The decision of the planning and zoning commission on a petition for relief may be appealed in accordance with Article VIII of this code. An appeal constitutes authorization for the plat to also be placed on the city council's agenda for consideration and action.

h. Lapse of Plat Approval

If relief is granted to the petitioner, it will remain in effect for the time period specified for each type of plat, and will end upon expiration of the plat.

i. Plat Modification

If a plat for which relief was granted is modified to increase the number of residential units or the intensity of nonresidential uses, the development services engineer may require a new study to validate the relief. The petition for relief and new study must be submitted and processed according to the procedures outlined above.

Sec. 10-105. Subdivision Name

The proposed name of the subdivision or addition must not duplicate, or too closely approximate phonetically, the name of any other subdivision or addition in the area covered by these regulations and must, where possible, correspond to named subdivisions or additions in the immediate vicinity. The planning and zoning commission will have final authority to approve the name of the subdivision or addition.

Sec. 10-106. Corner and Reference Markers

1. All lot corners will be located and marked with minimum ½- inch reinforcing bar, minimum 24 inches in length, and will be placed flush with the ground or counter sunk, if necessary, in order to avoid being disturbed.
2. Iron rods, minimum ½ inch in diameter and minimum 24 inches long, will be placed on all boundary corners, block corners, curve points, and angle points in public rights-of-way. Monuments will be located as required by the Texas Board of Professional Surveyors and will be located along all drainage/floodway boundaries at all curve points, angle points and at least one monument at lot corners. One monument may serve two lots if located at a common corner.

Sec. 10-107 - 109. Reserved

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DIVISION B. Lot and Block Design Standards

Sec. 10-110. Lot Arrangement

The lot arrangement must be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the unified development code, building code and other applicable ordinances, laws, and regulations.

Sec. 10-111. Driveways

Driveway access must be provided to buildings on the lots from an approved street, alley, or private way. (Ord. No. 0-2014-97; 10/22/14)

Sec. 10-112. Lot Dimensions

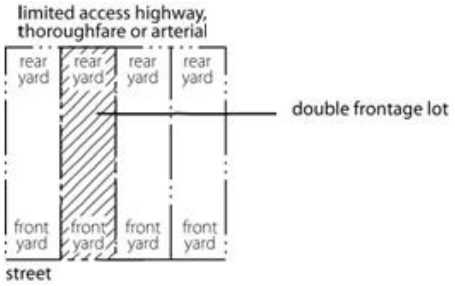
Lot dimensions must comply with the minimum standards of the unified development code. In general, side lot lines must be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots must be large enough to allow for erection of buildings. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes must be adequate to provide for the off-street parking, landscaping, and loading facilities required for the type of use and development contemplated, as established in the unified development code.

Sec. 10-113. Double Frontage Residential Lots

Double frontage lots should be avoided except where necessary to separate residential development from limited-access highways, thoroughfares, or arterial streets or to overcome specific disadvantages of topography and orientation. Where they are platted they must meet the following requirements:

a. Restricted Access

1. Driveway access to a double frontage lot must be provided from the street with the lowest classification.
2. The city may require that a notation be placed on the plat to limit the facing of main structures to the street with the higher classification.
3. A minimum six feet high uniform wood fence or masonry wall is constructed the full length of the rear yards abutting the second roadway. Add masonry columns and minimum three brick course when abutting arterial.
4. Where a double frontage lot has been created that abuts more than one public right-of-way, and at least one of these rights-of-way is a freeway, limited-access highway, thoroughfare or arterial street, the subdivider may be required by the city to relinquish all rights of access to, and from, such lots across the lot lines abutting such freeway, limited-access highway, thoroughfare or arterial.
5. Trees are encouraged to be planted between the fence and the abutting street.



b. Lot Dimensions

Double frontage lots must be at least [100 feet in depth] so as to provide adequate rear yard area for screening and buffering of the rear of the structure, as required by this section.

Sec. 10-114. Blocks

a. The city encourages developers to limit block length to 600 feet, but the length may be varied according to circulation, topography, and provisions of the master street plan. In no case should a block length exceed 1,200 feet in length without approval of the Planning Commission.

b. Where block lengths exceed 600 feet, the developer is encouraged to provide a pedestrian access easement at or near the mid-point of the block.

c. Blocks must have a minimum width of 200 feet and be able to provide for two tiers of lots of appropriate depths.

d. The lengths, widths, and shapes of blocks must be appropriate for the locality and the type of development contemplated.

Sec. 10-115. Lots and Blocks in Nonresidential Plats

a. General Requirements

A non-residential plat will be subject to all the requirements of these regulations, except those that clearly pertain only to residential properties, as well as such additional standards as may be required by the planning and zoning commission, and must conform to the proposed land use and standards established in the Tyler 1st Comprehensive Plan and this development code. Site plan approval and plat approval may proceed simultaneously at the discretion of the commission.

b. Design Principles

In addition to the regulations in this section, which are appropriate to all platting, the applicant must demonstrate to the satisfaction of the planning and zoning commission that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles must be observed:

1. Proposed non-residential parcels must be suitable in area and dimensions to the types of non-residential development anticipated.
2. Street rights-of-way and pavement must be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
3. Residential areas must be protected from potential nuisance from a proposed non-residential plat.
4. Streets carrying non-residential traffic, especially truck traffic, may not normally be extended to the boundaries of adjacent existing or future residential areas, except where required by the master street plan.

c. Frontage Standards

All non-residential lots established after April 24, 2008 must conform to the requirements of the specific zoning district as set forth in Article II.

Sec. 10-116 Soil Preservation, Grading, and Debris

a. Soil preservation and final grading must conform to the regulations set forth in Article VII, Division E.

b. Debris and Waste

No cut trees, timber, debris, large rocks or stones, junk, rubbish or other waste materials of any kind must be buried in any land, or left or deposited on any lot or street at the time of final acceptance by the development services engineer and removal of those items and materials will be required prior to such acceptance. No items and materials as herein described may be left or deposited in any area of the subdivision or addition at the time of expiration of any improvement agreement or acceptance of dedication of public improvements, whichever is sooner. However, dirt or topsoil stockpiled for more than six months on a property requires approval of the development services engineer.

Sec. 10-117 - 119. Reserved

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DIVISION C. Gated Development Standards

Sec. 10-120. Purpose

The purpose of this division is to ensure that features installed to restrict access to gated developments do not pose a threat to the health, safety, and welfare of residents within gated developments. This section does not apply to individual property owners who install restricted access devices for individual lots.

Sec. 10-121. Applicable Zones

Gated developments are permitted only in the following zoning districts:

a. PUR Planned Unit Residential District

b. PXR Planned Mixed Residential District

c. PMF Planned Multi-Family District

d. R-MF Residential District

Sec. 10-122. Gate and Accessway Design

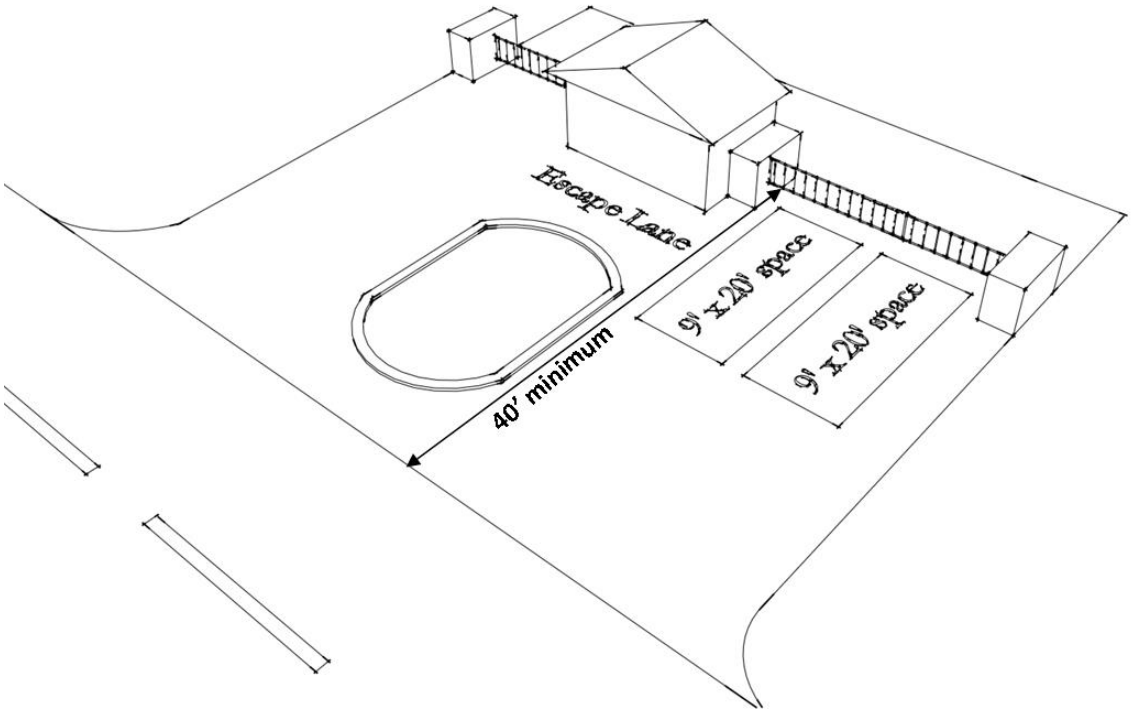
All gate installations must conform to the following specifications:

a. Gate design may incorporate one or two gate sections. The minimum gate width opening for one-way traffic is 14 feet. The minimum gate width opening for two-way traffic is 24 feet.

b. If a gate design incorporates any overhead obstruction, said obstruction must be a minimum of 14 feet above the finished road surface.

c. Approach and departures areas on both sides of a gated entrance must provide adequate setbacks and proper alignment to allow free and unimpeded passage of emergency vehicles through the entrance area. All entry gates must have a minimum setback of at least 40 feet between the back of curb of the street and front of gate. Exceptions to the setback may be granted by the Development Services Engineer, in consultation with the Traffic Engineer, so long as it can be demonstrated that emergency vehicles can adequately maneuver the entry gate area. Entry gates to gated developments consisting of 50 lots or less must provide one stacking space for every ten lots (or fraction thereof) with a minimum of two stacking spaces per entry gate. All entry gates to gated developments exceeding 50 lots must provide five stacking spaces per entry gate. All stacking lanes that can be accommodated in two lanes out of the public travel lanes. (Ord. No. 0-2016-76; 8/24/16)

d. An escape lane must be provided before the gates for those denied entrance to the development.



Minimum gate design standards (Ord. No. 0-2016-76; 8/24/16)

Sec. 10-123. System Requirements

a. Each entrance to a gated development must have a Knox Key Operated Dual Switch (KS-2DPDC), which must meet the following requirements:

1. Must have a switch designated for FIRE and POLICE.
2. Each switch must allow for emergency override of any electrical devices.
3. Red in color.
4. Each box must be at least five inches high, five inches wide, and 1.5 inches deep.
5. Switches must be located to be easily accessible and visible to service providers. Locations of switches are subject to approval at the time of building permit by all affected city departments.

b. A 24-hour phone number for use by any utility or service provider that may need to gain access the development. must be clearly displayed

c. Access for mail carriers must be provided as required by the U.S. Postal Service.

Sec. 10-124. Installation and Operation Requirements

a. A building permit is required for installation of restricted access devices.

b. The switches must have a normal and an emergency position. When installed, the contractor must wire this switch so that all gates open and remain open for emergency access until the switch is returned to the normal position.

c. A minimum of one set of gates must be installed so that they either open automatically or are readily manually operable from the approach side in the event of power failure.

d. The operator of any development subject to these regulations must immediately notify the fire and police departments of any changes.

Sec. 10-125. Maintenance

a. The mechanical components of the restricted access device must be serviced on a regular basis and maintained in an approved operating condition.

b. Upon failure of a performance test, the security gate system must be disabled and maintained in the open position until repaired, and must not be placed back in service until tested and authorized by the fire chief or development services engineer

c. The electrical components of the restricted access device must be maintained in an approved operating condition.

d. A power supply must be maintained to electronic components of the restricted access device at all times.

Sec. 10-126. Inspection and Testing

a. All streets, gates, and other fire protection features, signage, and equipment are subject to periodic inspection by the city and must be repaired immediately if found to be in condition of disrepair. The city will have the right to enter the subdivision and disable, open, or remove any gate, device, or other feature that impedes or controls vehicle access at the sole expense of the homeowner's association.

b. Emergency repairs will be assessed against the homeowner's association.

c. A performance test must be conducted annually by the fire and police departments to verify proper operation of equipment.

d. Upon failure of the performance test, the gates must be disabled and maintained in the open position until repaired and retested.

Sec. 10-127. Ownership and Management

The person or corporation in control of the property is responsible for, and liable for any violations. This includes, but is not limited to, the developer, property owner, the homeowner's association, if applicable, or other who may own or exercise control over the property.

Sec. 10-128. Compliance

a. All gate installations must be approved by the development services engineer prior to installation. The installation must be completed and tested prior to being operational.

b. All existing gated and restricted access developments subject to these requirements must be in full compliance with this section by April 24, 2008. (Ord. 9-98-69; 8/26/98)

Sec. 10-129. Reserved

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DIVISION D. Subdivision Improvement Agreement

Sec. 10-130. Completion of Improvements

Except as provided below, before the issuance of any building permit all applicants are required to complete, in accordance with the city's decision and to the satisfaction of the development services engineer, all the street, sanitary, and other public improvements, as well as lot improvements on the individual residential lots of the subdivision or addition as required in these regulations, specified in the final plat, and as approved by the planning and zoning commission, and to dedicate those public improvements to the city. As used in this section, "lot improvements" refers to grading and installation of improvements required for proper drainage and prevention of soil erosion.

Sec. 10-131. Improvement Agreement and Guarantee

a. Agreement

The development services engineer may waive the requirement that the applicant complete and dedicate all public improvements and may permit the developer to enter into an improvement agreement by which developer covenants to complete all required public improvements no later than two years following the date on which the final plat is signed. The planning and zoning commission may also require the developer to complete and dedicate some required public improvements prior to final acceptance and to enter into an improvement agreement for completion of the remainder of the required improvements during such two-year period. The improvement agreement may contain such other terms and conditions as are agreed to by the developer and the city.

b. Agreement Required for Oversize Reimbursement

The city will require an improvement agreement pertaining to any public improvement for which the developer may request reimbursement from the city for oversize costs as provided in Chapter 19 of the City Code for water and sewer improvements and Article IV, Division D of this code for all other improvements. The city council may authorize the approval of such agreement as meeting the city requirements, and the city will not withhold approval as a means of avoiding compensation due under the terms of this code.

c. Security

Whenever the city permits a developer to enter into an improvement agreement, it may require the developer to provide sufficient security, covering the completion of the public improvements. The security must be in the form of cash escrow or, where authorized by the City, a letter of credit or other security acceptable to the city attorney, as security for the promises contained in the improvement agreement. In addition to all other security, for completion of those public improvements where the city participates in the cost, the contractor must provide a performance bond, with the city as a co-obligee. Security must be in an amount equal to 100 percent of the estimated cost of completion of the required public improvements and lot improvements. The issuer of any surety bond and letter of credit will be subject to approval of the city attorney.

d. Letter of Credit

If the planning and zoning commission authorizes the developer to post a letter of credit as security for its promises contained in the improvement agreement, the letter of credit must:

1. Be irrevocable.

2. Be for a term sufficient to cover the completion, maintenance, and warranty periods but in no event less than two years.
3. Require only that the city present the issuer with a sight draft and a certificate signed by an authorized representative of the city certifying to the city's right to draw funds under the letter of credit.

e. Reduction to Letter of Credit

As portions of the public improvements are completed in accordance with the standard specifications and the engineering plans, the developer may make application to the development services engineer or designee to reduce the amount of the original letter of credit. If the development services engineer or designee is satisfied that such portion of the improvements has been completed in accordance with city standards, development services engineer may cause reduce that the remaining amount of the letter of credit to an amount that adequately insures the completion of the remaining public improvements.

f. Reduction in Required Security

Upon the dedication of and acceptance by the city of all required public improvements, the city may authorize a reduction in the security to 10 percent of the original amount of the security if the developer is not in breach of the improvement agreement. The remaining security must be for the developer's covenant to maintain the required public improvements and the warrant that the improvements are free from defect for one year thereafter. If the required security for maintenance and warranty is provided by the contractors or by others, the city will release the entire amount of the developer security.

Sec. 10-132. Temporary Improvements

The developer must build and pay for all costs of temporary improvements required by the development services engineer and must maintain those temporary improvements for the period specified by the planning and zoning commission. Prior to construction of any temporary facility or improvement, the developer must file with the city a separate improvement agreement and escrow or, where authorized, a letter of credit, in an appropriate amount for temporary facilities, which agreement and escrow or letter of credit must ensure that the temporary facilities will be properly constructed, maintained, and removed.

Sec. 10-133. Failure to Complete Improvements

No building permits will be issued for plats for which no improvement agreement has been executed and no security has been posted. In those cases where an improvement agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the city may:

a. Declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;

b. Obtain funds under the security and complete the public improvements itself or through a third party;

c. Assign its right to receive funds under the security to any third party, including a subsequent developer of the subdivision or addition for which public improvements were not constructed, in whole or in part, in exchange for that subsequent developer's promise to complete the public improvements on the tract; or

d. Exercise any other rights available under the law.

Sec. 10-134. Maintenance and Guarantee of Public Improvements

The developer must maintain all required street, utility, and drainage improvements for a period of one year following the acceptance by the city. The developer must also provide a warranty, in the form of a maintenance bond in the amount of ten percent of the construction cost guaranteeing that all public improvements will be free from defect for a period of one year following such acceptance by the city. (Ord. No. 0-2000-11, 3-1-2000) (Ord. No. 0-2006-19, 2/8/06)

Sec. 10-135 - 139. Reserved

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DIVISION E. Participation and Escrow Policies

Sec. 10-140. Developer's Responsibility

a. The developer will be responsible for the entire costs of designing and installing all public improvements which primarily serve the subdivision or addition. Facilities required by these regulations will be considered as primarily serving the subdivision or addition unless otherwise determined by the city.

b. The developer will also be responsible for its share of the costs of oversized or off-site public improvements needed to assure adequacy of public facilities and services for the addition or subdivision, subject to participation and escrow policies contained in this article.

c. The developer will be responsible for extending streets or drainage facilities off-site to its property as required by the planning and zoning commission and/or required to ensure adequacy of public facilities.

d. Water and sewer facilities must be extended by the developer in accordance with City Code Chapter 19.

Sec. 10-141. Facilities Eligible for City Participation

The developer is encouraged to inquire about City participation at a time before or upon submittal of the preliminary plat. The City may participate in the costs of installing public improvements according to the following schedule:

a. Water and Sewer Utilities

Funding of water and sewer utility improvements must be in accordance with City Code Chapter 19.

b. Drainage

The developer must bear the full cost of all drainage structures including inlets, culverts, storm sewers, manholes, and subdrains required to carry storm drainage or groundwater on or across the property of its origin. The city may, at its option, participate in the cost of drainage improvements. Participation must be approved individually on the merits of the work and the availability of funds by city council. Section 10-569 of this chapter governs the city's participation in controlling flooding and erosion with creeks and drainage courses.

c. Paving

The cost of clearing, excavation to a depth of one foot, subgrade stabilization, installing curb and gutter, and paving will be the sole responsibility of developer for standard width streets as set forth in Sec. 10-155. If funds are available, city will pay for a proportionate share of the clearing, paving, curb and gutter medians, subgrade stabilization, excavation to a depth of one foot, and drainage structures in excess of 32 feet between the face of curbs in single family residential zoned property, and in excess of 40 feet between the face of curbs in property zoned other than single family residential, if such extra width is required by city, and upon approval by city council prior to beginning any construction on said street(s).

Where the proposed subdivision is adjacent to both sides of an existing substandard street or road, said street or road being substandard according to City of Tyler's Standard

Specifications, the developer will be required to improve the existing street or road to bring same to city standards, or to replace it with a standard city street or road, at no cost to city, other than as set out in the cost-sharing policy of the city in effect at the time of approval of the final plat. Where the proposed subdivision is adjacent to only one side of a substandard street or road, and/or where, in city's judgment, it is not feasible to reconstruct said substandard street or road at the time of development of said subdivision, city may permit developer to provide to city an irrevocable letter of credit for an amount of money equal to developer's share of the cost of said improvements which will be determined by development services engineer, as a condition precedent to approval of said final plat of said subdivision, and then, to replace the letter of credit, pay into escrow this amount of money as a condition precedent to acceptance of the public street or road. (Ord. No. 0-2013-27; 8/28/13)

Sec. 10-142. Escrow Policies and Procedures

a. Deposit with City

Whenever the city agrees to accept escrow deposits in lieu of construction by the developer of the property under these regulations, the developer must deposit an amount equal to his share of the costs of design and construction in escrow with the city. Such amount must be paid prior to release of construction plans by the development services engineer. In lieu of such payment at such time, the city may permit the developer to contract with the city and must agree in such contract that no building permit will be issued for any lot included within said plat, or increment thereof, until the full amount of the escrow is paid, or a pro rata part thereof for the full increment if developed incrementally. The obligations and responsibilities of the developer will become those of developer's transferees, successors and assigns; and the liability, therefore, will be joint and several.

b. Determination of Escrow Amount

The amount of the escrow will be determined by using the average of the comparable bids awarded by the city in the preceding six months or, if none exist, then in the preceding year or, if none exists, current market value of construction as determined by an estimate by the development services engineer. Such determination will be made as of the time the escrow is due here under.

c. Termination of Escrow

Escrows which have been placed with the city under this section which have been held for a period of 10 years from the date of such payment or agreement, in the event that the city has not authorized the preparation of plans and specifications for construction of such roadway facilities for which the escrow was made, must, upon written request, be returned to the developer, with accrued interest. Such return does not remove any obligations of the developer for construction of the required facilities if a building permit has not been issued on the subject lot or if a new building permit is applied for.

d. Refunds

If any street or highway for which escrow is deposited for is constructed, or is reconstructed by another governmental authority at no cost to the city, the escrowed funds and accrued interest will be refunded to the developer after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the city and the other portion of the cost by another governmental authority, the difference between the developer's actual proportionate cost and the escrowed funds, including accrued interest, if any, will be refunded after completion and acceptance of the improvements.

e. Interest Limitation

If money is refunded within six months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with interest accrued, calculated at one percent less than the rate of actual earnings.

f. Payment of Fees, Charges, and Assessments

As a condition of plat approval, the developer must pay all fees, charges and assessments required to assure adequacy of public facilities to the subdivision or addition, as may be imposed under these or other regulations of the city. (Ord. No. 0-2000-11, 3-1-2000) (Ord. No. 0-2006-19, 2/8/06)

Sec. 10-143. Extraterritorial Jurisdiction (ETJ) Development Standards

a. Zones

The city and extraterritorial jurisdiction thereof is hereby divided into four zones in accordance with a map labeled "Extraterritorial Jurisdiction Exhibit A" which is made a part of this code. It is available for review in the city clerk's office and planning department. (0-2004-81, 10/13/04) (0-2005-12, 1/26/05)

1. **Zone 1: Urban Standards**
   This zone includes all area inside the city limits.

2. **Zone 2. Suburban Standards**
   This zone includes all areas within the ETJ lying beyond Zone 1, except for areas that exist solely due to the extension of the ETJ created by the highway right-of-way annexations along U.S. Highway 69 North, and U.S. Highway 271 North, and except for city-owned land in the ETJ contiguous to Lake Tyler.

3. **Zone 3. Rural Standards**
   This zone includes all areas within the ETJ which exist solely due to the extension of the ETJ created by the highway right-of-way annexations along U.S. Highway 69 North, and U.S. Highway 271 North.

4. **Zone 4. City-Owned ETJ Lands**
   This zone includes city-owned land contiguous to Lake Tyler and within the ETJ.

b. Review

The ETJ Map Exhibit "A" establishing the boundaries of the zones will be reviewed and amended at each annexation. The review may include consideration of the current growth patterns, historical growth of the city, Tyler 1st Comprehensive Plan, the current urban transportation study, the annual report of the State Highway Department and the current water and sewer extension capacity of the city.

c. Standards for Improvements by ETJ Zone

1. **Zone 1-Urban**
   All provisions of Article IV (Subdivision Design and Improvements), Article V (Streets and Thoroughfares), Article VI (Development Standards), Article VII (Environmental Regulations) will apply.

2. **Zone 2-Suburban**

Unless otherwise provided, all provisions of Article IV (Subdivision Design and Improvements) and Article V (Streets and Thoroughfares) will apply, however, Division E relating to design standards for curb and gutter, may be waived by the City Council provided that such waiver would not be harmful to the orderly growth of the city and would be consistent with good planning principles. In considering a waiver, the City Council must consider all related factors including but not limited to the density of population, the proximity to the city limits, the growth patterns of the city, the proximity of the adjacent subdivisions, the proximity to available city services, and the drainage characteristics of the area. If Division E. requirements to curb and gutter are waived by the City Council, the Article V., Streets and Thoroughfares, Division E. requirements relating to sidewalks are also waived. (Ord. No. 0-2009-19; 3/11/09) (Ord. 0-2010-20, 3/10/10)

3. **Zone 3-Rural**

Plats and subdivisions in Zone 3 will be governed by Smith County regulations per the interlocal agreement. (Ord. No. 0-2003-50, 9/24/03)

4. **Zone 4. City-Owned ETJ Land at Lake Tyler**

All provisions of Chapter 19, Division 5 of the Tyler City Code will govern. (0-2005-69; 9/14/05)

d. Subdivisions Straddling ETJ Zones

Where a portion of a subdivision lies within Zone 1 and Zone 2, Zone 1-Urban will be required for the entire subdivision. Where a portion of a subdivision lies within Zone 2 and a portion lies within Zone 3, Zone 2-Suburban will be required for the entire subdivision. (Ord. No. 0-2000-11, 3-1-2000)

Sec. 10-144 - 149. Reserved

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DIVISION A. Master Street Plan

Sec. 10-150. Purpose

A Master Street Plan has been approved by the City Council on September 12, 2012, to establish arterial streets and to serve as a guide for future collector street development in Tyler. The purpose of this plan is to provide for orderly improvement and expansion of the roadway system at minimum cost as the need for improvements arises. The plan delineates the street network estimated to be needed in the future for the Tyler urban area and its extraterritorial jurisdiction. A copy of the master street plan is on file and available for public review in the planning department and city clerk's office. (0-2005-29, 4/27/05) (Ord. No. 0-2012-70; 9/12/12)

Sec. 10-151. Map

A map labeled "Master Street Plan" and a report are hereby adopted as the city's street plan for the areas within the city limits, including both inside and outside Loop 323, and within the city's extraterritorial jurisdiction. The city council will use the report as a guide to assist with future city code amendments, such as the subdivision provisions in this code. A copy of the map and the report are on file and available for public review in the planning department and city clerk's office. (0-2005-29, 4/27/05) (Ord. No. 0-2012-70; 9/12/12)

Sec. 10-152. Unplatted Property

All unplatted property is required to meet all requirements of the master street plan, including the dedication requirements in this division.

Sec. 10-153. Waivers to Right-of-Way Dedication Requirements

An exemption to the master street plan right-of-way dedication requirements in Article V, Division A, will be allowed when the property is re-platted, if the following requirements are met:

a. Exemptions

1. There is an existing plat of record for the property to be replatted; and any newly created lots have an existing building that is designed and built for the support, enclosure, shelter, protection or use for permanent or continuous occupancy by persons for assembly, business, education, industrial, institutional, mercantile, or residential purposes, and where minimum right-of-way was previously dedicated or;
2. The road is built to its ultimate cross section, including curb, gutter, and sidewalks.

b. Voluntary Joint Applications for Amendments

Any person that desires to develop a street in a manner inconsistent with the requirements of the master street plan, maps or report described above, may seek to file a written request jointly signed by the person, the city, and all parties to be immediately affected by the requested change, with the planning department. The filing fee for such voluntary joint amendment application will be in an amount established by the city council and kept on file by the planning department. If all parties agree, then the proposed amendment application will then be placed on a planning and zoning commission agenda. The planning and zoning commission will conduct a public hearing and will then make a recommendation to the city council. The city council will make a final determination concerning the requested change and will decide if the master street plan, report, or maps will be followed or amended. (Ord. No. 0-2006-11, 1/11/06)

c. Appeals

Any person that desires to develop a street in a manner inconsistent with the requirements in the master street plan, maps, or report described above must file a written request along with the reasons therefore with the planning department. The filing fee for such written request will be in an amount established by the city council and kept on file by the planning department. The appeal or requested change will then be placed on a planning and zoning commission agenda. The planning and zoning commission must conduct a public hearing and will then make a recommendation to the city council. The city council will make a final determination concerning the appeal and requested change and must decide if the master street plan, report, or maps will be followed or amended. (0-99-91; 11/17/99) (O-2003-38, 7-23-03) (0-2005-29, 4/27/05) (Ord. No. 0-2006-11, 1/11/06)

d. Amendments to Master Street Plan

The following amendments to the master street plan approved by the city council on April 27, 2005, are hereby made.

1. The portion of Cumberland Road extending from Paluxy to Broadway will continue to be designated as a minor arterial but be limited to the 100 feet of right-of-way rather than the proposed 105 feet approved for other arterials. (0-2005-27, 4/27/05)
2. A 105 feet minor arterial proposed right-of-way along Rice Road, located at the northeast corner of the intersection of Richmond Road and Rice Road, extending 418 feet east along the north side of Rice Road. The dedication of 22½ feet of right-of-way is not required, but the existing 15-foot landscape easement is recognized and the dedication of an additional 7 ½ feet of right-of-way is required, to a total to 22½ feet. (0-2005-87; 10/26/05)
3. The required right-of-way for one way streets as designated in Chapter 17, Article IV., will be 65 feet for major arterials, and 60 feet for minor arterials and collectors. (Ord. No. 0-2006-11, 1/11/06)
4. The portion of South Broadway Avenue extending from 4th Street to Front Street is designated as a Minor Arterial with 90' right-of-way. (Ord. No. 0-2010-11; 1/27/10)
5. The portion of 29th Street from Cecil Avenue to Grand Avenue is designated as a Residential Collector with 60' right-of-way with bicycle lanes. (Ord. No. 0-2010-11; 1/27/10)
6. The portion of Grand Avenue from 29th Street to Mims Street is designated as a Local Collector with 60' right-of-way with a southbound bicycle lane. (Ord. No. 0-2010-11; 1/27/10)
7. The portion of New Copeland Road from Loop 323 to Amherst Street is designated as a Residential Collector with 60' right-of-way with bicycle lanes. (Ord. No. 0-2010-11; 1/27/10)
8. The portion of Donnybrook Avenue from Rose Rudman Trail to Amherst Street is designated as a Residential Collector with 60' right-of-way. (Ord. No. 0-2010-11; 1/27/10)
9. The portion of East Rieck Road from Rose Rudman Trail to Quail Creek Drive will be designated as a Local Collector with 60' right-of-way with a westbound bicycle lane. (Ord. No. 0-2010-11; 1/27/10) (Ord. No. 0-2011-45; 6/8/11)
10. The Master Street Plan is amended to shorten the Glass Avenue future collector to West Mims Street. (Ord. No. 0-2011-25; 4/27/11) (Ord. No. 0-2011-45, 6/8/11) (Ord. No. 0-2013-16; 2/27/13)

Sec. 10-154. Street Dedications and Reservations

a. Dedication of Right-of-Way

The developer must provide all right-of-way required for existing or future streets, as shown in the master street plan or other valid development plans approved by the planning and zoning commission or city council as applicable. In the case of perimeter streets, half of the total required right-of-way for such streets must be provided. However, in some instances more than half will be required depending on the actual or proposed alignment of the street.

b. Perimeter Streets

Where an existing half-street is adjacent to a proposed subdivision or addition, the unimproved half of the street must be dedicated and improved by the developer.

c. Slope Easements

The dedication of permanent or temporary easements, in addition to dedicated rights-of-way will be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes may not be in excess of three feet horizontal to one foot vertical.

d. Release of Reserved Right-of-Way

Right-of-way dedications from Master Street Plans that are no longer included in the current Master Street Plan are released from dedication. (Ord. No. 0-2013-41, 5/22/13)

Sec. 10-155. Street Construction

The developer must construct all streets or thoroughfares to city standards in rights-of-way as required by the master street plan and must follow the approved cross section standards as per the master street plan Report document, subject to participation policies stated in Article V, Division D and E. Streets (including sidewalks) which dead-end at power lines, railroad, or similar rights-of-way, and are intended for future extension must be constructed in the full right-of-way as required by the master street plan for half the distance across such right-of-way for each side. Widths shown below are face to face of curbs and required on both sides of divided streets. Developers of property abutting only one side of a street are responsible for half of the road up to a residential street section. When no road exists, the minimum is a 28 foot pavement section. The minimum paving widths for the various types of streets must be as follows:

Table 10-155 Minimum Paving Widths

Type	Classification	Row Width	Face To Face	Residential Lot Capacity
	Cul-De-Sac	55'	28'	Cul-de-sacs
F	Residential	55'	28' [1]	Less than 60
E	Collector Residential	60'	32'	60 or more
D	Commercial Street	60'	40'	
C	Collector Major	70'	40' [2]	
B	Arterial Minor	105'	78'	
	Arterial Minor W/Bike Lane	115'	88'	
A	Arterial Major	130'	101'	

Note 1: Street extensions or stub-outs into unplanned areas must have a minimum pavement width of 32 feet measured face of curb to face of curb.

Note 2: The width of a major collector must be flared to 52 feet at the intersection with an arterial or major collector. The width of the right-of-way must be flared to 80 feet. The length of the flare must be 130 feet with a 100 foot taper.

Note 3: Commercial use shall be based on the following Zoning Districts: R-MF, C-1, C-2, DBAC, M-1 and M-2. If a street fronts along a commercially zoned district on one side of the street and on a residentially zoned district on the other, then both sides must plat the street as a C or D street, as applicable. If a street fronts along lots that are a mixture of both commercial and residential zoning, then both sides must plat the street as a C or D street, as applicable.

Note 4: In addition to the classifications listed above, the master street plan classifies road construction standards into the following subgroups: rural, suburban, urban, and urban core. Typical cross sections for each road type can be found in the master street plan. (Ord. No. 0-2013-16; 2/27/13)

Sec. 10-156. Improvement, Widening, and Realignment of Streets

Where a subdivision or addition borders a substandard street or when the master street plan indicates plans for realignment, widening or constructing a street that would require use of some of the land in the subdivision or addition, the applicant will be required to improve and dedicate those areas for widening or realignment of those streets, as follows:

a. When a proposed subdivision or addition abuts or will abut both sides of a substandard street or a proposed street in the master street plan, the developer will be required to improve the substandard street or proposed street so that it will be a standard street, including sidewalks. The minimum street paving widths are set forth in Sec. 10-155 Minimum Paving Widths Table.

b. If the proposed subdivision or addition is located along only one side of a substandard street or a proposed street in the master street plan, the developer will be required to improve developer's side of the substandard street or proposed street, including sidewalks, so that it will be a standard street. The minimum street paving width will be as shown in chart of street widths set forth in this section. The developer may, however, petition the city to construct the improvements herein required, subject, upon approval, to the city's escrow policies stated in Sec. 10-142.

c. When an arterial street is to be extended through a property to intersect with another arterial street, all lanes must be constructed for a minimum distance of 350 feet from the point of intersection. From that point the pavement width may be decreased by two lanes, with provision of an appropriate transition in paving width. If property abutting only one side of the proposed thoroughfare is to be developed, then half the roadway will be constructed, including left turn lane and transition. This provision will not require widening an existing intersection that already provides four through lanes. (Ord. No. 0-2000-11, 3-1-2000)

d. Exemption to public improvement requirements for certain plats. An exemption to the requirements for improvement, widening and realignment of existing and proposed streets set forth in subsections (a) through (c) above will be allowed when the property is finally platted, if any newly created lots have an existing building that is designed and built for the support, enclosure, shelter, protection or use for permanent or continuous occupancy by persons for assembly, business, education, industrial, institutional, mercantile, or residential purposes.

e. Exemption to public improvement requirements for certain replats. An exemption to the requirements for improvement, widening and realignment of existing and proposed streets set forth in subsections (a) through (c) above will be allowed when the property is replatted, if all of the following requirements are met:

1. There is an existing plat of record for the property to be replatted; and
2. Any newly created lots have an existing building that is designed and built for the support, enclosure, shelter, protection or use for permanent or continuous occupancy by persons for assembly, business, education, industrial, institutional, mercantile, or residential purposes. (Ord. No. 0-2000-11, 3-1-2000) (Ord. No. 0-2006-19; 2/8/06)

Sec. 10-157 - 159. Reserved

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DIVISION B. Street Design Standards

All streets and alleys must be designed and platted in conformance with the master street plan in Article V, Division A, the Design Guidelines for Subdivision Improvements, and other development plans approved pursuant to this code. Access to all lots must be suitably improved or secured by provisions contained in this code.

Sec. 10-160. General

In order to provide for streets of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access to police, firefighting, sanitation, and street-maintenance equipment, and to coordinate streets so as to compose a convenient system and avoid undue hardships to adjoining properties, an adequate street and thoroughfare system must be designed in accordance with the standards set forth in these regulations, together with those contained in the Design Guidelines for Subdivision Improvements. The Standard Specifications for Public Works Construction and the Standard Construction Details are incorporated herein by reference. In the event of a conflict between these or other regulations and those contained in such documents, the more specific and/or restrictive provisions will apply. Paving and other improvements are subject to the participation policies stated in Article V, Division D and E.

Sec. 10-161. Alleys

Alleys within single-family residential districts must be at least 15 feet wide within a minimum 15-foot right-of-way. Wider alleys, when required for drainage, screening walls, or other purposes, must be constructed in rights-of-way approved by the development services engineer. Alleys for other than single-family residential uses must be dedicated and paved a minimum of 20 feet wide within a minimum 20-foot right-of-way. The owner must construct the full width of the alley at owner's expense.

Sec. 10-162. Curb and Gutter

Curbs and gutters must conform to standard city design and construction and are required in all subdivisions except roads designated as rural on the Master Street Plan and residential subdivisions where all lots are larger than two acres. Alternate curb and gutter construction are allowed in planned districts with the approval of the development services engineer. This exception will only apply to local streets and not on extensions of collector or arterial streets or streets proposed as such in the master street plan. (Ord. No. 0-2013-16; 2/27/13)

Sec. 10-163. Future Connections

Street extensions are required to link subdivisions and to provide stub out spacing averaging 1000 foot spacing access to contiguous, unplatted land, except for subdivisions with private streets. Temporary cul-de-sacs must be installed by the developer when required by the development services engineer.

Sec. 10-164. Traffic Buttons and Markings

The developer will be responsible for the installation of traffic buttons and markings which are necessary for the safe transition or channelization of traffic. When required by the traffic engineer the owner must install traffic buttons and markings for lane dividers. All traffic buttons and markings must be installed as required by the traffic engineer.

Sec. 10-165. Reserve Strips

The creation of reserve strips will not be permitted in such a manner as to deny access from adjacent property to any street, alley, or officially approved place, except as noted in Sec. 10-113 pertaining to double frontage lots.

Sec. 10-166. Topography and Arrangement

a. All streets must be properly integrated with the existing and proposed system of streets and dedicated rights-of-way as established on the master street plan.

b. Proposed streets must extend to the boundary lines of the tract to be platted, unless prevented by topography or other physical conditions, or unless in the opinion of the commission such extension is not necessary or desirable for the coordination of the layout of the subdivision or addition with the existing layout or the most advantageous future development of adjacent tracts.

Sec. 10-167. Cul-de-Sacs

a. No cul-de-sac unless otherwise authorized by the planning and zoning commission may exceed 600 feet in length, as measured from the centerline of the street with which it intersects to the center point of the cul-de-sac. Cul-de-sac lengths longer than those specified in this section will require approval of a variance. In reviewing a variance, the commission will consider the following:

1. Alternative designs which would reduce street, cul-de-sacs, or alley length;
2. The effect of overlong blocks, cul-de-sacs, or alleys on access, congestion, and delivery of municipal services; and
3. Means of mitigation, including but not limited to increased street width, mid-block turnarounds, limitation on the number of lots to be created and served, temporary points of access, and additional fire protection measures.

Sec. 10-168. Dead End Streets

a. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets will, in general, be prohibited. However, the planning and zoning commission may require the reservation or dedication of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities.

b. A cul-de-sac turnaround must be provided at the end of a permanent dead-end street in accordance with Design Guidelines for Subdivision Improvements.

c. The city may require the construction of temporary dead-end streets in order to provide for the future connection of subdivisions and to ensure reasonable access and avoid excessive street length.

Sec. 10-169. Street Names and Signs

a. Street names must be submitted to the planning department for approval. Street names and subdivision names will be referred to the 9-1-1 Network of East Texas for verification. Streets that are to be in alignment with existing streets must be given the same name. Names must be sufficiently different in sound and spelling so as not to cause conflict or confusion. The planning department will maintain an index of street names. Street names and subdivision names are fixed at the time of approval of the final plat.

b. The developer must provide payment for street name signs for the development. The price of each street name installation will include the cost of the sign assembly, pole, and installation. Payment by the developer will be due prior to approval of the engineering plans by the development services engineer.

c. Street name signs will be installed by the city upon acceptance of the development street improvements by the development services engineer.

d. Private ways will follow the same standards as street names and signs, but the suffix for the name shall be restricted to Way. In addition, any new street designations shall not use the suffix way. (Ord. No. 0-2014-97; 10/22/14)

Sec. 10-170. Street Lights

The installation of street lights is subject to approval by the traffic engineer and must be in accordance with the Design Guidelines for Subdivision Improvements. The developer will be responsible for the cost of such street lighting installation as required. The developer must install conduit for street lights and traffic signals in divided thoroughfares as directed by the development services engineer.

Sec. 10-171. Pavement

The pavement structure must be designed in accordance with the Design Guidelines for Subdivision Improvements in Tyler.

Sec. 10-172 - 179. Reserved

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DIVISION C. Street Connectivity

Sec. 10-180. Purpose

An interconnected street system is necessary in order to promote the public health, safety, and welfare of the city, as well as orderly and healthful development by ensuring that streets function in an interdependent manner, provide adequate access for emergency and service vehicles, enhance walkability by ensuring connected transportation routes, and provide continuous and comprehensible traffic routes.

Sec. 10-181. Applicability

All proposed streets must be continuous and connect to existing, platted, or planned streets without offset, except for cul-de-sacs as permitted in Sec. 10-167.

Sec. 10-182. Reserved

Sec. 10-183. Reserved

Sec. 10-184. Collector Street Connectivity Requirement

All collector-designated streets will connect on both ends to an existing or planned collector or higher-level street.

Sec. 10-185. Street Layout

Adequate streets must be provided by the subdivider such that the arrangement, character, extent, width and grade of each must conform to the master street plan and will be considered in their relation to existing and planned streets, to the topographical conditions, to the public safety and convenience and to their appropriate relationship to the proposed use of the land to be served by such streets.

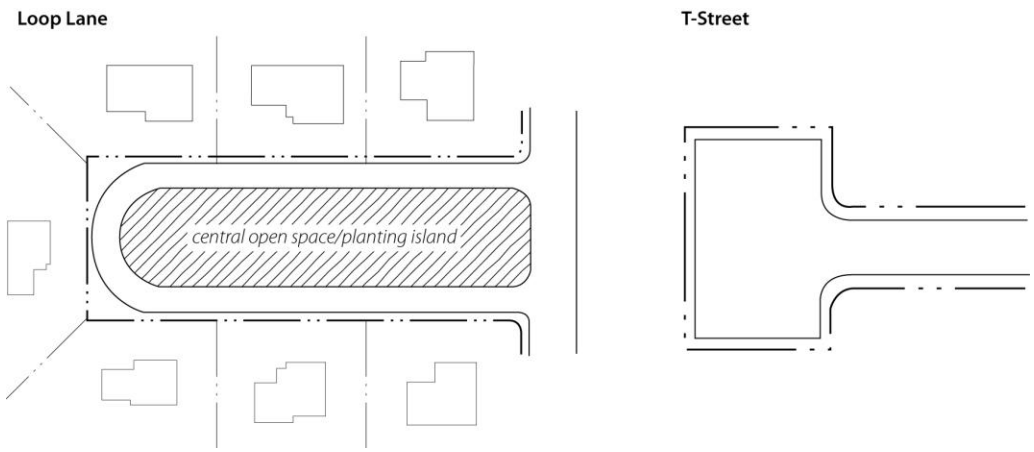
Sec. 10-186. Circulation

a. Each subdivision must provide for the continuation of all arterial streets and highways as shown on the master street plan. Arterial streets should be located on the perimeter of the residential neighborhood.

b. Collector and local streets should be designed to provide access to each parcel of land within the residential neighborhood and within industrial areas. They should be planned so that future urban expansion will not require the conversion of minor streets to arterial routes.

c. Collector streets should be designed to provide a direct route from other minor streets to the major street and expressway system and to provide access to public facilities within the neighborhood; however, collector streets should not be aligned in a manner that will encourage their use by through traffic.

d. Permitted alternative to cul-de-sacs include loop lanes and T-streets, and any similar alternative approved by the development services engineer.



Sec. 10-187. Required Subdivision Access Points

a. A subdivision of ≤60 lots or less must provide access to the existing or planned public roadway system via at least one access points.

b. A subdivision of 61 lots to ≤120 lots must provide access to the existing or proposed public roadway system via two access points at minimum unless extreme natural conditions, as determined by the planning director and the development services engineer, make such connection infeasible. A divided boulevard entrance with two lanes in and two lanes out may count as two access points.

c. Subdivisions of ≥121 lots or greater will be required to provide at least three access points to the existing or proposed public roadway system, subject to review by the development services engineer. The additional access points must be shown on the plat and construction plans for the development; however, construction of the street may be postponed to a later phase of development. The planning and zoning commission may require the construction of any access point at the time of approval of the final plat unless extreme natural conditions, as determined by the planning director and the development services engineer, make such connection infeasible. (Ord. No. 0-2009-19; 3/11/09)

Sec. 10-188. Relation to Adjoining Street Systems

To provide connectivity to other neighborhoods existing streets in adjacent or adjoining areas must be continued in the new development, in alignment therewith. Whenever connections to anticipated or proposed surrounding streets are required by this section, the right-of-way must be extended and the street developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the anticipated or proposed street is expected. The development services engineer will require temporary turn-arounds to be constructed at the end of such streets pending their extension when such turn-arounds appear necessary to facilitate the flow of traffic or accommodate emergency or service vehicles. Notwithstanding the other provisions of this subsection, no temporary dead-end street in excess of 600 feet may be created unless no other practical alternative is available.

Sec. 10-189. Street Jogs

Where off-sets in street alignment are, in the opinion of the development services engineer, unavoidable due to natural features or other unique elements of the land, such off-sets may be included, provided the distance between center lines is not less than 200 feet.

Sec. 10-190. Large Lot Subdivision

If the lots in the proposed subdivision are large enough to suggest re-subdivision in the future, or if part of the parent tract is not platted, consideration must be given to possible future street openings and access to future lots which could result from such re-subdivision.

Sec. 10-191. Through Traffic

a. Local streets must be designed so as to meet the local street connectivity requirements of Article V, Division C.

b. The arrangement of streets must provide for the continuation of streets between adjacent properties.

c. If the adjacent property is undeveloped and the street must temporarily be a dead-end street the right-of-way must be extended to the property line.

d. Where existing alleys are used, alley turnouts must be provided to new subdivisions.

Sec. 10-192 - 199. Reserved

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DIVISION D. Private Streets, Alleys, Ways, and Driveways

Subdivisions may be developed with private streets, alleys, and ways instead of public streets and alleys if the development complies with the requirements of this section and the subdivision has received zoning approval for a private street development. The term private street will be inclusive of alleys. Variances to these requirements will not be permitted. (Ord. No. 0-2014-97; 10/22/14)

Sec. 10-200. Design and Construction Standards

Private streets must conform to the same standards regulating the design and construction of public streets. These standards include, but are not limited to, the following:

a. Private Streets and Alleys

1. Minimum pavement width of private streets will be 28 feet measured from face of curb to face of curb.

2. Design Guidelines for Subdivision Improvements; and

3. Street naming requirements in Sec. 10-169. (Ord. No. 0-2014-97; 10/22/14)

b. Private Ways

Private ways must conform to the same standards regulating the design and construction of fire apparatus access routes in accordance with the currently adopted version of the International Fire Code. In addition to these standards, private ways serving as sole access to residentially-zoned properties, where allowed in Section 10-23 of this Chapter, must be constructed of concrete. (Ord. No. 0-2014-97; 10/22/14) (Ord. No. 0-2016-76; 8/24/16)

Sec. 10-201. Streets Excluded

a. Streets shown on the master street plan of the transportation element of the comprehensive plan may not be used, maintained, or constructed as private streets or ways.

b. The planning and zoning commission may deny the creation of any other private street or way if, in its judgment, the private street or way would negatively affect traffic circulation on public streets or impair access to property either on-site or off-site to the subdivision, impair access to or from public facilities including schools and parks, or delay the response time of emergency vehicles. (Ord. No. 0-2014-97; 10/22/14)

Sec. 10-202. Homeowner's Associations Required

a. General Requirements

1. Subdivisions developed with private streets alleys and/or ways are required to have a homeowner's association which must own and will be responsible for the maintenance of access and appurtenances. All owners of property served by the private access must be members of the homeowner's association.

2. The homeowner's association must have the direct responsibility to provide for the operation and maintenance of all common areas and facilities, including private

accessand sidewalks, which are a part of the enclave subdivision. (Ord. No. 0-2014-97; 10/22/14)

b. HOA Documents

1. For the purposes of this subsection, the term "HOA Documents" means any law, rule, or comparable instrument governing the internal affairs of an organization.
2. The applicant must submit to the city a copy of the association's HOA Documents covering the establishment, maintenance, and operation of a residential subdivision.
3. The HOA Documents must establish a plan for the use and permanent maintenance of the common areas/facilities and demonstrate that the homeowner's association is self-perpetuating and adequately funded by regular assessment and/or special assessment to accomplish its purposes.
4. The HOA Documents must include provisions that provide the city with permission for access at any time without liability when on official business, and further, to permit the city to remove obstructions if necessary for emergency vehicle access and assess the cost of removal to the owner of the obstruction. The HOA documents must be approved by the city attorney as to legal form prior to any plat recordation and shall be recorded prior to the issuance of the first certificate of occupancy.

Sec. 10-203. Private Street Lot and Easement

a. Private streets, alleys and ways must be constructed within a separate lot owned by the home owners association. This lot must conform to the Design Guidelines for Subdivision Improvements. (Ord. No. 0-2014-97; 10/22/14)

b. An easement must be granted to the city providing unrestricted use of the property for utilities and the maintenance of same. This right will extend to all utility providers, including tele-cable companies, operating within the city. The easement must also provide the city with the right of access for any purpose related to the exercise of a governmental service or function including, but not limited to, fire and police protection, inspection and code enforcement. The easement will permit the city to remove any vehicle or obstacle within the street lot that impairs emergency access.

Sec. 10-204. Construction and Maintenance Cost

The city will not pay for any portion of the cost of constructing or maintaining a private street, alley or way. (Ord. No. 0-2014-97; 10/22/14)

Sec. 10-205. City Utilities

Water facilities placed within a private street, alley or way must be installed in conformance with Chapter 19 of the Tyler City Code. Sewer and drainage facilities placed within a private street, alley or way must be installed in conformance with the Design Guidelines for Subdivision Improvements. All such facilities must be dedicated to the city prior to final approval. (Ord. No. 0-2014-97; 10/22/14)

Sec. 10-206. Plans and Inspections

a. Developments proposed with private streets must submit to the city the same plans and engineering information required to construct public streets and utilities.

b. Requirements pertaining to inspection and approval of improvements for private streets must be the same as for public streets. Fees charged for these services will also apply.

c. The city will inspect private streets during construction and periodically thereafter to ensure the streets are in good condition and that emergency access is maintained.

Sec. 10-207. Access Restrictions

The entrances to all private streets and ways must be marked with a sign stating that it is a private street or way. Guard houses, access control gates, and cross arms may be constructed. All restricted access entrances must be in compliance with Article IV, Division C. If the association fails to maintain reliable access as required to provide city services, the city may enter the subdivision and remove any gate or device which is a barrier to access at the sole expense of the association. (Ord. No. 0-2014-97; 10/22/14)

Sec. 10-208. Petition to Convert to Public Streets

A property owner's association may request that the City accept private streets and alleys and the associated property as public streets and right-of-way. However, in no event will the City be obligated to accept said streets and alleys as public. Should the City elect to accept the streets and alleys as public, it may inspect the private streets and assess the lot owners for the initial expense of needed repairs to bring the streets or alleys up to City standards and concurrent with the City's acceptance of the streets and alleys. The City will be the sole judge of whether repairs are needed. The City may also require, at the association's expense and concurrent with the City's acceptance of the streets and alleys, the removal of guard houses, access control devices, landscaping or other aesthetic amenities located within the street lot, as a condition of acceptance.

Private ways, as they are not constructed to public street standards, are not eligible for petition to convert to public maintenance. (Ord. No. 0-2014-97; 10/22/14) (Ord. No. 0-2016-8; 1/27/16)

Sec. 10-209. Street Sign Standards

a. Signs identifying private streets must conform to the same minimum standards regulating the design and construction of signs identifying public streets as approved by the traffic engineer.

b. Private street signs located at the intersection of a private street with a public street are subject to approval by the traffic engineer.

c. All private traffic signs must conform to the Texas Manual of Uniform Traffic Control Devices. (Ord. No. 0-2000-11, 3-1-2000) (Ord. No. 0-2006-19, 2/8/06)

Sec. 10-210. Streets in the Extraterritorial Jurisdiction

a. For public or private street construction occurring within a subdivision in Zone 2 of the extraterritorial jurisdiction, the developer must provide to the city a construction bond or letter of credit made payable to Smith County with a copy provided to the City in an amount established by the city council and kept on file in the development services department, which will be in effect until street construction is completed.

(Ord. No. 0-2003-50, 9/24/03)

b. For public street construction occurring within a subdivision in Zone 2 of the extraterritorial jurisdiction, the developer must provide to the city a one-year maintenance bond or letter of credit made payable to Smith County with a copy provided to the City in an amount established by the city council and kept on file in the development services department, which will be in effect after the acceptance of construction. (Ord. No. 0-2003-50, 9/24/03) (Ord. No. 0-2003-72, 12/10/03)

Sec. 10-211. Private Driveways

a. Required Permits and Plans for Private Driveways

1. Driveways and sidewalks shall be located and constructed according to the city Driveway Design Standards and Paving Detail Standards on file with the development services engineer.
2. No driveway may be constructed, reconstructed, altered, or repaired, until a permit is issued by the development services department. Unless otherwise expressly stated herein, the provisions of this chapter will apply to state highways. It is the responsibility of development services engineer to provide the Texas Department of Transportation with a copy of driveway permits issued on state highways no later than 10 business days following issuance of same.
3. No driveway permit for a major driveway may be issued by the development services department for commercial driveways until the traffic engineer has approved the driveway location and design of the off street parking plan.
4. Each application for a major driveway permit must include a driveway design and an off-street parking plan. The plan must be drawn to scale, showing all parking spaces, all existing and proposed curb inlets, landscaping, fences, barriers, utilities, driveway dimensions, all existing driveways on the property, all existing driveways on adjacent properties located within 100 feet of the proposed driveway, the street address, and any additional information required by the development services engineer.
5. If the proposed driveway plan is part of a new building construction or remodeling plan requiring a building permit, the driveway permit may not be issued until the building permit has been issued. (Ord. of 8-19-75, § 2(A)(1), (2), (3)) (0-98-31, 4-15-98) (Ord. No. O-2000-76, 10-4-2000) (Ord. No. 0-2006-70; 8/9/06)
6. The actual construction of driveway and parking improvements must comply with the approved plan and permit terms and is subject to inspection during construction. (Ord. of 8-19-75, § 2(A) (4)) (Ord. No. 0-96-61, 7-17-96) (0-98-31, 4-15-98) (Ord. No. O-2000-76, 10-4-2000)

b. Revocation or Denial of Permit

Any permit granted by the development services department pursuant to this chapter may be revoked by the development services engineer any time the terms of this chapter are violated, or when the continued exercise of the privilege constitutes a menace to the public safety or is an unreasonable use of the public streets or ways. Repeated and suspected intentional violations will be deemed sufficient reason to deny issuance of permits in future applications by the individual violators.

c. Removal of Unauthorized Driveway

If a driveway is constructed, altered, or modified without the issuance of a driveway permit, in violation of the conditions of the permit, or in violation of this division, the development services engineer may require the violator, at violator's expense, to remove the driveway and restore the street and right-of-way to its original condition.

d. Driveway Profiles

Driveway profiles must be determined based upon the grade of a two-way, one-way or divided commercial driveway and shall not exceed 10 percent across public right-of-way. All driveways shall be designed to allow accessible traversing by pedestrian sidewalks, where accessible means complying with the Texas Accessibility Standards and the American Disabilities Act.

e. Driveway Spacing

Driveway spacing must adhere to Table 10-211e: Spacing is to be measured from the end of radius of the driveway to the end of radius of the adjoining driveway or street.

Table 10-211e Driveway Spacing

Minor Driveway (Residential)

Type of Street of driveway location	Radius		Width		Driveway Spacing e/radius to e/radius (e/radius = end of radius)	
	min ft.	max ft.	min ft.	max ft.	Same Property ft.	Adjoining Property ft.
Residential	5	10	10	25	40	2
Collector-Residential					50	
Commercial	10	20	15	25	50	
Collector						
Minor Arterial					See Arterial Dimension Table for Minor Arterial	
Major Arterial					See Arterial Dimension Table for Major Arterial	

Major Driveway (Commercial)

Type of Street of driveway location	Radius		Two Way Drive Width		One Way Drive Width		Driveway Spacing e/radius to e/radius (e/radius = end of radius)	
	min ft.	max ft.	min ft.	max ft.	min ft.	max ft.	Same Property ft.	Adjoining Property ft.
Residential	10	20	25	35	14	25	50	2
Collector-Residential							75	
Commercial	15	40	25	40	15	25	100	20
Collector		25						30
Minor Arterial	20	30					See Arterial Dimension Table for Minor Arterial	
Major Arterial							See Arterial Dimension Table for Major Arterial	

Arterial Dimension Table for Driveway Spacing

	TxDot Facilities	Major Arterials	Minor Arterials
Roadway Speed (mph)	Edge to Edge Dist (ft)	E/Radius to E/Radius Dist (ft)	E/Radius to E/Radius Dist (ft)
30	200	150	75
35	250	200	125
40	305	255	180
45	360	310	235
50	425	375	300

f. Number of Driveways per Parcel

1. One driveway opening is permitted to a parcel from any abutting street provided that access is not otherwise controlled or restricted.
2. Additional driveways may be permitted in accordance with Table 10-211e as part of building permit site plan review.
3. Additional driveways may be allowed, subject to approval by the development services engineer if they are shared access driveways, or shared access easements are provided. (Ord. No. 0-2014-97; 10/22/14)

g. Corner Clearance

All driveways must adhere to Table 10-211g.Table 10-211g Corner Clearances for Driveways

Minor Driveway (Residential)

Distance from end of street radius to end of drive radius (feet)

		Intersection Street				
		Residential	Collector-Residential	Commercial	Collector	Arterial
Type of Street of Driveway Location	Residential	15		35		75
	Collector-Residential					
	Commercial					
	Collector					
	Minor Arterial	See Table 10-211e (Minor Arterial)				
	Major Arterial	See Table 10-211e (Major Arterial)				

Major Driveway (Commercial)

Distance from end of street radius to end of drive radius (feet)

		Intersection Street				
		Residential	Collector-Residential	Commercial	Collector	Arterial
Type of Street of Driveway Location	Residential	15		35		
	Collector-Residential		35			
	Commercial	75				
	Collector					
	Minor Arterial	See Table 10-211e (Minor Arterial)				
	Major Arterial	See Table 10-211e (Major Arterial)				

h. Failure to Comply

Failure to comply with any of the requirements of this section will be grounds for disapproval of the proposed plan or application for a building permit.

Sec. 10-212. Interference with Public Facilities

No driveway entrance may interfere with city facilities such as street light poles, traffic signal standards or detectors, signs, catch basins, hydrants, water meters, valve boxes, manways, crosswalks, bus stop areas, utility poles, fire alarm supports, underground pipes or ducts or other necessary street structures. Arrangements must be made with the proper authority for the adjustment or relocation of the facility affected and/or adjustments made in the driveway design, before a permit will be issued. Driveway entrances on state highways must comply with the Texas Department of Transportation Access Management Manual and other state or federal laws, as applicable. (Ord. of 8-19-75, § 2(A) (6)) (Ord. No. 0-96-61, 7-17-96) (0-98-31, 4-15-98) (Ord. No. O-2000-76, 10-4-2000) (Ord. No. 0-2006-70; 8/9/06)

Sec. 10-213. Unduly Hazardous Location Denials

Where in the opinion of the development services or traffic engineer, a driveway is proposed that meets all requirements of this division, yet will, by its location or design or other element, be unduly hazardous, the development services or traffic engineer may deny such driveway location and/or design. The development service's or traffic engineer's decision may be appealed pursuant to Sec. 10-216.

Sec. 10-214. Construction Standards and Specifications

The construction of all driveways must conform to the standards and specifications published by the development services department, and with the Texas Department of Transportation Access Management Manual where applicable. (Ord. of 8-19-75, § 2 (B)) (Ord. No. 0-96-61, 7-17-96) (0-98-31, 4-15-98) (Ord. No. O-2000-76, 10-4-2000) (Ord. No. 0-2006-70; 8/9/06)

Sec. 10-215. Modifications

The development services engineer, with the concurrence of the traffic engineer, may grant variances to the requirements of this division to the extent deemed necessary and proper so as to relieve undue difficulty or hardship, if the granting of the variance would not adversely affect the public safety and welfare and would not impair the interest of this division and the master street plan.

Sec. 10-216. Appeals

a. Appeals to the decisions of the development services or traffic engineer in the application of this division will be made in accordance with Chapter 1, Article IV, of the Tyler City Code.

b. This subsection applies only to an appeal of the development services or traffic engineer that involves a rule or regulation of the Texas Department of Transportation Access Management Manual. Appeals to the decisions of the development services engineer and/or traffic engineer in the application of this division to state highways will be made to the Texas Department of Transportation area engineer responsible for the respective state highway. The appellant shall file with the development services or traffic engineer such information as each shall require, and the development services engineer or traffic engineer shall forward such information to the appropriate Texas Department of Transportation engineer. Said Texas Department of Transportation area engineer shall decide the appeal, and said decision shall be final. (Ord. of 8-19-75, § 2 (C)) (Ord. No. 0-96-61, 7-17-96) (0-98-31, 4-15-98) (Ord. No. O-2000-76, 10-4-2000) (Ord. No. 0-2006-70; 8/9/06)

Sec. 10-217. Minor Driveways

In addition to the following requirements, minor driveways on state highways must comply with the Texas Department of Transportation Access Management Manual and any other applicable state and federal laws. (Ord. No. 0-2006-70; 8/9/06)

a. Width

See Table 10-211e for required driveway widths. Driveway width is measured at right angles to the centerline of the driveway, except as increased by permissible radii. Single-family corner lots with more than a two-car garage may be allowed a driveway width equal to garage width, not to exceed maximum driveway width of 35 feet. (Ord. 0-2010-20, 3/10/10)

b. Angular Placement

The center line of a minor driveway must meet the curb line as close as practicable to a right angle. An angle of less than 70 degrees shall not be permitted.

c. Location

1. If a property used for single-family or two-family dwellings has frontage on both a major and minor street, no driveway access will be permitted to the major street.
2. See Table 10-211g for distance between driveway and nearest intersection. Distance is measured from the end of the driveway curb radius to end of the intersection curb radius. (Ord. 0-2010-119, 11/10/10)
3. A common driveway for two adjacent residential properties may be allowed with the written agreement of the property owners. In such cases, the combined width must not exceed 30 feet measured at the right-of-way line.

d. Sketch

For example of the foregoing, see the Standard Driveway Detail, available in the development services department, which is incorporated here by reference. (Ord. of 8-19-75, § 3) (Ord. No. 0-96-61, 7-17-96) (0-98-31, 4-15-98) (Ord. No. O-2000-76, 10-4-2000)

e. Minor Driveway Standards

The following standards apply to all minor driveways providing ingress or egress to a public or private street.

1. One driveway opening is permitted to a parcel from any abutting street provided that access is not otherwise controlled or restricted.
2. A second driveway opening is permitted on corner lots, provided that no off-street parking areas are located in the sight triangle area as described by this code. (See Sec. 10-218). (Ord. 0-2010-119, 11/10/10)
3. Attached single-family and multiple-family dwellings should be served by a common access driveway whenever possible and curb cuts must be minimized. (Ord. No. 0-2014-97; 10/22/14)
4. All multi-family dwellings and apartment complexes that abut an arterial or collector streets as identified in the Master Street Plan must comply with the major driveway standards of this section.

Sec. 10-218. Major Driveways

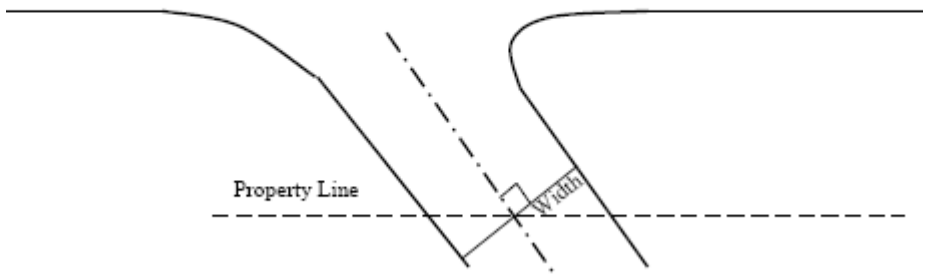
In addition to the following requirements, major driveways on state highways must comply with the Texas Department of Transportation Access Management Manual and any other applicable state and federal laws. (Ord. No. 0-2006-70; 8/9/06)

a. Width

See Table 10-211e for required driveway widths. Driveway width is measured along the right-of-way line for driveways that are perpendicular to the street.

b. Measurement of Width on Angled Driveways

The width of a driveway will be measured at right angles to the center line of the driveway at the right-of-way line. (Ord. No. 0-2014-97; 10/22/14)



Driveway Width for Driveway at Skewed Angle (Ord. 0-2010-20, 3/10/10)

c. Location

1. At a property line, with an adjacent property or alley, a curb length of not less than one foot must be left undisturbed between the near edge of the driveway and the property line projected to the curb line, except by plat, access easement, or upon submission of a letter from adjoining property owner stating that there is no objection to the radius extending in front of such property.

2. A minimum island width of 10 feet measured at the right-of -way line and the nose of the island nearest the curb line, may be permitted between adjacent one-way driveways serving as a combined entrance/exit facility. The total maximum driveway width when including the required minimum island width shall not exceed 70 feet as measured along the right-of-way line, except as increased by permissible radii.

d. Number of Driveways

Each property will be limited to the number of driveways allowed by the spacing and location requirements in Table 10-211e and Table 10-211g:

e. Special Requirements

1. **Barriers**

On property used for purposes other than one- or two-family dwelling units, a continuous, six-inch, raised concrete curb must be constructed on all portions of the property adjacent to the right-of-way except at points of driveway access. Such curbs must be constructed so as to prevent driving over the sidewalk area except at points of driveway access. Where vehicles are to be parked other than parallel to the right-of-way or property line, curbs must be installed at least 30 inches from the right-of-way line or property line or located so as to prevent any part of a parked vehicle from extending over the right-of-way line or property line.

2. **Street Access**

All major driveways must be designed such that all vehicles will enter the adjacent street moving in a forward direction.

3. **Common Driveway Use over Property Lines**

Joint use driveways may be allowed on adjoining properties when the driveway meets all of the requirements of this chapter, provided that both property owners agree to such joint use either by joint application for a permit, by plat, easement, or by submission of a letter agreeing to such joint use by the property owner not making the application.

4. **Existing driveways and new improvements**

Any existing driveways allowed to be used with new improvements to buildings must conform to this chapter. (Ord. of 8-19-75, § 4) (Ord. No. 0-96-61, 7-17-96) (0-98-31, 4-15-98) (Ord. No. O-2000-76, 10-4-2000)

f. Major Driveway Standards

The following standards apply to all major driveways providing ingress or egress to an arterial or collector street as identified in the Master Street Plan.

1. Except in DBAC, PMXD-1, and PMXD-2, off-street parking spaces must be arranged so that no vehicle will back directly onto a street or primary access aisle in a shopping

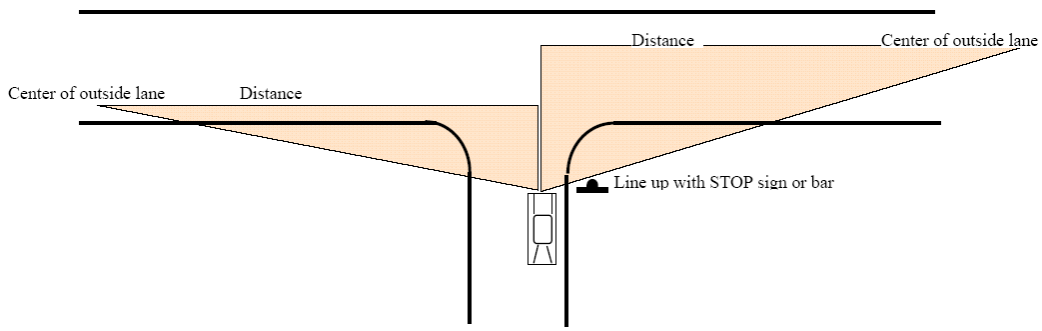
center. All private parking areas and circulation driveways must be located off of the street right-of-way. Divisional islands and curbs must be constructed where necessary to provide such protection. (Ord. No. 0-2014-97; 10/22/14)

2. Driveways must be designed so that vehicles entering the driveway from the street will not encroach upon the exit lane of a two-way driveway. Also, a right-turning exiting vehicle must be able to use only the first through traffic lane available without encroaching into the adjacent through lane.

3. Direct-access driveway placement must provide exiting vehicles an unobstructed sight distance onto the roadway according to the following schedule.

Table 10-218 Sight Distance Table

Sight Distance (Feet)						
Speed Limit (MPH)	**30**	**35**	**40**	**45**	**50**	**60**
Number of Lanes on Street						
2	300	350	400	450	500	550
4	350	400	450	500	600	650
6	400	450	500	550	650	700



Sight Distance
Note: Where no stop sign or stop bar exists, reference the Texas Manual on Uniform Traffic Control Devices, Stop and Yield Lines Section, to establish stop location. (Ord. 0-2010-119, 11/10/10)

4. Access to property is allowed only across such driveways, and all other frontage on the property must not be used for egress, ingress, or parking on the right-of-way.

5. Sufficient space must be provided so that vehicles waiting to park or exit do not interfere with street traffic.

6. Driveway placement shall be such that loading and unloading activities will in no way hinder vehicle ingress or egress.

Sec. 10-219 – 229.Reserved

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DIVISION E. Sidewalks

Sec. 10-230. General Requirements

a. Sidewalks shall be constructed according to the Design Guidelines for Subdivision Improvements.

b. Sidewalks do not have to be installed where no curb and gutter is required or exists.

c. Sidewalks are required on both sides of all streets having a right-of-way width equal to or greater than 50 feet. A sidewalk may be required on cul-de-sac streets if needed to provide through pedestrian access to commercial and employment areas, parks, greenways, or streets.

d. All required sidewalks must be constructed prior to certificate of occupancy.

e. Sidewalks may generally be placed within the right-of-way as determined by the development services engineer and when so specified.

f. Sidewalks must connect to existing adjacent sidewalks, or be designed and placed to allow connection to future adjacent sidewalks. Required sidewalks serving non-residential lots must connect to parking within the lot and to primary building entrances. Required connections may include street crosswalks but may not span distances of more than 50 feet without an improvement to protect pedestrians from vehicles.

g. Sidewalks must be installed to provide all residential areas with direct access to all neighborhood facilities, including the elementary school, parks and playgrounds, religious institutions, and shopping centers.

h. Adequate signs and street markings must be provided for all crosswalks.

i. Easements are required for sidewalk connections to future, adjacent required sidewalks.

j. Properties that have had a preliminary plat approved prior to March 10, 2000 shall be exempted from the requirements of this Section.

Table 10-230 Sidewalk Requirements

Street Type	Street Name	Sidewalk Required	Minimum Sidewalk Width	Location of Sidewalk	Sidewalk Alternative
	Cul-de-Sacs	No			
F	Residential	Yes	4 ft. [a]	Both sides @ 5 ½ ft. back of curb	Yes Master Plan [b]
E	Collector-Residential	Yes	4 ft. [a]	Both sides @ 5 ½ ft. back of curb	Yes Master Plan [b]
D	Commercial Street	Yes	4 ft. [a]	Both sides @ 5 ½ ft. back of curb	Yes Master Plan [b]
C	Collector	Yes	4 ft. [a]	Both sides @ 9 ½ ft. back of curb	[c]
B	Arterial Minor	Yes	4 ft.	Both sides @ 4 ft. from ROW	[c]
A	Arterial Major	Yes	4 ft.	Both sides @ 19 ½ ft. back of curb	[c]

Note a: If sidewalk is placed at the back of curb, the width must be five feet.

Note b: A sidewalk master plan to be submitted with the preliminary plat must show the location and widths of all new sidewalks and greenbelt trails being planned for the subdivision and the connection points with existing sidewalks and greenbelt trails. The alignment, location, and width of the sidewalk may be varied if approved on the sidewalk master plan.

Note c: The development services engineer may approve variances to this location of the sidewalk. (Ord. No. 0-2000-11, 3/1/2000) (Ord. No. 0-2006-11, 1/11/06) (Ord. No. 0-2006-19, 2/8/06) (Ord. 0-2010-20, 3/10/10)

Sec. 10-231. Sidewalk Master Plan

A sidewalk master plan of the sidewalk network for the subdivision must be submitted with the preliminary plat. The sidewalk master plan must show the location and widths of all new sidewalks and greenbelt trails being planned for the subdivision and the connection points with existing sidewalks and greenbelt trails. The alignment, location, and width of the sidewalk may be varied if approved on the sidewalk master plan.

Sec. 10-232. Changing Sidewalk Width or Grade

It is unlawful to construct, pave or repair any sidewalk to increase or diminish the width thereof as established by ordinance or elevate or lower the same above or below the grade established therefore by the city, or in case the city has established no grade to elevate or lower the same above or below the sidewalks of adjoining property. (Rev. Ords. 1903, Art. 369) (Ord. No. 0-2000-69, 9/20/00)

Sec. 10-233. Maintenance of Sidewalks and Pedestrian Areas

a. Repair of Defective Sidewalks

A sidewalk or appurtenance thereto that becomes defective, unsafe or hazardous is hereby declared to be a public nuisance and is unlawful. It will be the duty of the owner of the abutting property to reconstruct or repair the sidewalk at such owner's expense. This duty exists independently of any action by city to notify the abutting owners of the conditions. If a sidewalk or appurtenance thereto is found by the city to be defective, unsafe, or hazardous, the development services engineer will notify the owner of the abutting property to reconstruct or repair same. Failure to reconstruct or repair such defective, unsafe, or hazardous conditions within 30 days from the date of written notice to do so, or failure to begin such reconstruction or repair within 15 days from the date of such notice, is unlawful.

b. Liability for Defective Sidewalks

The abutting property owner or person enjoying the use of any property abutting on a sidewalk that has become defective and has resulted in damage or injury will be primarily liable in damages for any loss or damage sustained as a result of such defective condition. The city will not be held as assuming any such liability by reason of inspection or reinspection or notice to abutting property owner as authorized herein or by reason of the approval or disapproval of any access, facilities, surfacing or appurtenances not made in accordance with the City Sidewalk Design Standards and Specifications (available in the development services department.)

c. Liability for Special Use of Sidewalks

It is the duty of any property owner, landlord, tenant, lessee, sublessee, person, firm or corporation making special use of any sidewalk for the purpose of ingress or egress, for loading elevators, downspout drains or any other special use, whether recited herein or not, to keep such sidewalk abutting such property in a good and safe condition and free from any defects or hazards. Any defective condition of the sidewalk, loading elevator, downspout drain or any other special use or facility is hereby declared to be a public nuisance and is unlawful, and the special user will be liable in damages for any loss or damages sustained as a result of such defective condition.

d. Liens and Liabilities on Abutting Owners

1. If any person fails or refuses to comply with this section, the city may but assumes no duty to, go upon such property and do the work necessary to obtain compliance with this section. The expense so incurred by city in correcting the condition may be assessed against, and will be a personal obligation of, the owner of the abutting property. If the owner fails or refuses to pay such expense within 30 days after the work was done, and after the notice and hearing requirements of City Charter Section 51 have been met, the city may file with the Smith County Clerk a statement of expenses incurred in correcting the condition of the property. When such statement is filed, the city will have a privileged lien on such property to secure the payment of the expended amount. Such amount will bear interest at the rate of eight percent per annum from the date the city incurs the expense. For any such expenditure and interest and reasonable attorneys fees, suit may be instituted and recovery and foreclosure had by city.

2. Nothing herein will inhibit the right of city to make immediate repair of any condition considered to be of unusual and immediate danger to life or limb. In such instance the development services engineer will send an invoice for expenses incurred in the repair of such condition to the owner of the abutting property. If the owner fails or refuses to pay such expense within 30 days after notice of the reasonable charge by the development services engineer, the city may follow the above procedure to perfect a lien on such property.

e. Compliance

Before any repair or maintenance work is commenced pursuant to this section, the abutting property owner or person enjoying the use of any property abutting a sidewalk must comply with all permit, licensing and bond requirements as set forth in this chapter. (O-93-107, Pt. 1, 12-14-93) (Ord. No. 0-2000-69, 9-20-2000)

Sec. 10-234. Obstruction of Drainage

It is unlawful to throw or place in any street, alley, sidewalk, gutter, storm drain, creek, or drainageway any refuse or any other obstruction so as to prevent the free passage of water or cause the same to

stagnate therein or thereon or in laying down or repairing any utility or service, to leave any street, alley, sidewalk, gutter, storm drain, creek or drainageway in such condition as to impair the drainage of same. (Rev. Ords. 1903, Art. 410; Ord. of 8-1-80, § 1); (Ord. No. O-96-61, 7-17-96) (Ord. No. 0-2000-69, 9-20-2000)

Sec. 10-235. Restoration of Surface

Any person making such excavation must replace the earth taken without unreasonable delay. The replacement fill must be as closely packed, firm, and smooth as before such excavation. Where such excavation is made in any graveled or paved street, sidewalk, alley or other public place, the person making such excavation will restore the surface to at least the preexisting condition, to the satisfaction of the development services engineer. (Rev. Ords. 1903, Art. 371) (Ord. No. O-96-61, 7-17-96) (Ord. No. 0-2000-69, 9-20-2000)

Sec. 10-236. Barricades and Warning Lights Required

Whoever makes any excavation in or adjoining any street, alley, sidewalk or other public place, will cause same to be barricaded and lighted in accordance with current standard safety practices. (Rev. Ords. 1903, Arts. 462, 463) (Ord. No. O-96-61, 7-17-96) (Ord. No. 0-2000-69, 9-20-2000)

Sec. 10-237. Required Coverings

a. Whoever places or maintains in any street, alley, sidewalk or other public place any cellar door or vault, must arch or cover over same and secure the grating or covering thereof so as to prevent persons, animals, or vehicles from falling therein. (Rev. Ords. 1903, Art. 464) (Ord. No. O-96-61, 7-17-96) (Ord. No. 0-2000-69, 9-20-2000)

b. It is unlawful to keep or leave open any cellar door, covering or grating of a vault on any street, alley, sidewalk, or other public place, or allow such door, covering or grating to be in an insecure condition, whereby passersby may fall into a cellar or vault. (Rev. Ords. 1903, Art. 465) (Ord. No. O-96-61, 7-17-96) (Ord. No. 0-2000-69, 9-20-2000)

Sec. 10-238. Water Meters

Water meters must not be located within a sidewalk, unless otherwise approved by the water utilities operations manager or designee. The cost to relocate any water meter located within the area of a proposed sidewalk will be the responsibility of the builder. Any water meter lawfully existing in a sidewalk on the effective date of this code (9/22 /2000) may continue to exist. (Ord. No. 0-2000-69, 9-20-2000)

Sec. 10-239. Gutters

Every owner or person in control of any building must construct and maintain the gutters to prevent water from spreading over sidewalks. (Rev. Ords. 1903, Art. 368) (Ord. No. 0-96-61, 7/17/96) (0-98-31, 4/15/98) (Ord. No. 0-2000-69, 9-20-2000)

Sec. 10-240. Compliance with Standard Sidewalk Specifications

It is unlawful to construct or cause to be constructed any sidewalks, curbs, gutters, driveways, or alley pavements in any street or public place otherwise than in full and strict conformity with the city's Sidewalk Design Standards and Specifications available in the development services department. (Ord. of 6-7-35, § 1) (Ord. No. 0-96-61, 7/17/96) (0-98-31, 4/15/98) (Ord. No. 0-2000-69, 9-20-2000)

Sec. 10-241. Required Sidewalk License, Bond, and Permit

a. General Requirements

Prior any excavation, any contractor constructing sidewalks, curbs and gutters, driveways or alley pavement must first apply for and obtain a license, give a bond, and obtain a permit specially authorizing such work. The contractor must also obtain the engineering drawings depicting the lines, grades, and specifications as provided for in this section. Such license, bond, and permit must be in full force and effect at the time the excavation or construction is commenced or continued on the ground. (Ord. of 6-7-35, § 2(a)) (Ord. No. 0-96-61, 7/17/96) (0-98-31, 4/15/98) (Ord. No. 0-2000-69, 9-20-2000)

b. Application Form

Every contractor desiring to engage in the business or occupation of constructing sidewalks, curb and gutters, driveways and alley pavements, in public streets or other public places must file with the development services department an application on a city approved form, requesting the issuance of a license authorizing such contractor to engage in said business or occupation. Each application must state the full name of the applicant and of each person expected to manage or superintend the performance of such work for the applicant, and must also state the names of each person owning or holding any financial interest or share of stock in any firm or corporation applying for such license. For each person so required to be mentioned, said application must also state the experience of such person in such construction work, and must also state whether or not the applicant has duly conformed to all city requirements as to all such work theretofore done in the city, and if not, why not. (Ord. of 6-7-35, § 2(b)) (Ord. No. 0-96-61, 7/17/96) (0-98-31, 4/15/98) (Ord. No. 0-2000-69, 9-20-2000)

c. Sidewalk License; Term

d. When such application is complete, the development services engineer will approve or deny it. Nontransferable

Such license is not transferable.

e. Suspension; Effect of Accepting

Any false or misleading statement made in the application will be sufficient to suspend the license. Each licensee will comply with all city ordinances regulating such work, which will be a part of each agreement for such work which may be hereafter made or entered into by any such contractor and any property owner. (Ord. of 6-7-35, § 2(b)) (Ord. of 9-3-82, §1) (0-98-31, 4/15/98) (Ord. No. 0-2000-69, 9-20-2000)

Sec. 10-242. Appeal

Any person aggrieved by the denial of a sidewalk license may appeal such action in accordance with Chapter 1, Article IV, of the Tyler City Code, otherwise the decision of the development services engineer is final. (Ord. of 6-7-35, § 2(b)) (Ord. of 9-3-82, §1) (Ord. 0-96-61, 7/17/96) (0-98-31, 4/15/98) (Ord. No. 0-2000-69, 9-20-2000)

Sec. 10-243. Sidewalk Bond

The bond must be filed with the application and shall be executed by the contractor and by a good bonding company authorized to do business in the state. The form and sufficiency of the bond shall be subject to development services engineer's approval, and must be in an amount established by the city council and kept on file in the development services department. Said bond must be conditioned among other things, that the contractor must, at its own cost and expense, furnish all proper materials, tools and appliances, and perform, execute, construct and complete all work undertaken, and comply

with the specifications and requirements in city ordinances. If the development services engineer declares in writing that the contractor has failed or refused to construct and complete any such work in conformity with said obligations, either the city or any contracting property owner injured on such contract may sue and recover damages on such bond. Each bond will continue in effect during the maintenance period of two years as provided in this code, as to all work constructed or commenced in good faith on the ground during the period of the license in connection with which such bond may be given. Provided, however, on written notice to the development services engineer and the contractor, any surety on such bond may withdraw from all liability thereon on account of any and all further work undertaken by the contractor for which excavation or construction was not in good faith actually begun on the ground before the delivery of such notice, and after receipt of such notice the contractor may not begin any new work unless the contractor provides and procures the approval of a new bond in the same manner as required for the first bond. For any work commenced in violation of these provisions, the contractor must not be entitled to collect any pay. In any question as to when any work was actually begun the decision of the development services engineer shall be conclusive on the contractor and the sureties on all such bonds. In case the development services engineer shall be of opinion at any time and on any reasonable grounds that the solvency of or financial responsibility on any bond of any contractor is or may be insufficient or materially reduced by actual possible claims, the development services engineer may make written demand on the contractor for any additional bond, which shall be of corresponding amount, form and sufficiency. The contractor must immediately furnish any such requested additional bond, and the previous bond will not be held to cover any work not actually begun as aforesaid, before the date of such new bond, but all work begun after such date must be covered by such new bond. (Ord. of 6-7-35, § 2(c)) (Ord. of 9-3-82, §2) (Ord. of 8/21/84, §1) (Ord. 0-96-61, 7/17/96) (0-98-31, 4/15/98) (Ord. No. 0-2000-69, 9-20-2000)

Sec. 10-244. Sidewalk Permits

Before any such work must be commenced or any materials therefore placed on the ground by or for any contractor, the contractor must file with the development services engineer a written application for a permit authorizing such work, which application must be in such form as may be required by the development services engineer, and thereupon the development services engineer will issue to such contractor, a signed permit in writing which, among other things, shall be dated, name the contractor and property owner, and describe the character and location of the work, and authorize the same to be executed . All permits must have printed in large letters thereon the words "GOOD ONLY IF THE WORK BE COMMENCED WITHIN SEVEN WORKING DAYS AFTER DATE HEREOF, AND THEREAFTER CONTINUOUSLY PROSECUTED. FURTHER TIME WILL BE ALLOWED ONLY IF AN EXTENSION OF TIME BE ENDORSED HEREON BY THE DEVELOPMENT SERVICES ENGINEER." No work may be done under any permit except as so stated, but if the same is allowed to expire, the contractor must apply for and procure a new permit, before proceeding with any such work. The development services engineer will keep, or cause to be kept, a copy of each permit (Ord. of 6-7-35, § 2(j)) (Ord. 0-96-61, 7/17/96) (0-98-31, 4/15/98) (Ord. No. 0-2000-69, 9-20-2000).

Sec. 10-245. Cancellation of Sidewalk Licenses and Permits

If any contractor fails or refuses to conform to city ordinances, fails or refuses to obey development services engineer, or fails or refuses to comply with any provision of any contract made by such contractor consistent with such ordinances, or fails or refuses to provide any additional bond when so required by this chapter, the development services engineer may, by written notice, suspend the license of such contractor, cancel all unexecuted permits issued to the contractor, stop all such work being done by contractor, and withhold from contractor all further permits for such work until all incomplete or defective work or other objection shall be remedied. Such suspension shall be set aside by written notice from the development services engineer if contractor has remedied the problems. If such failure or refusal by the contractor is, in the opinion of the development services engineer, willful or persistent, the development services engineer may decline to set aside such suspension. (Ord. of 6-7-35, § 2(3))

(Ord. 0-96-61, 7/17/96) (0-98-31, 4/15/98) (Ord. No. 0-2000-69, 9-20-2000)

Sec. 10-246. Barriers and Warning Devices

At all times and periods during which any work under this code is being performed and until such work is completed and accepted, the contractor must place and maintain all necessary and proper barriers and other safeguards, including watchmen, if necessary, upon and around the work for the prevention of accidents, and at night must place, maintain and keep suitable and sufficient lights.

Sec. 10-247. Indemnification for Damages

The contractor must indemnify and save harmless the city from and against all actions and claims and against all costs, damages and expenses to which the city may be put by reason of any injury or alleged injury to any person or property, resulting or alleged to result from any act, negligence, carelessness or want of skill in connection with or in the conduct of any such work, or in guarding same, or from any improper methods, tools, implements or materials used in its prosecution, or by or on account of any alleged act or omission whatever of the contractor or agents, employees or servants, or of any assignee or subcontractor or agents, employees or servants. The contractor and bondspersons must make payment of all sums so recovered against the city in any suits on account of such alleged injuries, to which the city may be made a party, together with all such costs, damages and expenses as may be suffered by the city, all so as to save the city whole and harmless from all such actions or claims. (Ord. of 6/7/35, §2(d)) (Ord. No. 0-96-71, 7/17/96) (0-98-31, 4/15/98) (Ord. No. 0-2000-69, 9-20-2000)

Sec. 10-248. Work Under City Control; Correcting Defects

All work in city streets and public places is hereby declared to be wholly subject to exclusive city control. Whenever in the development services engineer's opinion any such work has not been completed within a reasonable time, or has been executed in a defective manner, whether because of bad workmanship or materials, or because not true to the lines or grades or specifications therefore given by the development services engineer, then upon written notice from the development services engineer, the contractor must promptly remedy, complete or remove and reconstruct such incomplete or defective work as the development services engineer may require. these provisions also apply to all repair and maintenance work; and if the contractor fails or refuses so to do within a reasonable time specified by the development services engineer, then the city council may order such work to be completed or corrected or removed and wholly or partially reconstructed by the city or at its instance so as in the opinion of the development services engineer may be necessary to make same as good as originally required. The contractor must, on completion of such work and according to the certified bill of cost prepared by the development services engineer, pay to the city the cost of such work. The sureties on the contractor's bond will be liable for the cost of such work. However, if the city fails or refuses to cause such work to be corrected or completed as aforesaid, then the property owner may proceed in like manner, but without order of the city council, and contractor and sureties will be liable for and pay to the property owner the cost of such work as shown by a like certified bill. (Ord. of 6-7-35, § 2(f)) (Ord. 0-96-61, 7/17/96) (0-98-31, 4/15/98) (Ord. No. 0-2000-69, 9-20-2000).

Sec. 10-249. Maintenance or Repair Work

The contractor shall construct all such work, and use such materials in the construction thereof, so that the same shall be and remain for and during a period of not less than two years from the date when the permit was issued by the city for the construction of such work, in good, sound, smooth and serviceable condition and free from all cracks, breaks, disintegration, undue wear, scaling or departures from true line or grade or other defects which might impair the permanence or usefulness of such work. However, such cracks as may appear in expansion joints, or cuts between blocks, shall not be deemed to be defects unless in the development services engineer's opinion such cracks are excessive in opening or defection of surface; and in case any defects develop during such period which in the development services engineer's opinion are due in any measure to defects of workmanship or material, the

contractor shall remedy, repair or reconstruct such work, or any part thereof, as may be required by the development services engineer. Such work shall be known as maintenance or repair work and the sureties of contractor's bond will be fully liable for any defaults of contractor under these provisions. (Ord. of 6-7-35, § 2(h)) (Ord. 0-96-61, 7/17/96) (0-98-31, 4/15/98) (Ord. No. 0-2000-69, 9-20-2000)

Sec. 10-250. City Participation in Sidewalk Construction

a. The city council hereby determines and declares that properly maintained sidewalks are important to the public health, safety and welfare, and that sidewalk improvements are necessary, are in the public interest, and are important for the convenience of citizens and for the proper development of the city. The city council hereby declares that defective, unsafe, or hazardous sidewalks constitute a public nuisance, and are unlawful. The city's participation in constructing, repairing, and/or maintaining sidewalks is hereby established in this code.

b. City sidewalk project initiations not involving assessments against abutting property. If the city council deems a project in the best interest of the public, or otherwise necessary to ensure public safety, and if the city intends to pay for the entire cost of the project, and if no assessments are to be made against property abutting the project, then the city may provide for construction, repair or maintenance of sidewalk improvements in accordance with city criteria.

Sec. 10-251. City-Initiated Sidewalk Improvements

a. If the city initiates a sidewalk improvement project that will involve assessments against abutting property, the city council shall conduct a public hearing pursuant to City Charter Sections 51 and 52. If the city council deems a project in the best interest of the public, or otherwise necessary to ensure public safety, and after the notice and hearing requirements of City Charter Section 51 are met, the city may provide for construction, repair, or maintenance of sidewalk improvements in accordance with city criteria.

b. If a city-initiated sidewalk improvement project involving assessments is approved by the city council, property owners shall be responsible for payment of a maximum one-third of the cost of the sidewalk improvements abutting their individual property. The city shall be responsible for the balance of the cost of improvements, although the city council may, but is not required to, authorize a higher proportion of costs to be paid by the city, up to and including the total cost of the project.

c. The city council reserves the right to refuse to participate in any project deemed to be impractical, uneconomical, or otherwise not in the city's interest.

Sec. 10-252. Citizen-Initiated Sidewalk Improvements

a. Upon written petition of 51 percent of the total number of involved property owners, the development services engineer, with the concurrence of the traffic engineer, will review the petition. If the development services engineer determines that the project would be beneficial to the public as a whole and would further the proper development of the city, the development services engineer will then make a written recommendation for approval to the city council. Upon receipt of a written recommendation for approval from the development services engineer, the city council will conduct a public hearing pursuant to City Charter Sections 51 and 52. If the city council deems a project in the best interest of the public, or otherwise

necessary to ensure public safety, and after the notice and hearing requirements of City Charter Section 51 are met, the city may provide for construction, repair, or maintenance of sidewalk improvements in accordance with city criteria.

b. If a citizen-initiated sidewalk improvement project is approved by city council, property owners will be responsible for payment of a maximum one-third of the cost of the sidewalk improvements abutting their individual property. The city will be responsible for the balance of the cost of improvements, although the city council may, but is not required to, authorize a higher proportion of costs to be paid by the city, up to and including the total cost of the project. Also, adjoining property owners must dedicate to the city such land that is necessary for standard public rights-of-way.

c. The city council reserves the right to refuse to participate in any project deemed to be impractical, uneconomical, or otherwise not in the city's interest.

Sec. 10-253. Liens Against Abutting Property

An assessment under sections 10-251 and 10-252 creates a lien on the owners' abutting property for the assessed cost. Within 30 days after the work is done, if the owner fails or refuses to pay such amount in full, the city will file with the Smith County Clerk a statement of the expenses incurred by the city. Such amount shall bear interest at the rate of eight percent per annum from the date the city incurs the expense. (Ord. No. 0-2000-69, 9/20/00)

Sec. 10-254 - 259. Reserved

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DIVISION F. Right-of-Way or Thoroughfare Closure; Name Change

Sec. 10-260. Requests

Requests for a thoroughfare closure or a name change must be made by filing an application with the planning department on a city form. Such requests must be delivered to the department with the required fee at least 30 days prior to the public hearing by the planning and zoning commission. The request for name change must be joined and signed by all owners on the street.

Sec. 10-261. Fees

The applicant must include with the application a non-refundable filing fee in an amount established by the city council and kept on file in the planning department. Such fee will be applied to the cost of processing applications.

Sec. 10-262. Notices

a. Written notice of a hearing before the planning and zoning commission for a thoroughfare closure must be sent to all owners of real property within 200 feet of the requested thoroughfare closure, excluding all rights-of-way. Written notice of a public hearing before the planning commission on a name change must be sent to all property owners on the street that is subject to the name change.

b. Such notice must be given at least 15 days before the date of a public hearing before the planning and zoning commission. Notices must contain the date, time, and place of the public hearing, and a description and location of the requested closure or name change. Ownership will be determined utilizing the tax rolls of the Smith County Appraisal District (SCAD).

c. Notice of a public hearing on a thoroughfare closure or name change before the city council must be given by publication in a newspaper having general circulation in the city not less than 15 days prior to the date of such hearing.

Sec. 10-263. Public Hearings and Actions

a. Commission

The planning and zoning commission must hold at least one public hearing on all requests for thoroughfare closures and name changes. The commission must submit its recommendation to the council via the planning department. Requests denied by the commission may be appealed to the council, as herein provided. Failure to appeal within the time prescribed will render the action of the commission final.

b. City Council

The council will hold at least one public hearing on all requests brought before it either by appeal or upon favorable recommendation by the planning and zoning commission. The council will hear only those requests for thoroughfare closures affirmatively recommended by the planning and zoning commission or appealed to it as herein provided. The action taken by the council will be final.

Sec. 10-264. Thoroughfare Closure Replat

Coincident approval of a thoroughfare closure request, the applicant must provide for necessary easements, further the applicant must replat the abandoned right-of-way within six months.

Sec. 10-265. Appeals

Appeals from the recommendation of denial of a request for a thoroughfare closure or name change by the planning and zoning commission must be made by filing a written notice with the planning department not less than 10 days after denial by the commission.

Sec. 10-266. Reapplication

When a request for a thoroughfare closure has (1) been denied by the planning and zoning commission and not appealed to the council, or (2) has been heard by the council and denied, similar requests will not be accepted by the planning department for a period of six months from the date of the submission of the original request, unless such application contains a statement of facts tending to show a substantial change of conditions in the area affected. In such cases, such application will be processed and placed before the commission who will not take any final action thereon until it makes an affirmative finding of changed conditions (Ord. No. 00-2000-89, 11/15/00)

Sec. 10-267 - 269. Reserved

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DIVISION G. Traffic Impact Analysis

Sec. 10-270. Purpose

The regulations of this division are intended to help ensure that the traffic and transportation impacts of proposed developments are identified, evaluated, and mitigated as necessary. The purpose of a transportation impact study is to assess the effects that development will have on traffic conditions, transit users, pedestrians, bicyclists, and neighborhood livability.

Sec. 10-271. When Required

a. A traffic impact study is required at the time of application for approval of any zoning map amendment (rezoning), special use permit or preliminary subdivision plat, final plat, building permit, or other similar site-specific development plan if:

1. the proposed development, or phases of development, or contiguous tracts under the same ownership, would accommodate or could be expected to generate 200 or more added vehicle trips to or from the site during the peak traffic hour (based on the proposed development or the adjacent roads and intersections); or
2. the proposed development, or phases of development, or contiguous tracts under the same ownership, would accommodate or could be expected to generate 2,000 or more added vehicle trips to or from the site during a 24-hour period (based on the proposed development or the adjacent roads and intersections).

b. In calculating the number of added vehicle trips expected to be generated, trip generation rates must be obtained from the most recent editions of Trip Generation and Trip Generation Handbook, published by the Institute of Transportation Engineers (ITE). Only "new" vehicle trips will be counted; no pass-by or internal trip capture will be used in calculating "added vehicle trips."

c. The planning director may waive the requirement for a traffic impact study when the applicant shows that the proposed development's impact on adjacent roads intersections, pedestrian, bicycle and transit facilities will be minimal and insignificant, or will be no greater than those projected by a traffic impact study prepared and submitted within the past two years for the same site under the same or similar background conditions. The planning director must document the reasons for any waiver.

Sec. 10-272. Level of Service Standards

a. The traffic impact study must demonstrate that the proposed development would not cause build-out-year, peak-hour levels of service on any arterial or collector road or intersection within the study area to fall below Level of Service (LOS) "D," as defined by the latest edition of the highway capacity manual, or, where the existing level of service is already LOS "E" that the proposed development would not cause the LOS to fall to LOS F.

b. If the road segment or intersection is already LOS "F," the traffic impact study must demonstrate that the proposed development, with any proposed road improvements,

would not cause build-out year peak-hour operation to degrade more than five percent of the total delay on any intersection approach.

c. To the extent that application proposes specific access points, the study must also demonstrate that the proposed development would avoid unsafe conditions on adjacent roads.

d. The traffic impact study must also address on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on immediate and adjacent neighborhoods; and the convenience and safety effects on all modes of transportation.

Sec. 10-273. Study Area

The traffic impact study must address the proposed development's traffic impacts on at least:

a. Roads, sidewalks, bicycle routes, transit facilities and intersections within the development site, as designated by planning and development department staff;

b. road segments, sidewalks, bicycle routes, transit facilities and intersections abutting the development site as designated by planning and development department staff; and

c. off-site road segments and intersections where traffic from the proposed development is expected to account for at least 10% of the road's or intersection approach leg's average daily traffic.

Sec. 10-274. Qualifications

Traffic impact studies must be prepared by a licensed professional engineer.

Sec. 10-275. Study Contents

Traffic impact studies must include charts, graphics, and narrative presenting at least the following information:

a. A description of existing land uses and development intensities in the study area, the location and characteristics of roads, sidewalks, bicycle routes, transit facilities and intersections in the study area, and the existing traffic volumes and conditions (including levels of service) of those facilities;

b. A description of the location and traffic-related characteristics (land use, intensity, expected date of full build-out and occupancy, vehicular access points, pedestrian connections, bicycle routes and transit facilities and characteristics, etc.) of the proposed development and other developments in the study area that are under construction, approved, or pending approval, as well as roadway and other transportation facilities and improvements in the study area that are under construction, programmed, or planned;

c. Projections of future background traffic (existing vehicular, pedestrian, bicycle and transit volumes forecasted to build-out year levels based on agreed upon traffic growth rate) plus traffic generated by other development in the study area that is under construction, approved, or pending approval, future site traffic and total future traffic (the sum of future background traffic and future site traffic);

d. Future background and site traffic projections must be made for the peak hours (as identified by planning and development department staff) of the adjacent road segments and intersections and for the development's expected full build-out and occupancy date, and must include trip generation, trip distribution (using pre-

approved distribution by planning and development department staff), and traffic assignment estimates;

e. Studies of the proposed development's incremental impacts on:

1. road capacity during peak hours at all site access points and at road segments and intersections in the study area (including determination of the level of service for the road segments and intersections, queuing versus existing/proposed storage);
2. the need for signalization of intersections in the study area;
3. pedestrian, bicycle and transit-user safety and convenience; and
4. existing or potential high accident areas (as referenced in the adopted transportation plan or determined by planning and development department staff);

f. A qualitative study/review of sight distance at access points, when required by planning and development department staff;

g. A description of the location, nature, and extent of site access and transportation improvements and other measures recommended to mitigate any failure to meet traffic operation standards due to the proposed development's traffic impacts, including the expected effectiveness of each mitigation measure in addressing deficiencies, the feasibility of implementing the measures, suggested allocation of responsibility for funding and implementing the measures, the measures' relationship to planned public transportation improvements, and a suggested time schedule for the implementation of the measures;

h. Résumés of the preparers of the study, demonstrating specific education, training, and professional experience in traffic-related studies and, if the study involves roadway or traffic signal design, traffic engineering; and

i. Identification of all assumptions and data sources used in its projections, studies, and recommendations.

Sec. 10-276 - 289. Reserved

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DIVISION A. Landscaping and Tree Preservation

Sec. 10-290. Purpose

This division establishes the procedure, regulations, and standards whereby landscape plans and tree preservation requirements will be reviewed by the city for compliance with this code, and specifies the submittal and content requirements for such landscape plans. (Ord. No. 0-98-90, 11/18/98) (Ord. No. 0-2002-46, 10-9-02)

a. The purposes of the landscaping and tree preservation division of this code are to:

1. improve the appearance and character of building setbacks and yards in commercial areas, including off-street parking lots and open lot sales and service areas;
2. implement Tyler 1st Comprehensive Plan policies regarding landscaping and tree planting in parks, open spaces, parkways, scenic views, and roadway corridors;
3. protect healthy trees and promote the natural ecological, environmental, and aesthetic qualities of the city;
4. create sound and visual buffers between adjoining land uses, in particular between residential areas and all nonresidential areas;
5. protect and increase property values in the city;
6. maintain and enhance a positive image of Tyler for the attraction of new businesses and residents to the city;
7. prohibit the indiscriminate clearing of both residential and nonresidential property;
8. protect trees during construction; and
9. encourage site design and construction that contributes to the long-term viability of existing trees.

Sec. 10-291. Reserved

Sec. 10-292. Landscaping Requirements

a. The landscape standards in this division apply to all land within the city limits except for areas zoned AG, RE, R-1A, R-1B, R-1C, R-1D, R-2, or R-MH, notwithstanding the requirement that each parcel in the aforementioned districts are required to meet tree planting requirements set forth in Sec. 10-305(C). (Ord. No. 0-2011-45; 6/8/11)

b. Landscape standards in all planned districts will be regulated by the requirements set forth in the final site development plan for each development project. In instances where the base zone landscaping requirements differ from any requirements set forth in a site development plan, the more restrictive regulations will govern.

c. Landscape requirements become applicable to each individual lot at the time a building permit application is made. All landscape requirements of this code will continue after the building permit is issued to any owner or subsequent owner. (Ord. No. 0-98-90, 11/18/98)

Sec. 10-293. Reserved

Sec. 10-294. Landscape Plan Requirements

A landscape plan is required and must be submitted upon application for a building permit. The landscape plan may be a separate site plan, or when feasible, the landscape plan information may be included on the building site plan. It is recommended that landscape plans be prepared by a professional landscape architect or landscape contractor. The landscape plan must include:

1. The location of existing boundary lines and dimensions of the lot.
2. The location of existing and proposed utility easements on or adjacent to the lot and the location of overhead power lines and any underground utilities.
3. A plant schedule listing the name and size of all plant materials. Botanical nomenclature as well as common names must be listed. All canopy trees must be identified as containerized or balled and burlapped.
4. The location, size, and type of vegetation of new and existing plant materials to be planted or retained in the proposed landscaped areas.
5. An indication of how the developer plans to use protective fencing to barricade existing trees, which are to be retained, in order to prevent damage to the trees during construction. The location and size of the fencing must be indicated.
6. A note indicating the installation of the irrigation system covering the required landscape areas has been completed or a date by which it will be completed.
7. The location of existing development, adjacent land uses, and roadways.
8. Information necessary for verifying whether the minimum required landscaping area has been met under Sec. 10-295.
9. A statement of compliance indicating the total square footage of landscaping area required, including the number of trees and shrubs, and a calculation to verify that the number, size, and type of vegetation listed on the plant schedule will render the proposed development to be in compliance with this code.

a. Plan Revisions

Minor revisions to landscape plans are acceptable if there is no reduction in the quality of plant material or no significant change in size or location of plant materials, and if the new plants are of the same general category (i.e., shade, ornamental, or evergreen trees) and have the same general characteristics (mature height, crown spread) as the materials being replaced. Proposed materials must also be compatible with the area to ensure healthy plant growth. If these criteria are not fulfilled, changes to approved plans must be resubmitted and reviewed for approval. (Ord. No. 0-2002-46, 10-09-02)

Sec. 10-295. Landscape Area Requirements

a. The landscaping requirements will be determined by the total square footage of the lot less any areas exempted by phased development or classification as floodway or undisturbed area.

b. The minimum width of required landscaping in the street yard is 10 ft. for properties abutting major arterial streets.

c. The minimum required area of landscaping is 15 percent of the total lot area, except for lots zoned for manufacturing. The minimum area of landscaping for lots zoned

M-1 or M-2 is 2½ percent of the total lot area. Each existing tree, which is maintained in a living and growing condition, may be credited towards the required landscaped area according to the following schedule:

Existing Saved Tree	Credit
10" – 12" DBH	200 square feet of landscaped area
15" or greater DBH	250 square feet of landscaped area

Credits may not exceed 25% of the required landscaped area.

d. Required tree plantings:

Option	Tree Requirement/Square Footage	Tree Type
A	One tree/750 square feet	Large ShadeTrees
B	One tree/625 square feet	Large Shade Trees,Medium Trees, and Small Trees
C	One tree/500 square feet	Medium Trees and Small Trees

Note: Trees selected for planting must be on the approved tree list approved tree list set forth in subsection f.

1. For required tree plantings:
   (a) At least 1/3 of the trees planted must be large shade trees, or
   (b) At least 1/3 of the trees planted must be medium trees, and
   (c) No more than 1/3 of the required tree plantings may be small trees as shown on the approved tree list. A minimum of one tree is required for all developments. All required trees must have a minimum DBH of 2" at the time of planting. Trees with a multiple trunk growth characteristic shall have no more than five main trunks.

2. When planted with large shade trees solely, a minimum of one tree per 750 square feet, or fraction thereof, is required. Trees planted in order to satisfy this requirement must be classified as large shade trees in the approved tree list in subsection f.

3. When planted with a combination of large shade trees, medium trees and small trees, a minimum of one tree per 625 square feet, or fraction thereof, is required. Trees planted in order to satisfy this requirement must include a mixture of shade, medium, and small trees as identified in the approved tree list in subsection f.

4. When planted with a combination of medium trees and small trees, a minimum of one tree per 500 square feet, or fraction thereof, is required. Trees planted in order to satisfy this requirement must include a mixture of medium and small trees as identified in the approved tree list in subsection f. (Ord. No. 0-2009-32; 3/25/09) (Ord. 0-2010-20, 3/10/10)

e. Tree Credits:

1. Each existing tree which is maintained in a living and growing condition may be credited towards the number of required trees according to the following schedule.

Existing Saved Trees	Credit
6"-9" DBH	3 Trees
10"- 12" DBH	4 Trees
12" or greater DBH	5 Trees

2. Of the required landscape area, a minimum of one shrub per 200 square feet, or fraction thereof, is required. Shrubs planted to satisfy this requirement must be a minimum size of two gallons.

3. Up to 75 percent of the required shrubs must be planted in the required interior parking lot landscaping islands or be included in the required bufferyards pursuant to Article VI, Division B.

4. Each existing tree or newly planted tree which is maintained in a living and growing condition may be credited towards the required number of shrubs according to the following schedule:

Existing Saved Trees	Credit
3" – 6" DBH	4 shrubs
7" – 9" DBH	6 shrubs
10" – 12" DBH	8 shrubs
15" or greater DBH	10 shrubs

Credit in areas zoned R-MF, AR, PMF, PMXD-1, PMXD-2, and may not exceed 50% of the required trees or shrubs.

Credit for saving an existing tree cannot count toward more than one landscape element for which such credit is granted in this chapter, i.e., double counting of tree credits is not allowed.

5. All mandated bufferyards count towards the requirements. Beyond that, no more than 10 percent of the required landscape area or required number of trees to be planted may be located at the rear of the property. The planning director has the authority to grant an exception to this requirement in situations where tree preservation areas are located at the rear of the property regardless of whether the trees saved are credited toward the tree planting requirement or the trees are saved are supplementing the required number of trees to be planted. (Ord. No. 0-2009-32; 3/25/09) (Ord. 0-2010-20, 3/10/10)

f. Approved Tree List:

Large Shade Trees (50+ ft) Common Name	Scientific Name	Native	Height/Width Average Spread	Street/Parking Areas	Evergreen/Deciduous	Fall Color	Attractive Flowers	Showy Fruit	Unique Bark/Trunk	Fragrant	Streambank	Wildlife	Drought Tolerance
Ash, green	*Fraxinus pennsylvanica*			x		y		x			x	x	high
Ash, white	*Fraxinus americana*			x		p,y		x				x	moderate
Basswood, American	*Tilia americana*			x		y	x			x		x	moderate
Beech, American	*Fagus grandifolia*					c,y			x			x	moderate
Birch, river	*Betula nigra*								x		x	x	moderate
Box elder	*Acer negundo*					o,y		x			x	x	high
Catalpa, northern	*Catalpa speciosa*						x	x				x	high
Catalpa, southern	*Catalpa bignonioides*						x	x				x	high
Cedar, Japanese *	*Cryptomeria japonica* *			x	x	c			x				high
Cherry, black	*Prunus serotina*					o,r,y	x	x	x	x		x	moderate
Cottonwood, eastern	*Populus deltoides*								x		x	x	moderate
Cypress, bald	*Taxodium distichum*			x		c,y		x	x		x	x	high
Cypress, pond	*Taxodium ascendens*			x		c			x		x	x	high
Elm, American	*Ulmus americana*			x		y					x	x	high
Elm, slippery	*Ulmus rubra*			x		y					x	x	high
Ginkgo (male only) *	*Ginkgo biloba (male only)* *			x		y				x			high
Hackberry	*Celtis occidentalis*					y			x		x	x	high
Hickory, bitternut	*Carya cordiformis*					y						x	high
Hickory, black	*Carya texana*					y						x	high
Hickory, mockernut	*Carya tomentosa*					y						x	high
Hickory, pignut	*Carya glabra*					y						x	high
Hickory, shagbark	*Carya ovata*					y			x			x	moderate
Hickory, water	*Carya aquatica*					y					x	x	high
Kentucky coffee-tree	*Gymnocladus dioica*			x		y		x	x	x			high
Magnolia, southern	*Magnolia grandiflora*	x	60/30		e		x	x		x	x	x	moderate
Magnolia, sweetbay	*Magnolia virginiana*			x	semi		x	x		x	x	x	moderate
Maple, red	*Acer rubrum*			x		o,r,y	x	x			x	x	moderate
Maple, silver	*Acer saccharinum*					y	x	x			x		high
Mulberry, red	*Morus rubra*							x			x	x	moderate
Oak, black	*Quercus velutina* ##			x		c,r						x	moderate
Oak, blackjack	*Quercus marilandica* ##			x		r						x	high
Oak, bur	*Quercus macrocarpa* #	x	80/80		d	c,y		x	x			x	high
Oak, cherry bark	*Quercus falcata var. pagodaefolia* ##			x		c						x	moderate
Oak, chinquapin	*Quercus Muhlenbergii* #	x	80/50	x		o,r,y						x	high
Oak, laurel	*Quercus laurifolia* ##			x		y						x	moderate
Oak, live	*Quercus virginiana* ##	x	50/50	x	e				x			x	high
Oak, nuttall	*Quercus nuttallii* ##			x		r					x	x	moderate
Oak, overcup	*Quercus lyrata* #			x		c		x				x	moderate
Oak, post	*Quercus stellata* #			x		y			x			x	high
Oak, sawtooth *	*Quercus accutissima* ## *			x		y		x				x	high

* indicates NOT native to U.S.
# white oak group, ## red oak group c = copper; o = orange; r = red; p = purple y = yellow

Large Shade Trees (50+ ft) Common Name	Scientific Name	Native	Height/Width Average Spread	Street/Parking Areas	Evergreen/Deciduous	Fall Color	Attractive Flowers	Showy Fruit	Unique Bark/Trunk	Fragrant	Streambank	Wildlife	Drought Tolerance
Oak, Shumard red	*Quercus shumardii* ##	x	80/80	x	d	o,r						x	high
Oak, southern red	*Quercus falcata* ##			x		c						x	moderate
Oak, swamp chestnut	*Quercus michauxii* #			x		r		x	x		x	x	moderate
Oak, water	*Quercus nigra* ##			x		y					x	x	high
Oak, white	*Quercus alba* #			x		r			x			x	moderate
Oak, willow	*Quercus phellos* ##			x		y					x	x	high
Pecan	*Carya illinoensis*					y			x			x	high
Pine, loblolly	*Pinus taeda*			x	x			x	x	x	x	x	moderate
Pine, longleaf	*Pinus palustris*				x			x	x	x		x	high
Pine, shortleaf	*Pinus echinata*			x	x			x	x	x		x	high
Sugarberry	*Celtis laevigata*					y			x		x	x	high
Sweetgum	*Liquidambar styraciflua*					o,p,r,y		x	x		x	x	moderate
Sweetgum, fruitless	*Liquidambar styraciflua 'Rotundiloba'*			x		o,p,r,y					x		moderate
Sycamore, American	*Platanus occidentalis*			x		y		x	x		x		high
Tulip poplar (yellow poplar)	*Liriodendron tulipifera*			x		y	x			x		x	moderate
Tupelo, black (blackgum)	*Nyssa sylvatica*			x		p,r,y					x	x	high
Tupelo, water	*Nyssa aquatica*			x		y					x	x	moderate
Walnut, black	*Juglans nigra*							x			x	x	moderate

* indicates NOT native to U.S.
# white oak group, ## red oak group

c = copper; o = orange; r = red; p = purple y = yellow

Medium Trees (26-49 ft) Common Name	Scientific Name	Native	Height/Width Average Spread	Street/Parking Areas	Evergreen/Deciduous	Fall Color	Attractive Flowers	Showy Fruit	Unique Bark/Trunk	Fragrant	Streambank	Wildlife	Drought Tolerance
Bois d' arc (Osage orange) (female)	*Maclura pomifera (female)*					y		x	x		x	x	high
Bois d' arc (Osage orange) (male)	*Maclura pomifera (male)*			x		y			x		x		high
Bumelia, woollybucket (gum bumelia)	*Bumelia lanuginosa*			x						x		x	high
Cedar, atlas *	*Cedrus atlantica* *				x			x					high
Cedar, deodar *	*Cedrus deodara* *				x			x					high
Cedar, eastern red (female)	*Juniperus virginiana (female)*	x	35/20	x	e			x	x	x		x	high
Cedar, eastern red (male)	*Juniperus virginiana (male)*	x	35/20	x	e				x	x		x	high
Cedar, Lebanese *	*Cedrus libani* *				x			x					high
Cherry, common choke	*Prunus virginiana*					y	x	x	x	x	x	x	high
Cherry, laurel	*Prunus caroliniana*			x	x		x			x		x	high
Cypress, Leyland *	*Cupressocyparis leylandii* *			x	x				x				high
Elm, cedar	*Ulmus crassifolia*			x		y					x		high
Elm, lacebark *	*Ulmus parvifolia* *		50/40	x	d	p,r,y			x				high
Elm, water	*Planera aquatica*			x		y			x		x	x	moderate
Elm, winged	*Ulmus alata*			x		y					x		high
Holly, American (female)	*Ilex opaca (female)*			x	x			x	x	x	x	x	high
Holly, American (male)	*Ilex opaca (male)*			x	x				x	x	x	x	high
Hornbeam, American (ironwood)	*Carpinus caroliniana*			x		o,r,y			x			x	moderate
Hornbeam, eastern hop	*Ostrya virginiana*			x		y	x	x	x			x	high
Magnolia, southern 'Little Gem'	*Magnolia grandiflora 'Little Gem'*			x	x		x	x	x	x	x	x	moderate
Maple, Florida	*Acer barbatum*			x		o,y			x				high
Oak, bluejack	*Quercus incana* ##			x		r			x			x	high
Persimmon, common (female)	*Diospiros virginiana (female)*					r,y		x	x		x	x	high
Persimmon, common (male)	*Diospiros virginiana (male)*			x		r,y			x		x		high
Pistache, Chinese (male only) *	*Pistacia chinensis (male only)**		50/30	x	d	o,r,y			x				high
Sassafras	*Sassafras albidum*			x		o,p,r,y	x	x	x	x		x	high
Silverbell, Carolina	*Halesia carolina*			x			x	x	x		x		moderate
Soapberry, western	*Sapindus saponaria*			x				x					high
Sweetleaf, common	*Symplocos tinctoria*			x	semi		x		x		x	x	high
Tickle-tongue (prickly ash)	*Zanthoxylum clava-herculis*								x	x	x	x	high
Yellowwood	*Cladrastis kentukea*			x		c,y	x	x	x	x			moderate

* indicates NOT native to U.S.
# white oak group, ## red oak group

c = copper; o = orange; r = red; p = purple y = yellow

Small Trees (10-25 ft) Common Name	Scientific Name	Native	Height/Width Average Spread	Street/Parking Areas	Evergreen/Deciduous	Fall Color	Attractive Flowers	Showy Fruit	Unique Bark/Trunk	Fragrant	Streambank	Wildlife	Drought Tolerance
Alder, hazel	*Alnus serrulata*		25/20	x	d	o,y		x			x	x	moderate
Buckeye, red	*Aesculus pavia*			x			x	x				x	moderate
Carolina buckthorn	*Rhamnus caroliniana*			x		o,r		x				x	high
Chinquapin, Alleghany	*Castanea pumila*					y	x	x				x	moderate
Crabapple *	*Malus spp.**					y	x	x		x		x	moderate
Crape myrtle *	*Lagerstroemia spp.* *		25/20	x	d	o,r,y	x		x				high
Devil's walkingstick	*Aralia spinosa*					c,r	x				x	x	moderate
Dogwood, flowering	*Cornus florida*			x		p,r	x	x				x	moderate
Dogwood, rough-leaf	*Cornus drummondii*	x	20/20	x	d	p	x	x				x	high
Dogwood, stiff	*Cornus foemina*			x		p,r	x	x	x		x	x	moderate
Elder, American	*Sambucus canadensis*					y	x	x			x	x	moderate
Fringetree, American	*Chionanthus virginicus*			x		y	x	x		x		x	moderate
Hawthorn, mayhaw	*Crataegus opaca*						x	x	x		x	x	moderate
Hawthorn, parsley	*Crataegus marshallii*						x	x	x			x	high
Holly, dahoon	*Ilex cassine*			x	x			x			x	x	moderate
Holly, deciduous (possumhaw) (female)	*Ilex decidua (female)*	x	20/20	x	d	y		x				x	moderate
Holly, yaupon (female)	*Ilex vomitoria (female)*	x	20/20	x	e			x			x	x	high
Magnolia, pyramid	*Magnolia pyramidata*						x	x	x	x	x	x	low
Magnolia, saucer *	*Magnolia x soulangiana**			x		y	x		x				moderate
Maple, chalk	*Acer leucoderme*			x		o,r,y			x		x		high
Maple, Japanese *	*Acer palmatum**			x		o,p,r,y			x				moderate
Pawpaw	*Asimina triloba*					y		x				x	moderate
Plum, Chickasaw	*Prunus angustifolia*						x	x		x		x	high
Plum, flatwoods	*Prunus umbellata*					y	x	x				x	moderate
Plum, Mexican	*Prunus mexicana*	x	25/25		d	o	x	x	x	x		x	moderate
Redbud, eastern	*Cercis canadensis*	x	20/15	x	d	y	x	x					high
Serviceberry, shadeblow	*Amelanchier arborea*			x		o,r,y	x	x				x	moderate
Silverbell, two-winged	*Halesia diptera*			x			x	x			x	x	moderate
Snowbell, American	*Styrax americanum*			x			x			x		x	moderate
Snowbell, bigleaf	*Styrax grandifolius*			x			x			x		x	moderate
Sparkleberry	*Vaccinium arboreum*			x		r	x	x	x	x		x	high
Stewartia, Virginia	*Stewartia malacodendron*						x	x	x				moderate
Sumac, shining	*Rhus copallina*			x		o,r	x	x				x	high
Sumac, smooth	*Rhus glabra*			x		o,r	x	x				x	high
Sumac, staghorn	*Rhus typhina*			x		o,r,y	x	x	x			x	moderate
Viburnum, arrow-wood	*Viburnum dentatum*			x		o,p,r,y	x	x				x	moderate
Viburnum, blackhaw	*Viburnum prunifolium*			x		p	x	x				x	moderate
Viburnum, possumhaw	*Viburnum nudum*			x		p,r	x	x			x	x	moderate
Viburnum, rusty blackhaw	*Viburnum rufidulum*	x	20/20	x	d	p,r	x	x	x			x	high
Wax-myrtle, southern	*Myrica cerifera*			x	x			x		x	x	x	moderate
Witch hazel, common	*Hamamelis virginiana*			x		y	x			x			moderate
Witch hazel, vernal	*Hamamelis vernalis*			x		y	x			x		x	moderate

* indicates NOT native to U.S. c = copper; o = orange; r = red; p = purple y = yellow
# white oak group, ## red oak group

g. Properties in the DBAC zoning district are not required to have landscaping except when off street parking is installed; however, street trees and plantings in the right-of-way are encouraged where appropriate.

1. Off street parking in DBAC is subject to Section 10-299, Parking Lot Landscaping.
2. A minimum 3'wide landscape strip shall be provided between the parking areas and all public rights-of-way except for alleys.
3. The landscape strip shall include a minimum of 1 tree form shrub for each 15 linear feet of frontage, or portion thereof, measured along the right-of-way adjacent to the parking areas. Plantings shall comply with the requirements in the Approved Tree Form Shrub List for Parking Lot Screening DBAC Zoning District in Section 10-342.d.
4. Multi-story parking structures and enclosed parking areas may be exempt from these requirements if designed to resemble a building front adjacent to the right-of-way, subject to approval of the Planning Director. (Ord. No. 0-2012-38; 4/25/12)

Sec. 10-296. Reduction in Required Landscape Area

The required landscape area can be reduced through the following techniques:

a. Phased Development

Each phase of a phased project must comply with this code. Phase lines, if drawn, must be drawn 20 feet or more from developed site elements (parking, buildings, ponds, etc.). The portion left for subsequent phases must remain of developable size and quality. No building permit will be issued for a subsequent phase of a project until all requirements of this code have been met.

b. Floodway

On sites where a floodway exists, the floodway area will be subtracted from the total lot area when calculating landscape requirements. Therefore, trees, shrubs, or groundcover in this area will not be applicable in meeting the landscaping requirements for the development of the property.

c. Street Trees

Abutting parkways are required to be planted with grass and left unpaved except for sidewalks and driveways. A one-for-one credit for street trees planted in lieu of onsite trees will be granted for street trees planted at any point along the linear frontage of parcel, including trees planted in the roadway median. In the event that two parcels facing one another across a roadway request credit for street trees planted or saved, each parcel will be granted such credit so long as the trees are in a parkway behind the curb line on the respective sides of the streets. Credit for street trees planted in a roadway median will only be granted once, on a first come, first served basis. Any landscape and tree planting made in the parkway or roadway median must be in conformance with the requirements of the master street plan in Artivle V, Division A of this code. Such areas must be irrigated. Applicants must enter into a maintenance agreement with the City for on-going tree maintenance.

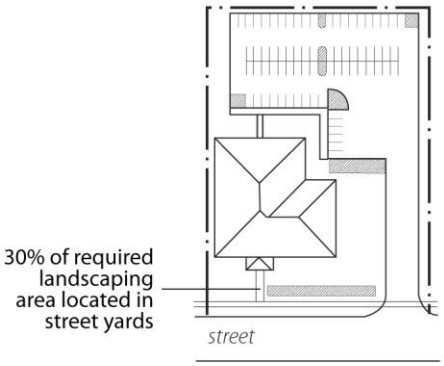
d. Undisturbed Area

On sites where the planning director has determined that undisturbed area exists, the area will be subtracted from the total lot area when calculating landscape requirements. Therefore, trees, shrubs, or groundcover in this area will not be applicable in meeting the

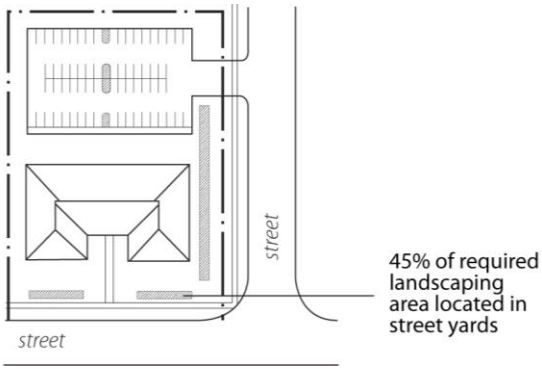
landscape requirements for development of the property. No building permit will be issued for the development within the undisturbed area until all requirements of this code have been met. (Ord. No. 0-98-90, 11/18/98; Ord. No. 0-98-98, 12/23/98)

Sec. 10-297. Landscape Location Requirements

a. For a lot abutting one street, a minimum of 30 percent of the landscaping area must be located in the street yards. The remaining percentage of landscaping must be reasonably dispersed throughout the lot. The distribution of landscaping may be amended at the discretion of the planning and zoning director in order to ensure the maximum benefit of the required landscaping.



b. For a corner lot, a minimum of 45 percent of the landscaping area must be located in the street yards. The remaining percentage of landscaping must be reasonably dispersed throughout the lot. The distribution of landscaping may be amended at the discretion of the planning and zoning director in order to ensure the maximum benefit of the required landscaping.



c. Trees planted in the street yard must be planted, on average, every 40 linear feet, but may be grouped in the street yard in such a way that:

1. they will not block the view of traffic entering or existing the property
2. the primary building entrance, or indication thereof, is visible from the roadway;
3. and the species of trees selected do not crowd or otherwise inhibit the growth of other trees in the same grouping.

d. For a lot abutting three or more streets, landscaping must be reasonably dispersed so that each street yard has some landscaping.

e. All existing undergrowth in a protected area must remain until construction is complete and may be removed at that time.

f. Any surface of the street yard not occupied by trees, shrubs, planting beds, signs or other permitted fixtures must be planted with sod or other suitable groundcover.

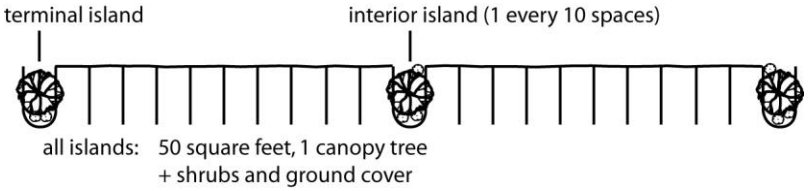
Sec. 10-298. Irrigation Required

Landscaped areas in all nonresidential developments are required to have an irrigation system in accordance with Section 10-308, Irrigation Standards.

Sec. 10-299. Parking Lot Landscaping

a. Landscaped islands are required in all parking lots parking lots in excess of more than 20 spaces.

b. One landscaped island is required for every 10 parking spaces and at both ends of each row of 10 or more parking spaces. Islands may be grouped as long as there are no more than 20 parking spaces in a row without a landscape island. (Ord. No. 0-2009-19; 3/11/09)



c. Each landscaped island must be at least 50 square feet; have a minimum dimension of five feet; and must include at least one tree. The remaining area must be landscaping material, including shrubs, turf, or planted groundcover, none of which may exceed three feet in height.

Sec. 10-300. Landscape Requirements for Nonconforming Uses

a. Classification of Nonconforming Developments

Land developed with a building or structure, which is in lawful use at the effective date of this code, which was in lawful use as of September 9, 1992, and land, which does not conform to the landscape requirements of this code, but is subsequently annexed to the city, will have non-conforming use status with respect to this code.

b. Regulation of Nonconforming Developments

1. The lawful use of a building or other development as described in subsection A above may be continued although such development does not comply with the landscape requirements herein. However, voluntary compliance with these landscape requirements and landscape enhancement is encouraged.

2. The repair or restoration of a building or other development to its prior condition after being damaged or destroyed by fire, explosion, wind, flood, tornado or other accident or weather phenomena, will not require that such building or other development comply with the landscape requirements of this code, provided a building permit for the repair or restoration is obtained within 12 months of the date the damage occurred.

3. The expansion of an existing building, or the construction of one or more additional buildings on the same lot as the existing building, will not require compliance with the landscape requirements of this code provided:

(a) That the expansion of the existing building or the construction of the additional building(s) will not result in the encroachment of any wall building line into an existing street yard; or

(b) Where the expansion of the existing building or construction of any additional building(s) will result in the encroachment of a wall building line into an existing street yard, the gross floor area (GFA) of the addition, or the total gross floor area of all buildings to be constructed in the street yard, must not exceed 25 percent of the GFA of the existing building. (Ord. No. 0-98-90, 11/18/98) (Ord. No. 0-2002-46, 10/09/02)

Sec. 10-301. Tree Preservation Requirements

a. Applicability

The requirements of this code regarding clearing of land without a building permit will apply to all land within the city limits, as now or hereafter set, in all multifamily, commercial, office, and manufacturing districts.

b. Trees in Agricultural Zone

There is no tree preservation requirement in the Agricultural Zone.

c. Existing and Approved Right-of-Way, Shared Access Easements,Shared Drives, and Public Easements

All construction and maintenance activity within existing or approved (as shown on an approved preliminary plat) public right-of-way, shared access easements, or easements are exempt from the requirements for tree protection and replacement specified herein.
(Ord. No. 0-2014-97; 10/22/14)

d. Other Government Entities

The tree preservation requirements apply to all private and institutional developments and all development on city property, including properly within the MU-O Municipal Use Overlay District. The requirements do not apply to property owned by other governmental entities or taxing entities. However, voluntary compliance is encouraged.

e. Franchise and Other Utility Companies

All utility company projects are exempt from the requirements for tree protection and replacement specified herein when clearing public easements and existing right-of-way.

f. Public Tree Care

The city will have the right to plant, prune, and maintain trees, street trees and park trees within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The city may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest. The management of trees on City property shall be the responsibility of the City's Parks and Recreation Department. The City's Parks and Recreation Department shall be responsible for the creation and implementation of a five-year management plan for the planting, maintenance, and removal of trees on City property. This management plan is to be updated annually. The City's Parks and Recreation Department shall be responsible for reporting the accomplishments of the five-year plan to the Parks Board on an annual basis. City owned property does not

include publicly dedicated rights-of-way until the City accepts the improvements for maintenance. (Ord. No. 0-2009-88; 8/26/09)

Sec. 10-302. Pre-Development Restrictions on Land Clearing

It is the intent of this Division to minimize the visual impact of tree removal by retaining or replanting tree buffers around property boundaries. A property owner, developer, or contractor must obtain a clearing and grading permit prior to any agricultural timbering, predevelopment clearing, or depositing of fill on an undeveloped site. Properties, other than the minimum buffer area specified herein, may be underbrushed without obtaining a grading permit. For the minimum buffer area specified here, underbrushing may be undertaken as long as no mechanized equipment, other than a chainsaw, is used in the underbrush clearing. In no case may living and healthy trees 6" DBH or larger be removed without a permit. (Ord. No. 0-2009-19; 3/11/09) (Ord. No. 0-2009-88; 8/26/09)

Sec. 10-303. Clearing and Grading Permit Required

Pursuant to Sec. 10-527 of this code, a clearing and grading permit must be obtained from the development services engineer prior to the commencement of any development, excavation, grading, regrading, landfilling, berming, paving, diking, clearing and grubbing, or other earth changes made to any property within the city. A separate permit is required for each separate, non-contiguous site or lot. (Ord. No. 0-99-19; 2/24/99)

a. Tree Inventory

Accompanying the permit application, a 6" DBH or larger tree inventory shall be submitted according to the following:

1. The approximate location and diameter at breast height (DBH) of all living trees which are six inches in DBH in size or larger when measured at 4 ½ feet above the ground within a 40' buffer area along any street frontage, and 25' buffer area on all other property boundaries.
2. A tree clearing/planting plan shall also be provided detailing the proposed site buffers and remaining trees after clearing. The plan will also list the total number of existing 6" DBH or larger trees and the proposed number of remaining 6" DBH and/or 2" DBH replanted trees after clearing within buffer areas.

b. Approval Criteria for Zoning Requiring Tree Preservation

The Development Services Engineer will approve a clearing and grading permit if the application demonstrates that the following conditions in this subsection will be met.

A 40-foot-wide undisturbed area is left in place along 75 percent of the street frontage, a 25-foot-wide undisturbed area is left along 75 percent of the rear property line, and a 25-foot-wide undisturbed area" is left along 75 percent of the side property lines. The understory growth is to be left intact to enhance the tree buffer. Each "undisturbed area" must contain an average of one tree per 314 square feet. Where trees do not exist to meet this standard, 2" DBH replacement trees of a medium or large size and species from the approved tree list that are highly drought tolerant are to be placed within the buffer within 12 months from permit date. In no event shall the number of tree plantings required within the buffers be greater than the total number of 6" DBH trees removed within the entire property as the applicant may choose to demonstrate by a tree inventory of the remainder of the property. If new plantings are required, the applicant must demonstrate adequate watering methods to ensure survivability. The applicant must replace and ensure survival of any replanted trees that may die within a one year period from the date replanting the buffer takes place. (Ord. No. 0-2009-19; 3/11/09 (Ord. No. 0-2009-88; 8/26/09) (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-304. Exceptions and Tree removal without a Permit

a. Exceptions

If the property owner, developer, or contractor determines that the restrictions set forth in (1) and (2) above cannot be met, the development services engineer may grant a variance for the pre-development clearing of land if property owner agrees to mitigate the clearing of land by replanting the buffer area as specified above. (Ord. No. 0-2009-88; 8/26/09) (Ord. No. 0-2010-20, 3/10/10)

b. Tree Removal without a Permit

It is unlawful to conduct a tree clearing without a valid Clearing and Grading Permit when required by this Chapter. Where tree clearing takes place in advance of a Clearing and Grading Permit, the owner shall mitigate all tree removal in accordance with this Chapter. Tree planting must occur within six months of any such violation. Additionally, failure to obtain a Clearing and Grading Permit when required may result in a fine pursuant to City Code Section 1-4. (Ord. No. 0-2009-88; 8/26/09) (Ord. No. 0-2010-20, 3/10/10)

Sec. 10-305. Tree Planting Standards and Specifications

a. Plant Criteria

1. All plant materials planted in order to satisfy this code must be of a species, which will conform to the selection criteria of this code.
   (a) Plant materials must be either acceptable native plants to the Tyler area, or plants that are known to be acclimated to the East Texas region.
   (b) The species of plant chosen must be adaptable to the specific environment and conditions in which it will be planted; i.e., soils, water availability, height limitations and shade.
2. Trees and shrubs planted in order to satisfy this code must conform to the minimum size specified.
   (a) All trees must be a minimum two inches in DBH (4.5 feet above grade); a minimum branching height of six feet; and a minimum overall height of eight feet at the time of planting. (Ord. No. 0-2015-67; 6/24/15)
   (b) Shrubs must be a minimum size of two gallons.
3. Trees must be selected so as to avoid those species known to cause damage to public improvements.
4. Trees selected for planting must be on a list of approved trees that is available from the planning director.
5. Artificial plants are not acceptable in satisfying this code.

b. Planting Requirements

1. A professional horticulturist/nurseryman should be consulted to determine the proper time to move and install plant material so that stress to the plant is minimized. In the event weather conditions are not suitable for planting, with the approval of the planning director, and prior to issuance of a certificate of occupancy, an irrevocable letter of credit assigned to the city must be provided to cover the cost of postponed planting.
2. The owner or contractor must furnish and install and/or dig, ball, burlap, and transplant all plant materials listed on the plant schedule.
3. Trees must not be planted so near to sewers, sidewalks, or other public improvements as to cause damage to such improvements.
4. Sight clearance on all sites must comply with Sec.18-2 of the Tyler City Code.
5. The owner or contractor must excavate all plant pits, vine pits, hedge trenches and shrub beds as follows:
   (a) All pits must be generally circular in outline, with vertical sides. The tree pit must be deep enough to allow one-eighth of the ball to be above the existing grade. Plants must rest on undisturbed existing soil or well-compacted backfill. The tree pit must be a minimum of nine inches larger on every side than the ball of the tree.
   (b) If areas are designated as shrub beds or hedge trenches, they must be cultivated to at least 18 inches in depth. Areas designated for ground covers and vines must be cultivated to at least 12 inches in depth.
6. Each tree, shrub, or vine must be pruned in an appropriate manner, in accordance with accepted standard practice. Broken or bruised branches must be removed with clean cuts made on an angle from the bark ridge to the branch collar, no flush cuts, to minimize the area cut. All cuts must be made with sharp tools and all edges should be trimmed smooth.
7. All trenches and shrub beds must be edged and cultivated to the lines shown on the drawing. The area around isolated plants must be edged and cultivated to the full diameter of the pit. Sod that has been removed and stacked must be used to trim the edges of all excavated areas to the neat lines of the plant pit saucers, the edges of shrub areas, hedge trenches, and vine pockets.
8. After cultivation, all plant materials must be mulched with approved material over the entire area of the bed or saucer according to generally accepted landscape practices. (Ord. No. 0-98-90, 11/18/98) (Ord. No. 0-2002-46, 10-09-02)
9. In nonresidential districts, where newly planted trees are not able to stand up on their own, trees shall be staked with an at-grade root ball securing system. The system shall securely anchor the root ball, while allowing the trunk and the crown to move naturally. The system shall not use materials and methods that penetrate or damage the root ball. Above grade staking systems such as "T" posts with wires, hoses, straps, or guy wires wrapped around the tree trunk, shall not be allowed unless authorized by the Planning Director in consultation with the Urban Forester. (Ord. No. 0-2016-76; 8/24/16)

c. Trees in Residential Zones

Property zoned RE, R-1A, R-1B, R-1C, R-1D, R-2, R-MH, PUR, and PXR are required to provide a minimum one tree per residential lot prior to certificate of occupancy and will be

subject to any additional tree requirements in the subdivision standards provided in Article IV of this code. (Ord. No. 0-2011-45; 6/8/11)

d. Pre-Construction Standards

1. **Tree Flagging**

All saved trees on the subject property within 40 feet of a construction area or surface improvements such as driveway, walks, etc. must be flagged with bright fluorescent orange vinyl tape wrapped around the main trunk at a height of four feet or more such that the tape is very visible to workers operating construction equipment. This does not include the flagging of all protected trees adjacent to right-of-way within approved residential subdivisions during the construction of the roadway.

2. **Open Space Flagging**

All trees or groups of trees within areas intended to be saved as open space must be enclosed with fluorescent orange tape along all areas of possible access or intrusion by construction equipment. Tape must be supported at a maximum of 25 feet intervals by wrapping trees or other approved methods. Single incident access for the purposes of clearing underbrush is allowed.

3. **Protective Fencing**

In those situations where a saved tree is so close to the construction area that construction equipment might infringe on the root system or is within 20 feet of the construction area, a protective fencing will be required between the outer limits of the critical root zone of the tree and the construction activity area. Four foot high protective fencing must be supported at a maximum of 10 foot (intervals by approved methods. All protective fencing must be in place prior to commencement of any site work and remain in place until all exterior work has been completed.

4. **Bark Protection**

In situations where a saved tree remains in the immediate area of intended construction, the tree must be protected by enclosing the entire circumference of the tree with 2" x 4" lumber encircled with wire or other means that do not damage the tree. The intent here is to protect the bark of the tree against incidental contact by large construction equipment.

e. Tree Preservation and Care During Construction

1. Each individual tree or shrub may be credited only once.
2. Existing trees to be preserved for landscape credit must be clearly marked.
3. The following activities are be prohibited within areas to be preserved or the limits of the critical root zone of any tree to be saved for landscape credit:

(a) Material Storage

No materials intended for use in construction or waste materials accumulated due to excavation or demolition may be placed within the limits of the critical root zone of any protected tree.

(b) Equipment Cleaning/Liquid Disposal

No equipment may be cleaned or other liquids deposited or allowed to flow overland within the limits of the critical root zone of a protected tree. This

includes, without limitation, paint, oil, solvents, asphalt, concrete, mortar, or similar materials.

(c) Tree Attachments

No signs, wires, or other attachments, other than those of a protective nature, may be attached to any protected tree. Fencing attached to a tree via "U" nails or bent nails when only at points of tangency with the tree are allowed.

(d) Vehicular Traffic

No vehicular and/or construction equipment traffic or parking may take place within the limits of the critical root zone of any protected tree other than on an existing street pavement. This restriction does not apply to signing incident access within the critical root zone for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance or emergency restoration of utility service or routine mowing operations.

(e) Grade Changes

No grade changes may be allowed within the limits of the critical root zone of any protected tree unless adequate construction methods are approved by the planning director or if grading is as directed by the development services engineer.

(f) Impervious Paving

No paving with asphalt, concrete or other impervious materials in a manner which may reasonably be expected to kill a tree may be placed within the limits of the critical root zone of a protected tree except as otherwise allowed in this code.

(g) Saved Trees

A saved tree will be considered to be preserved only if a minimum of 75 percent of the critical root zone is maintained at undisturbed natural grade and no more than 25 percent of the canopy is removed due to building encroachment.

(h) Barricaded Areas

Areas to remain preserved are to be barricaded so that construction practices in the field will protect existing trees from compaction of soil, changes in grades and damage from machines.

f. Permanent Construction Methods

1. Boring

Boring of utilities under saved trees is required in those circumstances where it is not possible to trench around the critical root zone of the saved tree. When required, the length of the bore must be the width of the critical root zone at a minimum and must be a minimum depth of 48 inches.

2. Grade Change

In the event the grade change within the critical root zone of a protected tree exceeds the limits noted in subsection (E)(3)(e) herein, the procedures noted in the Design Guidelines will be required.

3. **Trenching**

Trenching across the critical root zone of any saved tree must be avoided. Although this subsection is not intended to prohibit the placement of underground services such as electric, phone, gas, etc., the placement of these utilities is encouraged to be located outside of the critical root zone of saved trees. Irrigation system trenching must be placed outside of the critical root zone with only the minimum required single head supply line allowed within that area placed radially to the tree trunk.

4. **Root Pruning**

All roots two inches or larger in diameter which are exposed as a result of trenching or other excavation must be cut off square with a sharp medium tooth saw and covered with pruning compound within two hours of initial exposure.

g. Maintenance

1. The owner or agent is responsible for the maintenance of all landscaping, which must be maintained in good condition so as to present a healthy, neat and orderly appearance, and must be kept free from refuse and debris. Any plant that dies must be replaced with another living plant that complies with the approved landscape plan within 120 days after death, season permitting.
2. The owner or agent is responsible for replacement of dead landscaping material. Replacement must occur within 120 days, season permitting, of notification by the planning director or designee. Replacement material must be of similar character as the dead landscaping material.
3. The owner or agent is responsible for any damage or interference with utility lines or other utility facilities resulting from the negligence of the property owner, agents or employees in the installation and maintenance of required landscaping. If a utility crew disturbs a landscaped area in a utility easement, it must make every reasonable effort to preserve the landscaping materials and return them to their prior locations after the utility work is completed. If nonetheless some plant materials die, it is the obligation of the owner or agent to replace the dead plant materials.
4. Nothing in this code will prohibit or restrict a public utility company from trimming or removing trees or other plant materials that are a hazard to its employees, the public or its facilities, or that threaten to interfere with the provision of continuous service. (Ord. No. 0-2002-46, 10-09-02)

Sec. 10-306. Tree Preservation for Nonconforming Uses

a. Land that is under lawful development at the effective date of the tree preservation requirements or that is under lawful development at the effective date of annexation of such land, in this division as of April 24, 2008 will have nonconforming status with respect to tree preservation requirements.

b. Any land in an area that has been annexed, and where no lawful development has occurred, must comply with the requirements of this ordinance and will not be granted nonconforming status with respect to tree preservation requirements.

c. If a person has begun the process of developing land by obtaining one or more licenses, certificates, permits, approvals or other forms of city authorization prior to the effective date of the tree preservation requirements in Article VI, Division A, or by obtaining one or more licenses, certificates, permits, approvals or other forms of

city authorization prior to annexation of such land, then said development will have non-conforming status with respect to said tree preservation requirements.

Sec. 10-307. Landscaping and Tree Preservation Compliance

a. All required landscaping and screening must be installed as part of the project construction.

b. All tree planting and plant screening required by this code must be installed prior to the issuance of a certificate of occupancy, where required, or prior to the commencement of use.

c. All landscaping must be installed in a sound manner and in accordance with accepted planting procedures.

d. All elements of landscaping must be installed so as to meet all other applicable city ordinances and policies.

e. Landscape areas, both those proposed and those to be retained, must be protected from vehicular encroachment during and after the construction phase by appropriate barriers.

f. All landscape requirements of this code will continue after the building permit is issued to any owner or subsequent owner. (Ord. No. 0-98-90, 11/18/98) (Ord. No. 0-2002-46, 10/9/02).

Sec. 10-308. Irrigation Standards

a. Irrigation must comply with the Texas Water Code.

b. One of the following irrigation methods must be used to ensure survival of the required plant material in landscaped areas:

1. **Conventional System**
   An automatic underground irrigation system which may be a conventional spray or bubbler type heads.

2. **Drip or Leaky-Pipe System**
   An automatic underground irrigation system in conjunction with a water-saving system such as a drip or a leaky pipe system.

3. **Temporary and Above-Ground Watering**
   Landscape areas using drought resistant plants and installation techniques, including areas planted with native grasses, wildflowers, and trees may use a temporary and above ground system, and are required to provide irrigation for the first three growing seasons.

c. Irrigation is not required for undisturbed natural areas or undisturbed existing trees. Must have a water source consisting of a hose bib accessible to each area within parking lots.

d. All irrigation systems must be equipped with freeze and rain indicators as specified in the Texas Water Code.

Sec. 10-309. Valid License Required

a. License. Any person who connects an irrigation system to the water supply within the City must hold a valid license, as defined by Title 30, Texas Administrative Code, Chapter 30 and required by Chapter 1903 of the Texas Occupations Code, or as defined by Chapter 365, Title 22 of the Texas Administrative Code and required by Chapter 1301 of the Texas Occupations Code.

b. Exemptions to License Requirement. A property owner is not required to be licensed in accordance with Texas Occupations Code, Title12, Sec. 1903.002(c)(1) if he or she is performing irrigation work in a building or on a premises owned or occupied by the person as the person's home. A home or property owner who installs an irrigation system must meet the standards contained in Title 30, Texas Administrative Code, Chapter 344 regarding spacing, water pressure, spraying water over impervious materials, rain or moisture shut-off devices or other technology, backflow prevention and isolation valves. The City may, at any point, adopt more stringent requirements for a home or property owner who installs an irrigation system. See Texas Occupations Code Sec. 1903.002 for other exemptions to the licensing requirement. (Ord. No. 0-2009-19; 3/11/09)

Sec. 10-310. Permit Required

a. Any person installing an irrigation system within the territorial limits of the City is required to obtain a permit from the City. Any plan approved for a permit must be in compliance with the requirements of this Division. Plumbing fees are located in Chapter 6.

b. Exemptions

1. An irrigation system that is that an on-site sewage disposal system, as defined by Section 366.002, Health and Safety Code; or

2. An irrigation system used on or by an agricultural operation as defined by Section 251.002, Agriculture Code; or

3. An irrigation system connected to a groundwater well used by the property owner for domestic use. (Ord. No. 0-2009-19; 3/11/09)

Sec. 10-311. Backflow Prevention Methods and Devices

a. Any irrigation system that is connected to the potable water supply must be connected through a backflow prevention method approved by the Texas Commission on Environmental Quality (TCEQ). The backflow prevention device must be approved by the American Society of Sanitary Engineers; or the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California; or the Uniform Plumbing Code; or any other laboratory that has equivalent capabilities for both the laboratory and field evaluation of backflow prevention assemblies. The backflow prevention device must be installed in accordance with the laboratory approval standards or if the approval does not include specific installation information, the manufacturer's current published recommendations.

b. If conditions that present a health hazard exist, one of the following methods must be used to prevent backflow;

1. An air gap may be used if:

(a) there is an unobstructed physical separation; and

(b) the distance from the lowest point of the water supply outlet to the flood rim of the fixture or assembly into which the outlet discharges is at least one inch or twice the diameter of the water supply outlet, whichever is greater.

2. Reduced pressure principle backflow prevention assemblies may be used if:

(a) the device is installed at a minimum of 12 inches above ground in a location that will ensure that the assembly will not be submerged; and

(b) drainage is provided for any water that may be discharged through the assembly relief valve.

3. Pressure vacuum breakers may be used if:

(a) no back-pressure condition will occur; and

(b) the device is installed at a minimum of 12 inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler.

4. Atmospheric vacuum breakers may be used if:

(a) no back-pressure will be present;

(b) there are no shutoff valves downstream from the atmospheric vacuum breaker;

(c) the device is installed at a minimum of six inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler;

(d) there is no continuous pressure on the supply side of the atmospheric vacuum breaker for more than 12 hours in any 24-hour period; and

(e) a separate atmospheric vacuum breaker is installed on the discharge side of each irrigation control valve, between the valve and all the emission devices that the valve controls.

c. Backflow prevention devices used in applications designated as health hazards must be tested upon installation and annually thereafter.

d. If there are no conditions that present a health hazard, double check valve backflow prevention assemblies may be used to prevent backflow if the device is tested upon installation and test cocks are used for testing only.

e. If a double check valve is installed below ground:

1. Test cocks must be plugged, except when the double check valve is being tested;
2. Test cock plugs must be threaded, water-tight, and made of non-ferrous material;
3. A y-type strainer is installed on the inlet side of the double check valve;
4. There must be a clearance between any fill material and the bottom of the double check valve to allow space for testing and repair; and
5. There must be space on the side of the double check valve to test and repair the double check valve.

f. If an existing irrigation system without a backflow-prevention assembly requires major maintenance, alteration, repair, or service, the system must be connected to the potable water supply through an approved, properly installed backflow prevention method before any major maintenance, alteration, repair, or service is performed.

g. If an irrigation system is connected to a potable water supply through a double check valve, pressure vacuum breaker, or reduced pressure principle backflow assembly and includes an automatic master valve on the system, the automatic master valve must be installed on the discharge side of the backflow prevention assembly.

h. The irrigator shall ensure the backflow prevention device is tested by a licensed Backflow Prevention Assembly Tester prior to being placed in service and the test results provided to the local water purveyor and the irrigation system's owner or owner's representative within ten business days of testing of the backflow prevention device. (Ord. No. 0-2009-19; 3/11/09)

Sec. 10-312. Specific Conditions and Cross Connection Control

a. Before any chemical is added to an irrigation system connected to the potable water supply, the irrigation system must be connected through a reduced pressure principle backflow prevention assembly or air gap.

b. Connection of any additional water source to an irrigation system that is connected to the potable water supply can only be done if the irrigation system is connected to the potable water supply through a reduced-pressure principle backflow prevention assembly or an air gap.

c. Irrigation system components with chemical additives induced by aspiration, injection, or emission system connected to any potable water supply must be connected through a reduced pressure principle backflow device.

d. If an irrigation system is designed or installed on a property that is served by an on-site sewage facility, as defined in Title 30, Texas Administrative Code, Chapter 285, then:

1. all irrigation piping and valves must meet the separation distances from the On-Site Sewage Facilities system as required for a private water line in Title 30, Texas Administrative Code, Section 285.91(10);
2. any connections using a private or public potable water source that is not the city's potable water system must be connected to the water source through a reduced pressure principle backflow prevention assembly as defined in Title 30, Texas Administrative Code, Section 344.50; and
3. any water from the irrigation system that is applied to the surface of the area utilized by the On-Site Sewage Facility system must be controlled on a separate irrigation zone or zones so as to allow complete control of any irrigation to that area so that there will not be excess water that would prevent the On-Site Sewage Facilities system from operating effectively. (Ord. No. 0-2009-19; 3/11/09)

Sec. 10-313. Water Conservation

All irrigation systems shall be designed, installed, maintained, altered, repaired, serviced, and operated in a manner that will promote water conservation as defined in the Definitions section of this Chapter. (Ord. No. 0-2009-19; 3/11/09)

Sec. 10-314. Irrigation Plan Design Minimum Standards

a. An irrigator shall prepare an irrigation plan for each site where a new irrigation system will be installed. A paper or electronic copy of the irrigation plan must be on the job site at all times during the installation of the irrigation system. A drawing showing the actual installation of the system is due to each irrigation system owner after all new irrigation system installations. During the installation of the irrigation system, variances from the original plan may be authorized by the licensed irrigator if the variance from the plan does not:

1. diminish the operational integrity of the irrigation system;
2. violate any requirements of this Division; and
3. go unnoted in red on the irrigation plan.

b. The irrigation plan must include complete coverage of the area to be irrigated. If a system does not provide complete coverage of the area to be irrigated, it must be noted on the irrigation plan.

c. All irrigation plans used for construction must be drawn to scale. The plan must include, at a minimum, the following information:

1. the irrigator's seal, signature, and date of signing;
2. all major physical features and the boundaries of the areas to be watered;
3. a North arrow;
4. a legend;
5. the zone flow measurement for each zone;
6. location and type of each:

   (a) controller; and

   (b) sensor (for example, but not limited to, rain, moisture, wind, flow, or freeze);
7. location, type, and size of each:

   (a) water source, such as, but not limited to a water meter and point(s) of connection;

   (b) backflow prevention device;

   (c) water emission device, including, but not limited to, spray heads, rotary sprinkler heads, quick-couplers, bubblers, drip, or micro-sprays;

   (d) valve, including but not limited to, zone valves, master valves, and isolation valves;

   (e) pressure regulation component; and

   (f) main line and lateral piping.
8. the scale used; and
9. the design pressure. (Ord. No. 0-2009-19; 3/11/09)

Sec. 10-315. Design and Installation Minimum Requirements

a. No irrigation design or installation shall require the use of any component, including the water meter, in a way which exceeds the manufacturer's published performance limitations for the component.

b. Spacing.

1. The maximum spacing between emission devices must not exceed the manufacturer's published radius or spacing of the device(s). The radius or spacing is determined by referring to the manufacturer's published specifications for a specific emission device at a specific operating pressure.

2. New irrigation systems shall not utilize above-ground spray emission devices in landscapes that are less than 48 inches not including the impervious surfaces in either length or width and which contain impervious pedestrian or vehicular traffic surfaces along two or more perimeters. If pop-up sprays or rotary sprinkler heads are used in a new irrigation system, the sprinkler heads must direct flow away from any adjacent surface and shall not be installed closer than four inches from a hardscape, such as, but not limited to, a building foundation, fence, concrete, asphalt, pavers, or stones set with mortar.
3. Narrow paved walkways, jogging paths, golf cart paths or other small areas located in cemeteries, parks, golf courses or other public areas may be exempted from this requirement if the runoff drains into a landscaped area.

c. Water pressure. Emission devices must be installed to operate at the minimum and not above the maximum sprinkler head pressure as published by the manufacturer for the nozzle and head spacing that is used. Methods to achieve the water pressure requirements include, but are not limited to, flow control valves, a pressure regulator, or pressure compensating spray heads.

d. Piping. Piping in irrigation systems must be designed and installed so that the flow of water in the pipe will not exceed a velocity of five feet per second for polyvinyl chloride (PVC) pipe.

e. Irrigation Zones. Irrigation systems shall have separate zones based on plant material type, microclimate factors, topographic features, soil conditions, and hydrological requirements.

f. Matched precipitation rate. Zones must be designed and installed so that all of the emission devices in that zone irrigate at the same precipitation rate.

g. Irrigation systems shall not spray water over surfaces made of concrete, asphalt, brick, wood, stones set with mortar, or any other impervious material, such as, but not limited to, walls, fences, sidewalks, streets, etc.

h. Master valve. When provided, a master valve shall be installed on the discharge side of the backflow prevention device on all new installations.

i. PVC pipe primer solvent. All new irrigation systems that are installed using PVC pipe and fittings shall be primed with a colored primer prior to applying the PVC cement in accordance with the Uniform Plumbing Code (Section 316) or the International Plumbing Code (Section 605).

j. Rain or moisture shut-off devices or other technology. All new automatically controlled irrigation systems must include sensors or other technology designed to inhibit or interrupt operation of the irrigation system during periods of moisture or rainfall. Rain or moisture shut-off technology must be installed according to the manufacturer's published recommendations. Repairs to existing automatic irrigation systems that require replacement of an existing controller must include a sensor or other technology designed to inhibit or interrupt operation of the irrigation system during periods of moisture or rainfall.

k. Isolation valve. All new irrigation systems must include an isolation valve between the water meter and the backflow prevention device.

l. Depth coverage of piping. Piping in all irrigation systems must be installed according to the manufacturer's published specifications for depth coverage of piping.

1. If the manufacturer has not published specifications for depth coverage of piping, the piping must be installed to provide minimum depth coverage of six inches of select backfill, between the top of the pipe and the natural grade of the topsoil. All portions of the irrigation system that fail to meet this standard must be noted on the irrigation plan. If the area being irrigated has rock at a depth of six inches or less, select backfill may be mounded over the pipe. Mounding must be noted on the irrigation plan and discussed with the irrigation system owner or owner's representative to address any safety issues.
2. If a utility, man-made structure, or roots create an unavoidable obstacle, which makes the six-inch depth coverage requirement impractical, the piping shall be installed to provide a minimum of two inches of select backfill between the top of the pipe and the natural grade of the topsoil.
3. All trenches and holes created during installation of an irrigation system must be backfilled and compacted to the original grade.

m. Wiring irrigation systems.

1. Underground electrical wiring used to connect an automatic controller to any electrical component of the irrigation system must be listed by Underwriters Laboratories as acceptable for burial underground.
2. Electrical wiring that connects any electrical components of an irrigation system must be sized according to the manufacturer's recommendation.
3. Electrical wire splices which may be exposed to moisture must be waterproof as certified by the wire splice manufacturer.
4. Underground electrical wiring that connects an automatic controller to any electrical component of the irrigation system must be buried with a minimum of six inches of select backfill.

n. Water contained within the piping of an irrigation system is deemed to be non-potable. No drinking or domestic water usage, such as, but not limited to, filling swimming pools or decorative fountains, shall be connected to an irrigation system. If a hose bib (an outdoor water faucet that has hose threads on the spout) is connected to an irrigation system for the purpose of providing supplemental water to an area, the hose bib must be installed using a quick coupler key on a quick coupler installed in a covered purple valve box and the hose bib and any hoses connected to the bib must be labeled "non potable, not safe for drinking." An isolation valve must be installed upstream of a quick coupler connecting a hose bib to an irrigation system.

o. Beginning January 1, 2010, either a licensed irrigator or a licensed irrigation technician shall be on-site at all times while the landscape irrigation system is being installed. When an irrigator is not onsite, the irrigator shall be responsible for ensuring that a licensed irrigation technician is on-site to supervise the installation of the irrigation system. (Ord. No. 0-2009-19; 3/11/09)

Sec. 10-316. Completition of Irrigation System Installation

Upon completion of the irrigation system, the irrigator or irrigation technician who provided supervision for the on-site installation shall be required to complete four items:

a. A final "walk through" with the irrigation system's owner or the owner's representative to explain the operation of the system;

b. The maintenance checklist on which the irrigator or irrigation technician shall obtain the signature of the irrigation system's owner or owner's representative and shall sign, date, and seal the checklist. If the irrigation system's owner or owner's representative is unwilling or unable to sign the maintenance checklist, the irrigator shall note the time and date of the refusal on the irrigation system's owner or owner's representative's signature line. The irrigation system owner or owner's representative will be given the original maintenance checklist and a duplicate copy of the maintenance checklist shall be maintained by the irrigator. The items on the maintenance checklist shall include but are not limited to:

1. the manufacturer's manual for the automatic controller, if the system is automatic;
2. a seasonal (spring, summer, fall, winter) watering schedule based on either current/real time evapotranspiration or monthly historical reference evapotranspiration (historical ET) data, monthly effective rainfall estimates, plant landscape coefficient factors, and site factors;
3. a list of components, such as the nozzle, or pump filters, and other such components; that require maintenance and the recommended frequency for the service; and
4. the statement, "This irrigation system has been installed in accordance with all applicable state and local laws, ordinances, rules, regulations or orders. I have tested the system and determined that it has been installed according to the Irrigation Plan and is properly adjusted for the most efficient application of water at this time."

c. A permanent sticker which contains the irrigator's name, license number, company name, telephone number and the dates of the warranty period shall be affixed to each automatic controller installed by the irrigator or irrigation technician. If the irrigation system is manual, the sticker shall be affixed to the original maintenance checklist. The information contained on the sticker must be printed with waterproof ink:

d. The irrigation plan indicating the actual installation of the system must be provided to the irrigation system's owner or owner representative. (Ord. No. 0-2009-19; 3/11/09)

Sec. 10-317. Maintenance, Alteration, Repair, or Service of Irrigation Systems; Reclaimed Water

a. The licensed irrigator is responsible for all work that the irrigator performed during the maintenance, alteration, repair, or service of an irrigation system during the warranty period. The irrigator or business owner is not responsible for the professional negligence of any other irrigator who subsequently conducts any irrigation service on the same irrigation system.

b. All trenches and holes created during the maintenance, alteration, repair, or service of an irrigation system must be returned to the original grade with compacted select backfill.

c. Colored PVC pipe primer solvent must be used on all pipes and fittings used in the maintenance, alteration, repair, or service of an irrigation system in accordance with

the Uniform Plumbing Code (Section 316) or the International Plumbing Code (Section 605).

d. When maintenance, alteration, repair or service of an irrigation system involves excavation work at the water meter or backflow prevention device, an isolation valve shall be installed, if an isolation valve is not present.

e. Reclaimed Water. Reclaimed water may be utilized in landscape irrigation systems if:

1. there is no direct contact with edible crops, unless the crop is pasteurized before consumption;
2. the irrigation system does not spray water across property lines that do not belong to the irrigation system's owner;
3. the irrigation system is installed using purple components;
4. the domestic potable water line is connected using an air gap or a reduced pressure principle backflow prevention device, in accordance with Title 30, Texas Administrative Code, Section 290.47(i) (relating to Appendices);
5. a minimum of an eight inch by eight inch sign, in English and Spanish, is prominently posted on/in the area that is being irrigated, that reads, "RECLAIMED WATER – DO NOT DRINK" and "AGUA DE RECUPERACIÓN – NO BEBER"; and
6. Backflow prevention on the reclaimed water supply line shall be in accordance with the regulations of the City's water provider. (Ord. No. 0-2009-19; 3/11/09)

Sec. 10-318. Advertisement Requirements; Contracts; Warranties

a. Advertisement.

1. All vehicles used in the performance of irrigation installation, maintenance, alteration, repair, or service must display the irrigator's license number in the form of "LI_____" in a contrasting color of block letters at least two inches high, on both sides of the vehicle.
2. All forms of written and electronic advertisements for irrigation services must display the irrigator's license number in the form of "LI_____." Any form of advertisement, including business cards, and estimates which displays an entity's or individual's name other than that of the licensed irrigator must also display the name of the licensed irrigator and the licensed irrigator's license number. Trailers that advertise irrigation services must display the irrigator's license number.
3. The name, mailing address, and telephone number of the Commission must be prominently displayed on a legible sign and displayed in plain view for the purpose of addressing complaints at the permanent structure where irrigation business is primarily conducted and irrigation records are kept.

b. Contracts.

1. All contracts to install an irrigation system must be in writing and signed by each party and must specify the irrigator's name, license number, business address, current business telephone numbers, the date that each party signed the agreement, the total agreed price, and must contain the statement, "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), MC-178, P.O. Box 13087,

Austin, Texas 78711-3087. TCEQ's website is: www. tceq.state.tx.us." All contracts must include the irrigator's seal, signature, and date.

2. All written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system(s) must include the irrigator's name, license number, business address, current business telephone number(s), and the statement: "Irrigation in Texas is regulated by the Texas Commission On Environmental Quality (TCEQ) (MC-178), P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's web site is: www.tceq.state.tx.us."

3. An individual who agrees by contract to provide irrigation services as defined in Title 30, Texas Administrative Code, Section 344.30 (relating to License Required) shall hold an irrigator license issued under Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations) unless the contract is a pass-through contract as defined in Title 30, Texas Administrative Code, Section 344.1(36) (relating to Definitions). If a pass-through contract includes irrigation services, then the irrigation portion of the contract can only be performed by a licensed irrigator. If an irrigator installs a system pursuant to a pass-through contract, the irrigator shall still be responsible for providing the irrigation system's owner or owner's representative a copy of the warranty and all other documents required under this chapter. A pass-through contract must identify by name and license number the irrigator that will perform the work and must provide a mechanism for contacting the irrigator for irrigation system warranty work.

4. The contract must include the dates that the warranty is valid.

c. Warranties for Systems

1. On all installations of new irrigation systems, an irrigator shall present the irrigation system's owner or owner's representative with a written warranty covering materials and labor furnished in the new installation of the irrigation system. The irrigator shall be responsible for adhering to terms of the warranty. If the irrigator's warranty is less than the manufacturer's warranty for the system components, then the irrigator shall provide the irrigation system's owner or the owner's representative with applicable information regarding the manufacturer's warranty period. The warranty must include the irrigator's seal, signature, and date. If the warranty is part of an irrigator's contract, a separate warranty document is not required.

2. An irrigator's written warranty on new irrigation systems must specify the irrigator's name, business address, and business telephone number(s), must contain the signature of the irrigation system's owner or owner's representative confirming receipt of the warranty and must include the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), MC-178, P.O. Box 130897, Austin, Texas 78711-3087. TCEQ's website is: www.tceq.state.tx.us."

3. On all maintenance, alterations, repairs, or service to existing irrigation systems, an irrigator shall present the irrigation system's owner or owner's representative a written document that identifies the materials furnished in the maintenance, alteration, repair, or service. If a warranty is provided, the irrigator shall abide by the terms. The warranty document must include the irrigator's name and business contact information. (Ord. No. 0-2009-19; 3/11/09)

Sec. 10-319. Irrigations Inspectors; Enforcement; Penalties

a. Duties and Responsibilities of City Irrigation Inspectors. A licensed irrigation inspector shall enforce Sections 10-309 – 10-319, and shall be responsible for:

1. verifying that the appropriate permits have been obtained for an irrigation system and that the irrigator and installer or irrigation technician, if applicable, are licensed;
2. inspecting the irrigation system;
3. determining that the irrigation system complies with the requirements of this Division;
4. determining that the appropriate backflow prevention device was installed, tested, and test results provided to the City;
5. investigating complaints related to irrigation system installation, maintenance, alteration, repairs, or service of an irrigation system and advertisement of irrigation services; and
6. maintaining records according to this Division.

b. Items not covered by this ordinance. Any irrigation item not covered by this Division and required by law shall be governed by the Texas Occupations Code, the Texas Water Code, Title 30 of the Texas Administrative Code, and any other applicable state statute or Texas Commission on Environmental Quality rule, or their successors.

c. Enforcement. The City shall have the power to administer and enforce the provisions of Sections 10-309 – 10-319 as may be required by governing law. Any person, firm, corporation or agent who shall violate a provision of Sections 10-309 – 10-319 or fails to comply therewith, or with any of the requirements thereof, is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of the ordinance codified in Sections 10-309 – 10-319 is illegal, is hereby declared to be a nuisance, and is subject to a penalty of up to $2,000.00 as authorized by State law and Section 1-4. Nothing in this chapter shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of Sections 10-309 – 10-319 and to seek remedies as allowed by law, including, but not limited, to the following:

1. Injunctive relief to prevent specific conduct that violates the ordinance or to require specific conduct that is necessary for compliance with the ordinance; and
2. Other available relief. (Ord. No. 0-2009-19; 3/11/09)

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DIVISION B. Bufferyards

Sec. 10-320. Purpose

The purpose of this division is intended to:

a. prevent or minimize any effects of a use on a property from affecting any adjacent property or zoning district with a greater or lesser intensity of use, and

b. provide for the construction of fences, walls, and other similar elements within the city in all zoning districts provided that the fencing complies with the requirements of this code as to location, height, and composition.

Sec. 10-321. General Requirements

a. The bufferyard is included in the overall calculation of the percentage of required landscaping on a lot.

b. All open space within a buffer yard must be planted with grass, or vegetative ground cover.

c. A buffer yard may provide additional plantings in excess of the minimum requirements.

d. A buffer yard may be interrupted in order to provide access (pedestrian or vehicular) to adjacent parcels.

Required Bufferyard Type by Adjacent Zoning District

District	RE, R-1A, R-1B, R-1C, R-1D, PUR	AR, R-2, R-MF, PXR, PMF	C-1, PMXD-1 RPO, INT	C-2, PCD, PMXD-2	M-1, M-2
RE, R-1A, R-1B, R-1C, R-1D, PUR		Type A	Type B	Type B	Type C
AR,R-2, R-MF, PXR, PMF	Type A		Type A	Type B	Type C
C-1, PMXD-1, RPO, INT	Type B	Type A		Type B	Type C
C-2, DBAC*, PCD, PMXD-2	Type B	Type B	Type B		Type C
M-1, M-2	Type C	Type C	Type C	Type C	

Note: The more intense use is required to provide the buffer.
*Buffer yards are only required in DBAC when adjacent to residential districts. Requirement may be waived upon the submittal of a letter of support from adjacent, affected property owner.
(Ord. No. 0-2009-19; 3/11/09) (Ord. No. 0-2010-119; 11/10/10) (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-322. Bufferyard Types

a. "Type A" Bufferyard

1. **Applicability**

A "Type A" buffer yard is used to separate a) single-family residential zoning districts from higher-density residential districts and b) all residential districts from light commercial, restricted professional office, and institutional districts.

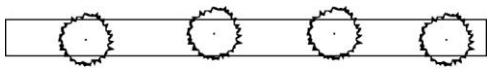
2. Type A Bufferyard Composition

A "Type A" buffer yard must consist of one of the following:

(a) A 10-foot-wide planting area with an average of one tree of6" DBH or larger at maturity per 50 feet or one evergreen shrub per 50 linear feet;

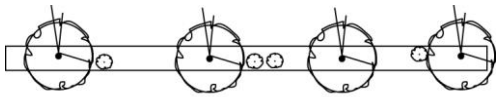
Type A Buffer, 10' x 100'

(b)A 7.5-foot-wide planting area with an average of two trees of 6" DBH or larger at maturity and two evergreen shrubs per 50 linear feet; (Ord. No. 0-2009-19; 3/11/09 or



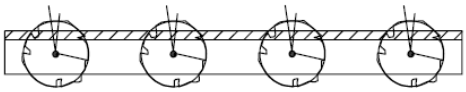
Type A Buffer, 7.5' x 100'

(c) A 5-foot-wide planting area with an average of two trees of 6" DBH or larger at maturity and two shrubs of any type per 50 linear feet. (Ord. No. 0-2009-19; 3/11/09



Type A Buffer, 5' x 100'

(d)A 5-foot-wide planting area with an average of one medium or large evergreen tree of 6" DBH or larger at a maturity for each 50 linear feet of buffer yard spaced no more than 35 feet apart to provide additional screening above a required solid six-foot screening wall constructed of brick, stone, reinforced concrete, or other similar two-sided masonry materials. Wood (redwood, cedar, or other preservative pressure treated wood), may be used as long as a continuous masonry wall (one foot height minimum) on a concrete footer is installed. The wooden panels must be separated by masonry columns spaced no further apart than 20 feet. (Ord. No. 0-2009-19; 3/11/09) (Ord. No. 0-2010-119; 11/11/10)



Type A Buffer, 5' x 100'

b. "Type B" Bufferyard

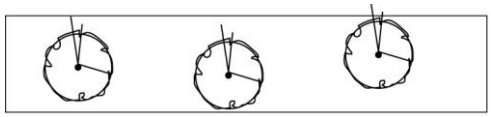
1. Applicability

A Type "B" bufferyard is used to separate a) general commercial (C-2), planned commercial (PCD) and high-intensity planned mixed zoning districts (PMXD-2) from any other nonresidential districts; and b) all commercial and office districts from any residential district. (Ord. No. 0-2009-19; 3/11/09)

2. **Type B Bufferyard Composition**

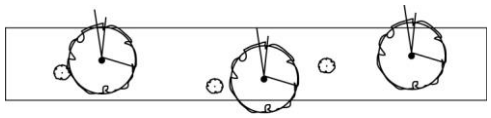
A Type B bufferyard must consist of one of the following:

(a) A 20-foot-wide planting area with an average of one tree of 6" DBH or larger at maturity per 50 linear feet spaced no more than 35 feet apart;



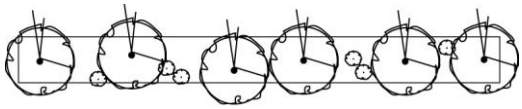
Type B Buffer, 20' x 100'

(b) A 15-foot-wide planting area with an average of one tree of 6" DBH or larger at maturity and one shrub per 35 linear feet; or



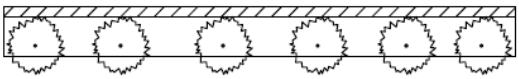
Type B Buffer, 15' x 100'

(c) A 10-foot-wide planting area with an average of two trees of 6" DBH or larger at maturity and two shrubs per 35 linear feet.



Type B Buffer, 10' x 100'

(d) A 10-foot-wide planning area with an average of one medium or large evergreen tree of 6" DBH or larger at maturity for each 50 linear feet of buffer yard, spaced no more than 35 feet apart to provide additional screening above a required solid six-foot screening wall constructed of brick, stone, reinforced concrete, or other similar two-sided masonry materials. Wood (redwood, cedar, or other preservative pressure treated wood), may be used as long as a continuous masonry wall (one foot height minimum) on a concrete footer is installed. The wooden panels must be separated by masonry columns spaced no further apart than 20 feet. (Ord. No. 0-2010-119; 11/11/10)



Type B Buffer, 10' x 100'

c. "Type C" Bufferyard

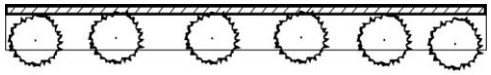
1. **Applicability**

A Type C bufferyard is used to separate industrial districts (M-1 and M-2) from all other zoning districts.

2. **Type C Bufferyard Composition**

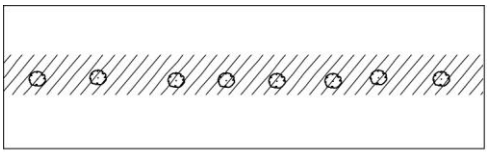
A "Type C" buffer yard must consist of one of the following options:

(a) A 10-foot-wide planting area with an average of two evergreen trees of 6" DBH or larger at maturity for each 50 linear feet of buffer yard, spaced no more than 35 feet apart to provide additional screening above a required solid six-foot screening wall constructed of brick, stone, reinforced concrete, wood, or other similar two-sided masonry materials; or



Type C Buffer, 10' x 100'

(b) A 30-foot-wide planting area with a berm at least three feet tall and minimum 4:1 side slope, with an average of four shrubs at the top of the berm per 50 linear feet.



Type C Buffer, 30' x 100'

(c) A 50-foot-wide buffer area with existing tree canopy equal to at least one tree per 50'. (Ord. 0-2010-20, 3/10/10)

Sec. 10-323 - 329. Reserved

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DIVISION C. Fences and Walls

Sec. 10-330. Purpose

This division is intended to guide the construction of fences and walls within the city in any of the zoning districts provided that the fencing complies with the requirements of this code as to location, height, and composition.

Sec. 10-331. Required Conditions

In all cases, fences and walls must meet the following:

a. Location and Height

1. Fences generally may be constructed along the rear and side property lines, if located entirely on private property and not in excess of the maximum height allowed. (Ord. No. 0-2013-16; 2/27/13)

2. Fences must not be designed or constructed so as to interfere with traffic sight visibility. Fences determined to cause immediate danger may be removed by the city. (Ord. No. 0-2010-119; 11/11/10)

3. i. Fences located in the front yard, along the front property line and/or the side property line(s), to a depth less or equal to the required front yard setback of residential property, must obtain a Special Use Permit before beginning construction. Where fencing is allowed, the height is restricted to a maximum height of four feet in residentially zoned. (Ord. No. 0-2013-16; 2/27/13)

   ii. Fences located in the front yard, along the front property line and/or the side property line(s), to a depth less or equal to the required front yard setback, are restricted to a maximum height of eight feet in commercial, industrial and other non-residential districts. (Ord. No. 0-2013-16; 2/27/13)

4. Fences located in the rear or side yards, along the rear property line or the side property line(s), at a depth greater than the required front yard setback, are restricted to a maximum height of eight feet in residentially zoned districts and 15 feet in commercial, industrial, and other non-residential districts.

5. There are certain circumstances, however, whereby the maximum height of a fence erected in the designated front and side yards of a lot which is zoned residential may exceed the four foot maximum height limitation. In these circumstances, all fencing or walls must not interfere with traffic sight visibility or public safety. (Ord. No. 0-2010-119; 11/11/10)

b. Fence Materials

1. Composition of fences is restricted to materials commonly used in fence construction, e.g., wood, wire, brick, stone, pipe, concrete, or materials approved by the planning director.

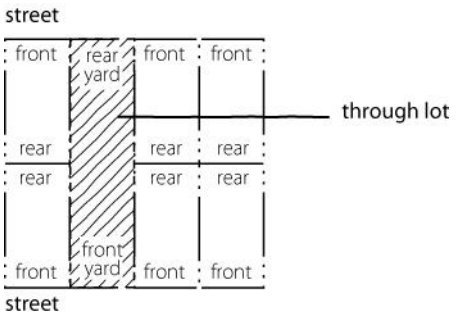
2. Fences composed of tires, bumpers or other new or used materials, not commonly used in fence construction, are be prohibited in all zoning districts.

3. The use of barbed wire, razor wire, concertina wire, or similar materials is prohibited in all zoning districts with the exception of uses in the M-2 district and in any district where state or federal law requires facilities to install such fencing. The planning director may grant a property owner permission to use such fencing materials on a

limited basis and in areas where there will be little or no visibility from the public right of way.

c. Fences on Through Lots

The requirement of this code that "through lots" having frontage on two streets, observe the required front yard setback on both streets, will generally apply to the location and height of fences erected on such through lots. Fences in both the designated front and rear yard of through lots, are restricted to a maximum height of four feet in residentially zoned districts and eight feet in commercial, industrial and other non-residential districts, so as to conform to the maximum fence height along either street frontage.



d. Exceptions to Fence Height

There are certain circumstances whereby the maximum height of a fence erected in the designated rear yard of a through lot, which is zoned residential, may exceed the four foot maximum height limitation, including:

1. Where the designated rear yard of a through lot is adjacent to a four or six- lane arterial; or
2. Where the designated rear yard of a through lot is across the street from property zoned and developed for industrial use.

e. Retaining walls

Retaining walls that exceed four feet in height must be designed and stamped by a professional engineer.(ORD. 0-97-62, 12/10/97)

Sec. 10-332. Use- and Zone-Specific Fence Standards

a. Front Yard Fencing in R-MF Zone

In areas zoned R-MF where the property is in use as a multi-family residential development or as religious institution, educational facility, hospital or nursing facility, the fence may not exceed six feet within the required front yard.

b. Through Lot Fencing

Where a through lot results in a back yard being a front yard for neighboring properties, fencing shall not exceed four feet in height within the extended front yard setback for adjoining lots.

Sec. 10-333. Electric fences.

a. The construction and use of electric fences shall be allowed in the City only as provided in this section, subject to the following standards:

1. IEC Standard 60335-2-76. Unless otherwise specified herein, electric fences shall be constructed or installed in conformance with the specifications set forth in International Electrotechnical Commission (IEC) Standard No. 60335-2-76, or successor.

2. Electrification

   (a) The energizer for electric fences must be driven by a commercial storage battery not to exceed 12 volts DC. The storage battery shall be charged primarily by a solar panel. However, the solar panel may be augmented by a commercial trickle charger.

   (b) The electric charge produced by the fence upon contact shall not exceed energizer characteristics set forth in paragraph 22.108 and depicted in Figure 102 of IEC Standard No. 60335-2-76, or successors.

3. Perimeter fence or wall. No electric fence shall be installed or used unless it is completely surrounded by a non-electrical fence or wall that is not less than six feet in height.

4. Location. Electric fences shall be permitted in any non-residential outdoor storage areas only.

5. Warning signs. Electric fences shall be clearly identified with warning signs that read: "Warning-Electric Fence" at intervals of not less than sixty feet.

b. It shall be unlawful for any person to install, maintain or operate an electric fence in violation of this section. (Ord. 0-2010-20, 3/10/10)

Sec. 10-334 - 339. Reserved

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DIVISION D. Screening

The following requirements for screening apply in all multifamily residential, commercial, mixed use, institutional, civic, and manufacturing zoning districts, planned districts, and overlay districts, except where indicated below.

Sec. 10-340. Trash Enclosures

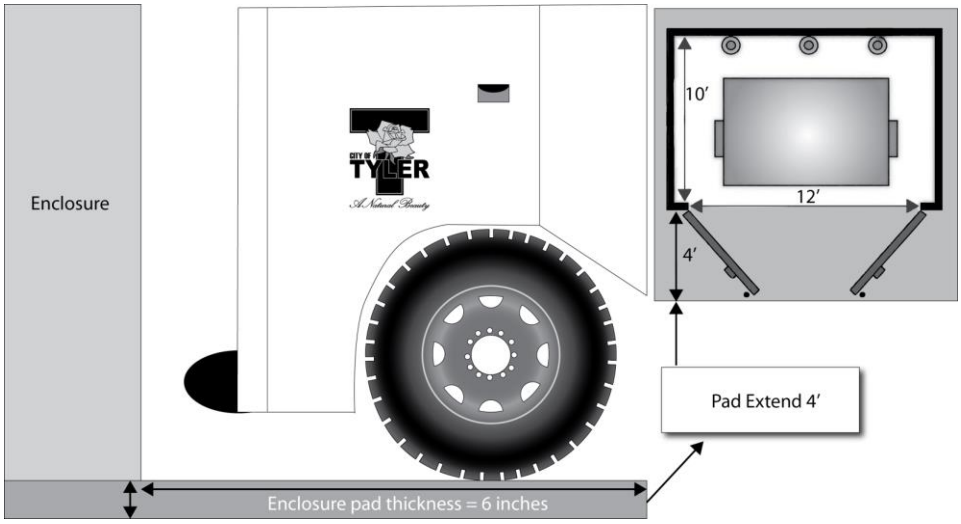
All Dumpsters and other similar trash containers must meet the following standards for placement on a site, screening, and screening materials:

a. Screened on four sides by a six foot high, solid fence, sufficient to screen the container from public view or that of nearby single or two-family residential developments.

b. Located on the side or rear of the building and screened from public view.

c. Located at 25 feet outside the rear setback when abutting RE, R-1A, R-1B, R-1C, R-1D, R-2, PUR, and PXR-zoned properties. (Ord. No. 0-2014-97; 10/22/14)

d. Placed on a minimum six-inch reinforced slab, sloped to drain. The pad must extend four (4) feet in front of the enclosure to accommodate refuse collection vehicles.



e. Screening should be comprised of:

1. Brick, stone, reinforced concrete, or other similar masonry materials that have a finish similar to the principal structure on the site; or

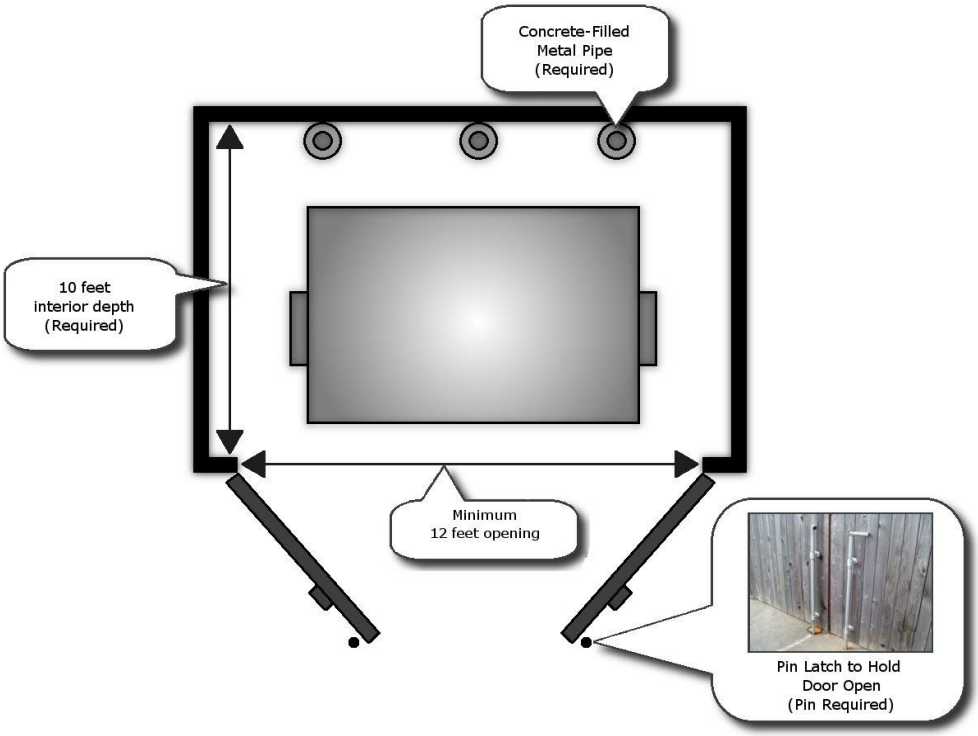
2. Redwood, cedar, preservative pressure treated wood, or other similar materials combined with large shrubs planted four feet on center and staggered 30 to 36 inches. Ground cover underneath screening shrubs may be comprised of turf, mulch, or other permeable material.

f. All fence posts shall be rust-protected metal, concrete based masonry or concrete pillars; and

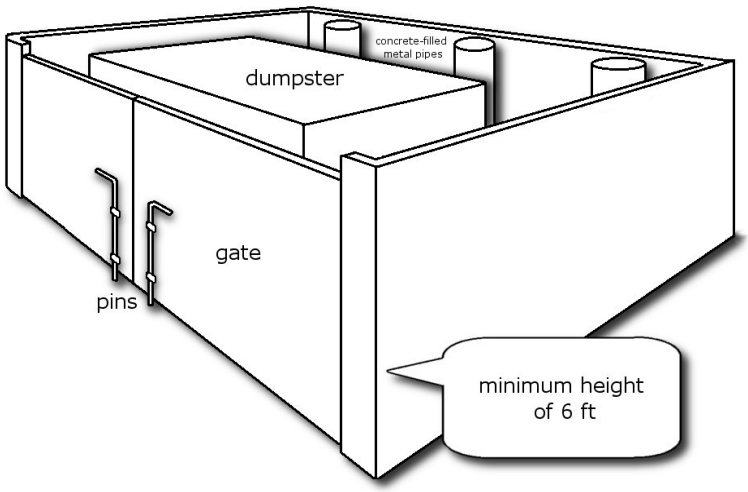
g. Six-inch concrete filled steel pipes must be located to protect the enclosure from truck operations.

h. Trash enclosures shall have a minimum depth of 10 feet and must have steel-framed gates with spring-loaded hinges or the equivalent and fasteners to keep them closed. The gates must allow for a minimum 12 feet clear opening (should be increased if multiple refuse

containers are required) and provide pin latches to hold gates open. When in use, tie-backs should be used to secure the steel framed gates in the open position. (Ord. No. 0-2015-67; 6/24/15)



i. Trash enclosure screening must be maintained by the property owner at all times.



(Ord. No. 0-2011-45; 6/8/11)

Sec. 10-341. Mechanical Equipment

a. Properties that are visible from residential and public parks must screen all roof, ground and wall mounted mechanical equipment (e.g. heating, ventilating, and air conditioning equipment, compressors, duct work, transformers and elevator equipment) from view at ground level of the property line.

b. Roof-mounted mechanical equipment shall be shielded from view on four sides from ground level of the property line. The planning director may waive the required screen on any of the four sides of the mechanical equipment if the property owner or developer can demonstrate on a drawing of the building elevation that the equipment is not visible at ground level of the property line on the side of the building where the screen would not be constructed.

c. Screening must consist of materials consistent with the primary building materials, and may include metal screening or louvers which are painted to blend with the primary building, and must not have the effect of appearing separate from the building.

d. Wall or ground-mounted equipment screening must be constructed of:

1. Planting screens;
2. Brick, stone, reinforced concrete, or other similar masonry materials; or
3. Redwood, cedar, preservative pressure treated wood, or other similar materials.

e. All fence posts shall be rust-protected metal, concrete-based masonry, or concrete pillars.

f. Residential solar installations must be situated so that they are screened from view from public streets. (Ord. No. 0-2012-38, 4/25/12)

Sec. 10-342. Parking Lots

Where parking lot areas abut residentially zoned property, and the parking area is not screened from view by a wall, berm, or other screen, a continuous screen of shrubs, a (minimum five gallons in size and creating a three-foot-tall screen within two years) must be placed planted adjacent to the parking area or lot. The shrubs should create a minimum three-foot-tall screen in two years.

a. All parking areas that abut residential zones must be screened using screening methods as described below.

b. Screening must be at least three feet in height as measured at the bounding property line to the residentially zoned property or where the residential grade is lower, measured at the edge or head of the business parking area, and be achieved through one of the following methods:

c. A berm with a slope no greater than 3:1 feet;

d. A planting screen or hedge comprised of drought and freeze-resistant shrubs must be used as identified in the approved shrub list for parking lot screening. Other plants may be used with the approval of the planning director.

Approved Shrub List for Parking Lot Screening

Common Name	Scientific Name	Evergreen	Light	Plant Height
Aucuba (Gold Dust Aucuba)	Aucuba japonica	Y	Partial to full shade	3 – 6 feet
Camellia	Sasanqua	Y	Partial shade	3 – 6 feet
Elaeagnus	Macrophylla	Y	Full sun to partial shade	6 – 8 feet
Holly (Dwarf Burford), (Dwarf Yaupon), (Dazzler), (Berries Jubilee), or other varieties	Ilex cornuta	Y	Sun to partial shade	3 – 6 feet (dwarf varieties) 8 – 20 feet
Indian Hawthorn	Rhaphiolepis indica	Y	Full sun to partial shade	3 – 6 feet
Juniper	Juniperus spp	Y	Sun	3 – 6 feet
Mahonia (Leatherleaf)	Bealei	Y	Sun to partial shade	5 – 7 feet
Nandina	Nandina domestica	Y	Full sun to partial shade	3 – 6 feet

(Ord. No. 0-2010-119; 11/10/10)

Approved Tree Form Shrub List for Parking Lot Screening DBAC Zoning District

Common Name	Scientific Name	Evergreen	Light	Plant Height
Texas Sage	Leucopbyllum Frutescens	N	Full sun	6 feet
Crapemyrtle	Lagerstroemia Indica	N	Full sun	25 feet
Japanese Maple	Acer palmatum	N	Full sun to partial shade	30 feet
Waxmyrtle	Myrica cerifera	Y	Full sun to partial shade	15 feet

(Ord. No. 0-2012-38, 4/25/12)

e. A masonry wall; or

f. A combination of any of the above along with trees.

g. Planted materials used as screening must be capable of providing a solid 36-inch screen within two years, as determined by a registered landscape architect, certified nurseryman, or master gardener, and must be planted in a prepared bed at least three feet in width.

h. Screening must be offset by at least six feet every 60 linear feet.

Sec. 10-343. Subdivisions Adjacent to Roads and Alleys

Where subdivisions or additions are platted so that the rear yards of residential lots are adjacent to a dedicated roadway or separated from a roadway by an alley or service road, the owner must provide screening at owner's sole expense. The planning and zoning commission may waive or modify, in

exceptional cases, this requirement. A screening plan, including elevations and materials, must be submitted with the preliminary plat. All forms of screening must conform to the requirements of ordinances governing the sight distance for traffic safety and other city ordinances. Additional right-of-way or easements may be required for wider columns and more elaborate screening walls.

Sec. 10-344. Manufacturing Uses

All uses listed in M-1 and M-2 districts must conform to the following specific regulations:

a. All such uses must be completely enclosed by an eight-foot-high solid fence of redwood, fiberglass, aluminum, masonry, or materials approved by the planning director, provided, however, that gate(s) for ingress and egress are permitted.

b. The height of the fence may be reduced to six feet when the use is conducted at an elevation two feet or more above the crown of the adjacent roadway.

c. By the authority of the building official, a steel mesh fence may be substituted, for a solid fence along the rear property line and up to the rear 3/4 of the side property lines when the use abuts a manufacturing zone and the rear portion is not visible from a public street or road.

d. The burning of wrecked or discarded automobiles, trucks or other equipment, or any parts thereof, is prohibited.

e. All debris, parts, disabled vehicles, or salvage material of any kind must be store inside the confines of the fenced area.

f. Advertising, signage, or displays that use salvage materials of any kind may not be displayed outside or above the fence.

g. The use of discarded, disabled, or wrecked automobiles, trucks, equipment, appliances, or parts for advertising, signage or for identification purposes is prohibited.

h. Whenever an owner or representative of a non-conforming use under this code is granted [M-1 or M-2 zoning,] such person will have six months in which to bring the existing use into compliance with this chapter.

Sec. 10-345. Alternative Compliance

The planning director may approve alternative buffering and screening plans for any of the uses or accessory structures and uses for which screen standards are provided above. The planning director may deem an alternative landscape plan compliant with this article if the applicant can demonstrate that the proposed alternative meets at least two of the following criteria:

a. the alternative landscaping proposed will be functionally equivalent to the required standards in terms of coverage, shading, buffering, and tree canopy

b. the proposed alternative to these standards would represent an aesthetic improvement over what is required herein, through the installation of a the variety of plants, flowers, trees, and shrubs in innovative patterns and arrangements;

c. the natural land characteristics or existing vegetation on the proposed development site would achieve the intent of this article;

d. the proposed alternative screening materials will achieve an effect that is equivalent to the screening standards of this article;

e. the required landscaping or buffering would be ineffective at maturity due to topography or the location of improvements on the site; or

f. the proposed alternative represents a plan that is, in the opinion of the planning director, as good or better than a plan prepared in strict compliance with the other standards of this article.

Sec. 10-346 - 349. Reserved

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DIVISION E. Off-Street Parking and Loading

Sec. 10-350. Purpose

The purpose of the off-street parking and loading regulations is to ensure the provision of adequate off-street parking, loading and maneuvering facilities for all land uses in the city. The standards and regulatory procedures set forth in this division are intended to regulate parking facilities so that there is sufficient parking available for each land use and that the parking spaces are functional and adequate to serve the parking demand generated or associated with a particular land use.

Sec. 10-351. General Requirements

a. All parking must comply with all the regulations of this code pertaining to parking.

b. The standards set forth in this division are minimum requirements.

c. Except in DBAC, PMXD-1, and PMXD-2, no parking or maneuvering will be allowed within the street right-of-way between the curb, improved roadway, or travel portion of the rights-of-way and the common right-of-way property line, unless approved by the planning director. It is the responsibility of the property owner to certify at the time formal application is made for a building permit or certificate of occupancy and compliance that the site provides sufficient space and facilities necessary to assure that no vehicle parking or maneuvering activity will take place on public right-of-ways or on private property not under the property owner's control.

d. No public street, right-of-way, or public property may be used to gain direct access to a parking space except that an alley may be used for maneuvering space to reach a parking space, and public streets may be used to gain direct access to residential usage.

e. No future on-street parking will be allowed other than parallel. (Ord. No. O-2000-68, 9/6/00)

f. In all districts, except DBAC, there shall be provided at the time any occupancy of a building or land use change, a sufficient number of parking spaces to meet the parking requirements of the new occupancy or land use, unless otherwise stated in this Article. (Ord. No. O-2010-119, 11/10/10)

g. No building may be constructed or enlarged, nor may any use be expanded, if such action will eliminate existing required off-street parking spaces.

h. Off-street parking spaces must be located on the same lot or tract occupied by the principal use or in accordance with the off-site parking requirements of this division and located within the same zoning district as the principal use.

i. All parking area lighting must be designed, located, and installed pursuant to Article VII, Division J of this chapter. At a minimum such lighting must not shine directly upon or reflect onto adjacent properties.

Sec. 10-352. Retroactive Compliance Not Required

In cases where the minimum required off-street parking for legally established land uses and building occupancy is not provided at the effective date of this code, such uses will not be required to meet the minimum parking requirements of this code until required to do so under Article III, Division F, (Non-Conforming Use Regulations).

Sec. 10-353. Access to Adjacent Parking Areas

a. For safety and emergency situations and to reduce congestion on major roadways caused by vehicles entering and exiting parking areas, free access between adjacent parking areas serving a single use or compatible multiple uses within a single building or complex must be provided regardless of ownership.

b. Free access must be provided where there is public access to front and rear without accessing public streets unless issue of grade.

c. Except for single-family and two-family uses, all off-street parking spaces must be permanently and clearly identified by stripes, buttons, tiles, curbs, barriers, or other approved methods. Parking spaces identified by non-permanent materials, such as paint, must be regularly maintained to ensure continuous clear identification of the space.

d. Compatible uses under separate ownership with public parking lots must be connected.

Sec. 10-354. Ownership or Control

The land on which off-street parking spaces or a loading facility is located must be owned or under the control of the same entity which owns or controls the land on which the principal use is located, or by "joint use agreement" as defined in Sec. 10-359 of the off-street parking and loading requirements.

Sec. 10-355. Proper Use of Required Parking Space

a. Parking spaces and loading areas provided in accordance with this division may not be used for the sale, repair, assembly or disassembly, storage or servicing, of vehicles or equipment. Unlicensed and inoperable vehicles may not be stored in any required parking or loading space.

b. Required parking spaces must be available for the parking of operable passenger vehicles, by residents, customers, patrons and employees only, and must not be used for display or storage of vehicles or materials, or parking of service or delivery trucks and trailers.

c. Temporary display of merchandise in a required parking space or loading area, or a temporary use of a parking space or loading area for a use other than parking and loading, may be permitted under certain circumstances if authorized by the planning director through issuance of a temporary use permit (TUP).

Sec. 10-356. Parking Plan and Installation Required

a. No building permit for new construction or building expansion, or a certificate of occupancy and compliance for change in occupancy may be issued by the building official until a parking plan has been reviewed and approved by the traffic engineer as a part of the building and site plan review process. No certificate of occupancy and compliance may be issued until all off-street parking and loading facilities have been constructed.

b. Parking Plan Requirements

The applicant for a building permit for new construction or building expansion, or for a certificate of occupancy and compliance for a change in occupancy of an existing structure must submit a parking plan showing the number, location, and size of all parking spaces, driveway dimensions and locations, traffic aisle widths and locations, and maneuvering areas. The applicant must submit information necessary to verify compliance with this division and the city parking design standards.

c. Plans for Paving of Parking Area

Plans for paving of all off-street parking areas, traffic aisles, and access driveways, including detailed drainage plans are subject to review and approval by the city engineer for compliance with this division and the city driveway requirements in Sec. 10-380 or on file with the city engineer.

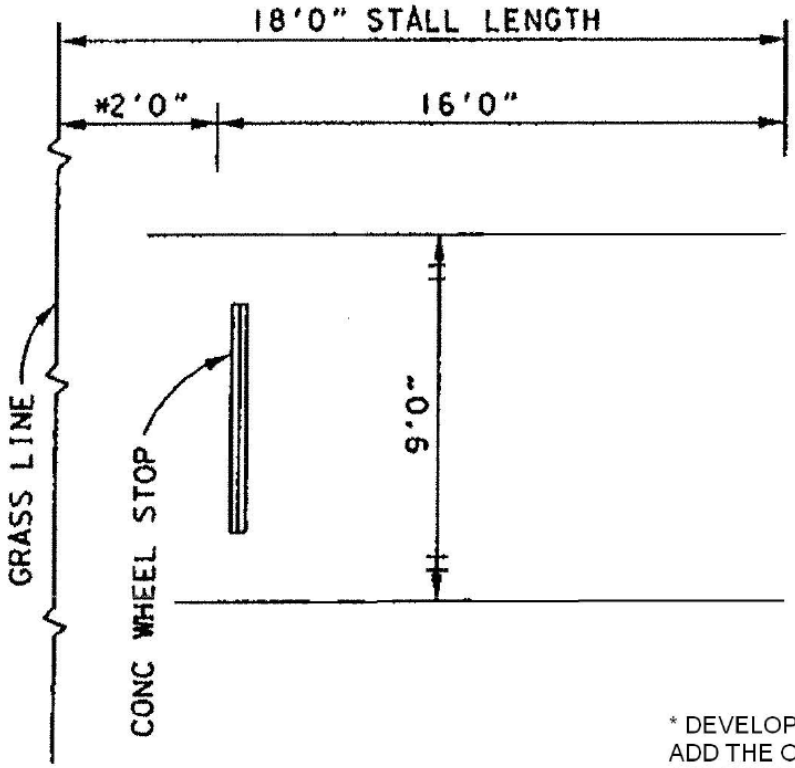
d. Building Permit Required

All new parking lots and additions to existing parking lots require issuance of a building permit.

Sec. 10-357. Parking Space Design Requirements

a. Each parking space required and provided pursuant to the provisions of this Article shall be not less than nine (9) feet in width and eighteen (18) feet in length and parking access aisles must be at least 25 feet wide.

b. The use of continuous curbing in lieu of individual wheel stops is allowed. This will allow sixteen (16) feet of asphalt and a two-foot car bumper overhang. The two-foot car bumper overhang shall be in addition to the required landscape area, required buffer area or to a sidewalk.



90° PARKING

* DEVELOPER HAS THE OPTION TO ADD THE OVERHANG AREA TO SIDEWALK OR GRASSY AREA, PROVIDED THAT 6" CONTINUOUS CURB IS INSTALLED IN LIEU OF THE CONCRETE WHEEL STOP.

(Ord. No. 0-2009-19; 3/11/09)

Sec. 10-358. Angled Parking

The minimum size of angled parking spaces varies depending on the degree at which it is angled and the width of the drive aisle.

Angled parking stall size and length dimensions

Parking Angle (degrees)	Minimum Stall Width (ft.)	Minimum Stall to Curb Length (ft.)	Minimum Aisle Width (ft.)
0	9-0"	22'-0"*	10,-0"
45	9'-0"	17'-8"	12'-8"
60	9'-0"	19'-0"	14'-6"
90	9'-0"	18'-0"	25'-0"**

*Stall is parallel to curb.
**A 26' drive aisle width is required for all lanes with fire hydrants.

Sec. 10-359. Joint Use Parking Agreement

The required off-street parking spaces for any number of separate uses may be combined in a joint parking facility under the following conditions:

a. In the case of mixed or joint uses, the parking spaces required must equal the sum of the requirement of the various uses computed separately.

b. A document must be filed with the city showing that the operating schedules of the facilities involved do not conflict and the separate facilities will be required to provide enough additional parking spaces to meet the requirements of this code.

Sec. 10-360. Off-Street Parking Requirements

The minimum requirement for the number of off-street parking spaces required for every land use and building occupancy must be calculated by using parking requirements table in this division. Parking standards in this division have been grouped by use and in some instances by occupancy. Where a specific use is not listed by name on this table, the base standard for its use group will govern.

Off-street parking spaces must be provided by all uses in the amount specified in the parking plan. For most groups, the parking requirement is based on the square footage of the building occupied by the use. The gross floor area of the building is the measurement to be used in determining the square footage of a building for the purposes of calculating the parking requirement.

a. Where the calculation of the off-street parking requirement results in requiring a fractional space, any fraction less than 0.5 will be disregarded; any fraction of 0.5 or greater will require an additional space.

b. A minimum of four off-street parking spaces must be provided for any non-residential use except that of home occupations.

Table 10-360 Off-Street Parking Requirements

Use Category	Specific Use	General Requirement	Additional Requirement
Residential Uses			
Household Living	Single-family, detached	2/dwelling unit (DU)	
	Single-family, attached	2/DU	
	Two-family	2/DU	
	Townhouse	2.5/DU	
	Multifamily dwelling	1.5 /1-br unit 2/ 2+ br unit	Additional 5 percent of total number of required spaces for visitor use
	Dwelling unit in DBAC	1/DU	Required off-street parking may be accomplished through the submittal of appropriate documentation demonstrating that the off-street parking is provided within the downtown area.
Group Living	Group home (6 or fewer residents)	2 / DU	1 visitor space
	Group homes (7 or more residents)	1 / 2 br	1 visitor space
	Nursing or convalescent home	Parking = .051x + 21 Where x = Building Area/1,000 square foot Gross Floor Area (GFA)	
	Retirement center apartment	.5 / 1-br unit 1 / 2-br unit 1.5 / 2+ br unit	Additional 5 percent of total number of required spaces for visitor use
	All other Group Living	1.25 / two br	
Public and Civic Uses			
Cultural Facilities	All	1/100 sq. ft. public use area	
Day Care	Day care center	2/ <1,000 sq. ft. GFA + 1/each 400 sq. ft. >1,000 sq. ft.	
	Family home day care		
	Group day care home		
Educational Facilities	Elementary Schools	1/classroom +1/250 sq. ft. admin offices	
	Middle Schools	Same as elementary	
	High Schools	7/classroom + 1/20 sq. ft. admin offices	
	All other Educational Facilities	5/ classroom + 1/250 sq. ft. admin offices	
Government Facilities	All	1 / 250 ft. GFA +1/fleet vehicle	
Medical Facilities	Hospitals	4 / 1patient bed	
Parks and Open Areas	Linear Parks/Linkages	2 / access point	All other parks tbd by director
	Golf courses (public)	4/hole	1/250 sq. ft. accessory use structures
	Country clubs	1/5 members or 4/hole	
Passenger Terminals	Airports and Heliports	1/400 sq. ft. passenger terminal area	
	All other Passenger Terminals	1/125 sq. ft. GFA	
Places of Worship	Place of Worship < 2,000 sq. ft. of accessory uses	1/5 seats in main seating area	Additional spaces are required for accessory uses based on general

Use Category	Specific Use	General Requirement	Additional Requirement
			requirements for such use.
Commercial Uses			
Eating Establishments	Restaurant—dine in	1/100 sq. ft. GFA	
	Restaurant—take out	1/200 sq. ft. GFA	Applies to establishments whose products are primarily eaten off site.
	Drive Through	1/100 sq. ft. GFA	Drive-through stacking requirements apply.
	Private Club	1/100 sq. ft. GFA	
	Food Truck Park, Minor	2/mobile food unit	Off-site allowances within 1,000 ft.
	Food Truck Park, Major	2/mobile food unit +1/100 sq. ft. of designated seating area.	Off-site allowances within 1,000 ft.
Entertainment	Indoor	1/250 ft GFA all non-enumerated uses 1/50 ft. GFA for bingo halls 1/ 4 seats for theaters	
	Outdoor	1/5 seats + 1/additional 500 ft. GFA indoor structures	
Funeral and Interment Facilities	Funeral Homes	1/50 sq. ft. GFA of public gathering areas	
	Cemeteries	None	
	Mausoleums and Memorial Parks	1 / 150 internment plots plus 1/ 350 ft. GFA	
Offices	General Office	1/375 sq. ft. GFA	
	Medical Office Building	1/200 for sq. ft. GFA	
Overnight Accommodations	Hotels and Motels	1/guest room up to 100 rooms + 1/ 2 rooms over 100 rooms 1/300 sq. ft. of banquet or meeting space areas	
	Bed & Breakfasts	2 + 1/guest room	
Personal Services	All	1/300 sq. ft. GFA	
Retail Sales and Service	Shopping Centers > 50,000 ft	1/300 sq/ ft. GFA	
	Furniture Store	1/500 sq. ft. sales and display area + 1/1000 sq. ft. for storage or warehouse areas	
	All other Retail Sales and Service	1/ 300 sq. ft. sales and display area + 1/1000 sq. ft. storage areas	Drive through stacking requirements apply
Sports & Recreation	Indoor (all uses except as noted below)	1/300 sq. ft. GFA	
	Firing Ranges	1/firing point	
	Outdoor (all uses except as noted below)	1/300 sq. ft. activity area	
	Stadiums	1/5 seats	
Self-Service Storage	All	1/250 sq. ft. GFA office space	
Vehicle Sales and Service	Self-service car wash	1/service bay	Stacking requirements apply
	Auto service facilities	3/bay + 1/tow truck	
	Vehicle sales, rental or leasing facilities	1/600 of enclosed floor area, + 1/2000 sq. ft. outside display area	
Industrial Uses			
Manufacturing and	All	1/ 1,000 sq. ft. GFA	

Use Category	Specific Use	General Requirement	Additional Requirement
industrial uses			
Warehouse and Freight Movement	Warehouse and truck transfer	1/2000 sq. ft. for indoor and outdoor storage areas + 1/250 sq. ft. interior office	
Wholesale Trade	Wholesale facility	2 spaces +1/ each additional 500 sq. ft. floor area >1,000 sq. ft.	

(Ord. 0-2010-20, 3/10/10) (Ord. No. 0-2010-119; 11/10/10) (Ord. No. 0-2011-8; 1/26/11) (Ord. No. 0-2011-45; 6/8/11) (Ord. No. 0-2014-113; 12/10/14)

Sec. 10-361. Off-Site Parking Allowance

a. Location

1. If off-street parking spaces required by this code cannot be reasonably provided on the same lot on which the principal use is located, parking spaces may be provided elsewhere if approved by the planning director. In any case, all required parking spaces must be within 1,000 feet of the principal use served.

2. The 1,000 foot maximum distance is to be measured from the nearest point of the lot or tract which is the location of the off-site parking spaces, to the nearest point of the lot or tract which is the location of the principal use. (Ord. No.0-2013-16; 2/27/13)

b. Off-Site Parking Arrangements

Off-site parking will normally not be approved by the planning director for commercial purposes except under circumstances of hardship. No off-site parking may be located on the same lot as a residential dwelling. All requests for approval of an off-site parking arrangement must be submitted in writing and must include the following:

1. A written statement by the owner(s) of the entire land area to be included within the parking plan, and by the owner(s) of all structures on the land, agreeing to all of the provisions of the plan.

2. Sufficient evidence to establish to the satisfaction of the planning director that those individuals requesting approval are the owners of the designated land and structures.

3. The location and size of the principal use(s) or structure(s) for which off- site, off-street parking is required.

4. A detailed sketch plan indicating pedestrian circulation routes between the principal use and the off-site parking lot or area that shows existing and proposed improvements to sidewalks, crosswalks, crossing signals, and pedestrian and vehicular access points at the off-site parking location.

5. The location and layout of the required off-street parking spaces and their relative location and distance from the principal use served.

6. A permanent and irrevocable easement, unless revocation approved by the city, covering the off-site parking spaces in favor of the principal use to be benefited thereby, must be dedicated and recorded as a condition of approval.

c. Review, Approval, and Amendment

1. The planning director will consider such requests and either approve or disapprove the off-site parking plan. Plan approval may establish necessary conditions and limitations.
2. All off-site parking plans which have been approved by the planning director will be binding upon the owner(s) of the land and structures included in the plan, and their successors, and will control all permits and certificates, and the use and occupancy of the designated land area and structures.
3. Off-site parking plans may be amended or withdrawn through the same approval process. The easement which conveys the right to use the off-site parking may be revoked only if both parties and the city agree that the need for the off-site parking no longer exists or that another source of off-street parking has been secured by the principal use.

Sec. 10-362. Shared Parking Arrangements

a. Description

Shared parking represents an arrangement in which two or more nonresidential uses with different peak parking periods (hours of operation) use the same off-street parking spaces to meet their off-street parking requirements.

b. Authorization and Criteria

1. The planning director is authorized to approve an alternative compliance parking plan allowing shared parking arrangements for nonresidential uses with different hours of operation.
2. The planning director may permit up to 100 percent of the parking required for one use to be supplied by the off-street parking spaces provided for another use if the planning director determines that the various activities will have peak parking demands at different periods of the day or week.
3. In order to approve an alternative compliance parking plan for shared parking, the planning director must find, based on competent evidence provided by the applicant, that that there is no substantial conflict in the principal operating hours of the uses for which the sharing of parking is proposed.
4. A request for approval of a shared parking arrangement must be accompanied by such information determined by the planning director as necessary to evaluate the peak parking demand characteristics or difference in hours and/or days of operation, including, but not limited to, a description of the uses and their operational characteristics, a site plan, and a parking study prepared by a licensed professional traffic engineer or equivalent qualified professional which justifies the reduction in parking requested.

c. Location of Shared Parking Facility

A use for which an application is being made for shared parking is proposed must be located within 1,000 feet walking distance of the shared parking, measured from the entrance of the use to the nearest parking space within the shared parking lot.

d. Agreement

An agreement providing for the shared use of parking areas, executed by the parties involved, must be filed with the planning director, in a form approved by the city attorney.

Shared parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. Agreements must guarantee long-term availability of the parking, commensurate with the use served by the parking.

e. Shared Parking at Schools and Places of Worship

A facility or use located within 1,000 feet of the property line of a school or place of worship (measured by a straight line from the nearest points), may use the parking lot of such use to provide a maximum of 25 percent of its required off-street parking provided the operating schedules of the facility and the school or place of worship do not conflict.

Sec. 10-363. Recreational Vehicle Parking & Storage

The long-term parking or storage of any large recreational or other special vehicle, as defined in this section, in any residentially zoned district, must meet the following requirements:

a. Vehicle Measurement and Description

1. The length of a vehicle will be measured to include the trailer tongue and other connections, and any overhang of the vehicle or trailer, including the item(s) being transported on the trailer.
2. A large recreational or special vehicle is any camper, travel trailer or other trailer (including boats, autos, or any other item stored thereon), designed to be towed on public streets and which exceeds 22 feet in length; or any motor home, coach, bus or other self-propelled vehicle which exceeds 22 feet in length; or a truck-tractor (without trailer).
3. A truck-tractor is a vehicle designed and used primarily for drawing other vehicles and not so as to carry a load other than a part of the weight and load so drawn.
4. Commercial or heavy vehicles otherwise prohibited in residential areas will not be considered a large recreational or special vehicle for the purposes of this section (Ord. 0-2000-52, 7/26/00)

b. Vehicle Storage

Storage is defined as the continuous parking of the vehicle for 48 hours or longer.

c. Recreation Vehicle Parking and Storage

1. Only one large recreational vehicle, which is defined as a self-propelled vehicle or other vehicle designed to be towed on public streets and which exceeds 22 feet in length, may be stored per lot.
2. All large recreational vehicles parked or stored in a residentially zoned district must meet the following requirements.
3. A large recreational vehicle:
   (a) may not be stored on required off-street parking.
   (b) may not extend over a public easement or right-of-way.
   (c) may not be used for housekeeping, living, or sleeping quarters.
   (d) must be maintained in an operable condition.
   (e) must be secured with wheel stops or maintained so as not to present a safety problem to the neighborhoods in which the vehicle is parked.

(f) must be stored on an improved driveway or improved parking surface such as concrete, asphalt, paving stones, or brick. Gravel or crushed rock may be used in the side and rear yards, but not in the front yard. The parking surface must be continuous from a driveway or accessible from a rear alley.

(g) must be stored behind the rear building line of the principal building.

(h) Recreational vehicles stored in the side yard or rear yard behind the front building line must be screened from view from adjacent lots and side streets.

4. All large recreational vehicles parked in residential areas must have a valid federal or state license and registration if required.

5. On a residential lot, all self-propelled vehicles not defined as a large recreational vehicle must be parked on an improved surface. (ORD. 0-97-62, 12/10/97)

Sec. 10-364. Commercial Vehicle Parking in Residential Areas

a. All Residential Districts

1. Commercial vehicles no larger than 22 feet in length, 7.5 feet in height, and weighing no more than 4 tons (8,000 lbs.) may be parked overnight in any residential district on public streets, private driveway, or other improved surface.

2. The following exceptions apply to the parking of commercial vehicles that exceed the maximum permissible size described in subsection a:

   (a) Vehicles temporarily parked on or in front of a residential lot while loading, unloading, or rendering a service.

   (b) If the principal use of the lot is other than residential (such as a church or office) and the vehicle is directly related to that use.

   (c) Vehicles that are temporarily parked, weekdays between 9:00 a.m. and 3:00 p.m., off the street and on premises owned or occupied by the driver of the vehicle.

   (d) Properly licensed and plated vehicles designed or used for accommodating the needs of disabled occupants of the site, which exceed the height limitations.

   (e) Trailers otherwise restricted by this section may be parked or stored on a site when housed within a garage.

b. Mixed-use Districts

1. Light- and medium-weight commercial vehicles are permitted without screening in the Planned Mixed Use District 1 (PMXD-1) and Planned Mixed Use District 2 (PMXD-2) where residential and nonresidential uses are vertically integrated in the same building.

2. In mixed-use districts where the residential uses are separated from the nonresidential uses, light- and medium-weight commercial vehicles are only be permitted in accordance with the standards of subsection a above.

3. This section should not be construed as to prevent the temporary parking of emergency vehicles, delivery trucks, moving vans, and similar vehicles used for delivery of goods and services nor the parking of commercial vehicles at an active job site or staging area.

Sec. 10-365 - 369. Reserved

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DIVISION F. Accessible Parking Requirements

Sec. 10-370. General

All parking facilities subject to the requirements of this code must also be in accordance with the Americans with Disabilities Act and the Texas Accessibility Standards set forth by the Texas Department of Licensing and Regulation and available online at www.license.state.tx.us/ab/tas/abtas.htm#1.3. Any applicant for a development subject to Article VI, Division E, Off-Street Parking and Loading in this code is also responsible for meeting the requirements of the Texas Accessibility Standards.

Sec. 10-371 - 375. Reserved

Sec. 10-376. Unattended Motor Vehicles

It is unlawful to park and leave unattended, upon any private street, or upon any off-street public or private property used for parking and accessible to the public, a motor vehicle with the engine running or that has the key in the ignition, with the following exceptions:

a. The unattended vehicle is parked in a private, single-family, residential driveway; or

b. The unattended vehicle is rendered un-drivable by an anti-theft device with no key in the ignition. (Ord. No. 0-2004-41; 5/26/04)

Sec. 10-377 - 379. Reserved

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DIVISION G. Parking Design and Construction Standards

Off-street parking spaces and loading areas must be designed, located, constructed, and maintained in accordance with the following specifications:

Sec. 10-380. Surfacing

a. All portions of access driveways or public right-of-ways connected to paved streets for which the grade has been established must comply with the city's driveway requirements in Article V, Division D, on file with the development services engineer.

b. Parking spaces and loading areas must be graded for proper drainage and provided with an all-weather surface such as asphalt, concrete, brick or as approved by the development services engineer.

c. Maximum Pavement Area

In all residential districts developed for single-family or two-family occupancy, pavement in the front yard may not exceed 55 percent of the area between the property line and the building face.

d. In all zones, vehicles must be parked on an improved surface. (Ord. 0-2010-20, 3/10/10)

Sec. 10-381. Separation from Public Right-of-Way

All off-street parking spaces and the public right-of-way of a street, without a minimum eight inch high curb, must be separated by a six inch high concrete header curb, bumper or landscape timbers. All parking spaces must be designed so that vehicles do not overhang public sidewalks or adjacent private property.

Sec. 10-382. Lighting

Lighting of off-street parking spaces and loading areas must conform to Article VI, Division J, regarding outdoor lighting and must not create a traffic hazard for traffic or a nuisance to adjoining properties.

Sec. 10-383. Clearance

a. A vertical clearance free of all obstructions to a height of eight feet is required for all portions of any off-street parking space, except when off-street parking spaces are provided in a parking garage structure, a residential garage, or carport.

b. No obstruction within or near the bounds of any required off-street parking space must interfere with the normal use of the parking space.

Sec. 10-384. Residential Parking Design

A single-family or two-family (duplex) residential structure may use a paved driveway to fulfill the minimum parking requirements of this section. The residential driveway must conform to the driveway design requirements of the driveway ordinance.

Sec. 10-385. Multifamily and Nonresidential Parking Design

a. Off-street parking areas must be designed to provide systematic and orderly circulation, traffic separation, and parking spaces in accordance with this Section and with sound traffic engineering practices. Each parking space or loading area must be usable and readily accessible without the need to drive over another space.

b. Required off-street parking spaces and loading areas must be provided with designated entrances and exits located so as to minimize traffic congestion and avoid undue interference with public use of streets, alleys, and walkways. Parking lots are to be connected so it is not necessary to drive on public streets to access parking lots for the same site.

Sec. 10-386. Parking Requirements for Private Centers

For the purpose of this section, the term "private center" includes shopping centers, office parks, industrial parks, medical centers, apartment complexes, and business establishment.

a. Authority and Applicability

The owner or operator of a private center will have authority to display and/or designate the following:

1. Appropriate signs and markings which have been approved by the traffic engineer indicating the parking time limit which, the areas in which parking is permitted or prohibited, and the times when parking of vehicles is prohibited
2. Time limits, parking bans, parking spaces and no parking areas;

b. Approval Required

Subsection A is not effective until the owner or operator of a private center submits a parking plan to the traffic engineer for review and has received approval. Amendments to the private center parking plan must be submitted and reviewed in the same manner.

c. Erection and Content of Signs

The owner or operator of a private center is authorized to erect suitable signs of uniform size and design upon approval of the traffic engineer, which must be placed in parking areas advising the public of limited conditions of parking. A sign must be erected with the words painted thereon in legible red or green lettering setting out that parking in this area is limited to customers for the times indicated by signs, or as otherwise prohibited, as provided by subsections a. through c. of this section.

d. Pavement Marking

The owner or operator of a private center must mark off by painting on the parking area the most suitable manner in which cars may be parked, either 90 degree or angled parking.

e. Presumption of Registered Owner

The registered owner of any vehicle found in violation of rules displayed on signs posted pursuant to this code will be presumed to be the person who illegally parked the vehicle. A vehicle parked on the parking lot of the private center must be parked within the lines so marked.

f. Enforcement

1. The owner or operator of a parking area in a private center will have a responsibility to report such parking violations to police department personnel or other persons approved and authorized to enforce parking laws by the city council. Within this subsection, "owner" or "operator" means an individual, association, or corporation who has title to or possession of any such parking area, or a greater right to possession of any such parking area than one who violates thereon any provision of this section, including but not limited to any lessee or tenant of one holding such title.

2. Police department personnel or other persons so authorized by the city council will have and possess full and complete authority to enforce the provisions of this section and to issue parking citations to any vehicle which is parked in contradiction to the signs posted. (Ord. No. O-2000-68, 9-6-00)

g. Fire Lane

Fire lanes in private centers must be designated by the fire marshal and governed by Chapter 17 of the Tyler City Code.

Sec. 10-387. Off-Street Loading Requirements

a. All commercial and industrial structures must provide and maintain off-street facilities or areas for loading and unloading of merchandise and goods within the building or on the lot.

b. Where such loading facilities or areas are located adjacent to a residentially zoned district, or located across a street no wider than two lanes from a residential district, the loading area, space, or berth must be enclosed on three sides.

c. The minimum number of off-street loading facilities, areas, spaces, or berths must be provided in accordance with this section. The following schedules will be used to calculate the minimum number of loading spaces required for the uses listed.

d. Day Care and School Loading Requirements

1. Child day care centers, kindergartens, day schools and similar child care and training establishments, must provide loading and unloading space on an approved private driveway, off-street, sufficient in length to accommodate one motor vehicle per 10 children or students being cared for or enrolled at the establishment. (Ord. No. 0-2014-97; 10/22/14)

2. Loading and unloading spaces will not be required when the day care or school is located within:

   (a) An office building as an accessory use provided as a service to employees or customers;

   (b) A single-occupancy building as an accessory use provided as a service to its employees or customers;

   (c) A shopping mall; or

   (d) A religious institution with adequate off-street parking spaces.

Sec. 10-388. Loading Docks Adjacent to Residential Areas

Loading docks for any establishment which customarily receives goods between the hours of 9:00 p.m. and 8:00 a.m., and is adjacent to a residentially zoned district, must be designed and constructed so that the loading operation is visually screened, in order to reduce the effects of the noise of the operation on adjacent residences.

Sec. 10-389. Drive-Through Stacking Requirements

a. Purpose

These regulations are intended to ensure that an adequate amount of space is allocated for on-site maneuvering and circulation, that vehicles in a queue for service do not impede traffic on abutting streets, and that stacking lanes will not have nuisance impacts on nearby residential uses.

b. Applicability

1. The regulations of this section apply to all uses that include drive-through facilities and to all portions of a development that comprise the drive-through facility.
2. The regulations apply to new developments, the addition of drive-through facilities to existing developments, and the relocation of existing drive-through facilities.
3. Any use in any district that has drive-through lanes and windows must provide sufficient space on site for vehicles to queue while customers is being served, placing an order, or waiting to place an order or to receive service.

c. Parts of a Drive-Through Facility

A drive-through facility is composed of two parts:

1. The stacking lanes, the space occupied by vehicles queuing for the service to be provided; and
2. The service area, where the first point of service occurs. The following activities are considered points of service: menu boards, service windows, gas pumps, air compressors, vacuum cleaner stations.

d. Setbacks and Landscaping

1. Service points and stacking lanes on lots abutting RE, R-1A, R-1B, R-1C, R-1D, R-2, PUR, and PXR zoning districts must be set back at least 80 feet and landscaped in accordance with the "B" buffer yard standards of Sec. 10-322. (Ord. No. 0-2014-97; 10/22/14)
2. Service points and stacking lanes on lots abutting office and mixed-use zoning districts must be set back at least 30 feet and landscaped in accordance with the "B" buffer yard standards of Sec.10-322.
3. If the service points and stacking lanes are within 50 feet of and visible from the roadway, they must be set back at least 20 feet from the right-of-way and landscaped in accordance with the bufferyard planting standards of Article VI, Division B.

e. Exceptions

A stacking lane is not required for accessory facilities where vehicles do not routinely stack up while waiting for the service. Examples are window washing, air compressor, and vacuum cleaning stations.

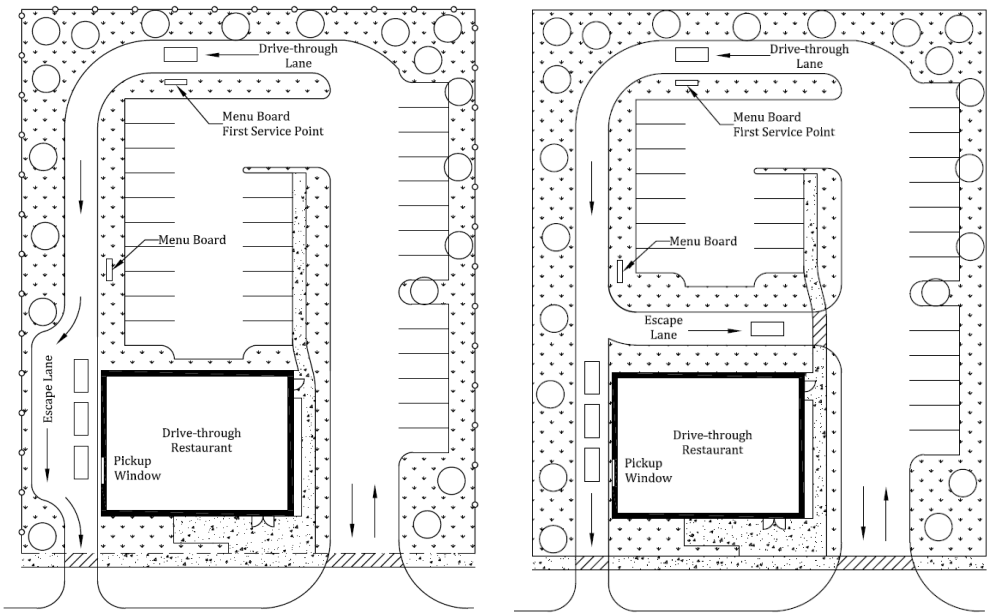
f. Site Plan Required

The development site plan must show the location and dimensions of the following:

1. Driveways;
2. Stacking lane, including lane markings;
3. Drive aisle between stacking land and on-site parking areas;
4. Service points (including menu boards and service windows);
5. Associated facilities (including communications systems and access aisles);
6. Adjacent residential uses.

g. Stacking Lane Design and Layout

1. Stacking lanes must be designed so that they do not interfere with on-site parking and vehicle circulation.
2. Stacking spaces must be nine feet wide by 20 feet long.
3. All stacking lanes must be clearly identified, through such means as striping, landscaping, pavement design, and signs.
4. Stacking starts at first stopping point.
5. Layout must provide for an a minimum nine feet wide escape lane allowing motorists to exit the stacking lane before reaching the drive-thru window. (Ord. No. O-2010-119, 11/10/10)



Example Layouts

6. Stacking spaces necessary for the provisions of drive-through lanes shall be determined using the following table:

Table 10-389 Required Stacking Spaces

Type of Facility	Inbound Vehicles	Outbound Vehicles
Drive-in bank	2 spaces per service position	1 space per service position
Drive-in beverage, food sales / pharmacies	4 spaces per service position	1 space per service position
Laundry / Cleaners	3 spaces per service position	1 space per service position
Attendant car wash	10 spaces per service to wash line	6 spaces between end of wash stall and other circulation lane
Automatic car wash	3 spaces per service position	1 spaces per service position
Automatic car wash as an accessory use	2 spaces per service position	1 spaces per service position
Service station	4 spaces per aisle	1 space per aisle
Gatehouse (residential)	<50 lots = one space per ten lots; ≥50 lots = five spaces	1 space

(Ord. No. O-2010-119, 11/10/10) (Ord. No. O-2016-76, 8/24/16)

h. Noise

Speakers associated with drive-through facilities may not be audible from abutting residential zones or any abutting lots occupied by residential uses. Sound attenuation walls, landscaping or other buffering measures may be required to ensure that the facility will not have adverse noise-related impacts on nearby residential uses.

i. Interpretation and Appeal

If questions of interpretation or the application of the requirements of this division to a particular land use or occupancy of a structure arise, the planning director in coordination with the development services engineer must, based on findings of fact, make a determination of the off-street parking, loading, or access requirements. A property owner if not satisfied with the director's determination, may appeal such determination to the zoning board of adjustment under the variance procedure.

Sec. 10-390 - 399. Reserved

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DIVISION H. Sign and Billboard Regulations

Sec. 10-400. Purpose

The purpose of this section is to regulate signs and billboards in the City of Tyler and its extraterritorial jurisdiction (ETJ) according to the provisions of this chapter for the following purposes:

a. To protect property values;

b. To preserve the beauty and unique character of the community and the surrounding area;

c. To implement the goals and objectives of the Tyler 1st Comprehensive Plan related to the function, design, and appearance of commercial areas, gateways to the city, highways and arterial roadway corridors, and commercial corridors;

d. Are maintained properly to avoid creating safety risks due to abandonment, collapse, decay, deterioration, and fire;

e. Enhance the appearance of the city and the ETJ by avoiding clutter and by not interfering with scenic views or character of certain city areas;

f. To promote and aid in the tourist industry which is of significant importance to the local economy;

g. To protect the public from damage and injury that may be caused by the uncontrolled location and faulty construction of signs;

h. To protect pedestrians and motorists from damage and injury caused or partially attributable to the distractions, obstructions and visual clutter which are the result of improperly situated signs; and

i. To promote the public safety, welfare, convenience and enjoyment of travel and the free flow of traffic.

Sec. 10-401. General Sign Regulations

a. The regulations governing the size, height, number, location, and placement of signs herein are calculated to ensure that all private, public, institutional, commercial, and industrial facilities located in the city have the right to display adequate signs consistent with the need to identify the facility, advertise the location, and indicate services and products available on the premises.

b. Signs containing noncommercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs. (Ord. No. O-2016-76, 8/24/16)

c. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word in this Division is declared invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of this Division. (Ord. No. O-2016-76, 8/24/16)

d. Except where noted: in this section, all signs erected within the city will be subject to the following general requirements:

1. Signs are permitted within zoned districts in a manner specifically authorized by this section.

2. In order to erect signs or display advertising permanently outdoors legally, a permit must be first obtained from the building official, except where noted. In the case of temporary signs or special promotional advertising, a temporary use permit (TUP) is required as per Article IX, Division B.

3. Electric signs, section signs, and outline lighting must be erected or installed by a State Licensed Electrical Sign Contractor. The company's municipal registration to erect signs within the city will be filed with the City of Tyler Development Services Department. Additionally, a sign contractor who erects or installs electric signs, section signs, or outline lighting must have a valid Master Electrician's license or a Master Sign Electrician's license on staff to perform work on any electric sign. All electrical signs and outline lighting shall be listed and installed according to the City adopted building codes. (Ord. No. 0-2010-119; 11/10/10)

4. No sign base or support structure of any sign type is allowed in the public right of way in any zoning district.

5. Multi-tenant signs, in accordance with the an approved Master Signage Plan, may utilize one roof sign constructed of individually cut lettering and/or graphics without backing panel per frontage in lieu of allowable freestanding signage provided that the sign does not exceed ten percent of the width of the overall building façade and protrude four feet above the midpoint of the principal roof line of a pitched roof or the top of a mansard roof or flat roof for any building or structure. Roof signs shall otherwise be prohibited. Facade signs shall be allowed for each tenant that has a direct, outside entrance or storefront. Sign placement is limited to the extent of the bay or storefront. (Ord. No. 0-2009-19; 3/11/09) (Ord. No. 0-2010-119; 11/10/10) (Ord. No. O-2016-76, 8/24/16)

6. Permanent signs and other forms of outdoor advertising may not be located in or permitted to project into the public right-of-way, except as provided in this section. (Ord. 0-2010-20, 3/10/10)

7. Each sign base or support must be erected on private property and not public right-of-way. (Ord. 0-2010-20, 3/10/10)

8. Signs that are historically designated shall not be counted towards maximum sign allowance. (Ord. No. O-2010-119; 11/10/10)

e. Advertisement will be allowed on the windows of Tyler Transit vehicles subject to the following general requirements:

1. Ads shall solely be for the purpose of promoting a business transaction or service;

2. Ads shall not contain:

   (a) Advertising which is false, misleading, or deceptive;

   (b) Advertising that relates to illegal activity

   (c) Advertising that includes language that is obscene, vulgar, profane, or otherwise unlawful.

   (d) Advertising that depicts violence and/or anti-social behavior

   (e) Advertising that relates to any sexual activity

(f) Advertising that may be inappropriate for minors

(g) Advertising for fund raising events

3. Ads shall not promote the sale of alcohol or tobacco products

4. Ads shall not promote firearms or firearm related products

5. All Ads on Tyler Transit vehicles shall be subject to approval by the City of Tyler and Tyler Transit

6. Ads shall conform to all current ordinances and codes adopted by the City of Tyler. (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-402. Exempt Signs

The following signs are exempt from regulation under this code:

a. Any public notice, or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance;

b. Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the lot or parcel on which such sign is located;

c. Works of art that do not include a commercial message;

d. Holiday lights and decorations with no commercial message; except in multi-family and non-residential districts;

e. Decorative landscape lighting only;

f. Traffic control signs on private property, such as Stop, Yield, and similar signs that meet U.S. DOT or TXDOT standards;

g. Address and postbox numerals conforming to incidental sign regulations;

h. Government signs erected by the city, county, state, or federal government in furtherance of their governmental responsibility;

i. Legal notices;

j. Memorial signs or tablets and building markers displayed on public or private buildings and tablets or headstones in cemeteries; and

k. Signs prepared by or for the local, state, or federal government marking sites or buildings of historical significance. (Ord. 0-2010-20, 3/10/10)

Sec. 10-403. Prohibited Signs

All signs not expressly permitted under this code or exempt from regulation hereunder in accordance with the previous section are prohibited in the city. Such signs include, but are not limited to:

a. Beacons;

b. Portable signs;

c. Inflatable signs and balloons, if located within a multi-family or non-residential district;

d. Flashing, fluttering, undulating, swinging, rotating, or otherwise moving signs;

e. Signs, temporary or otherwise, affixed to a tree or utility pole;

f. Signs violating the "sight triangle" provisions (see Sec. 10-218);

g. Off premise advertising signs, except as expressly permitted in this Section;

h. Three-dimensional or statuary signs;

i. Streamers; and

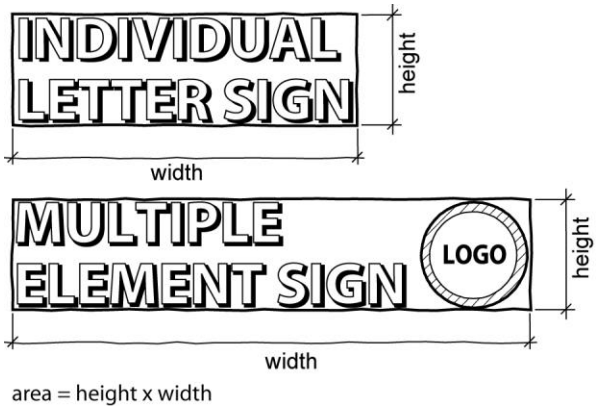
j. Snipe signs. (Ord. 0-2010-20, 3/10/10) (Ord. No. O-2010-119; 11/10/10)

Sec. 10-404. Sign Measurements

The following principles will control the computation of sign area and sign height:

a. Computation of Area of Single-Faced Signs

The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) will be computed as the area of the smallest square, circle, rectangle, or triangle in a horizontal plane that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets the requirements of this code and is clearly incidental to the display itself.

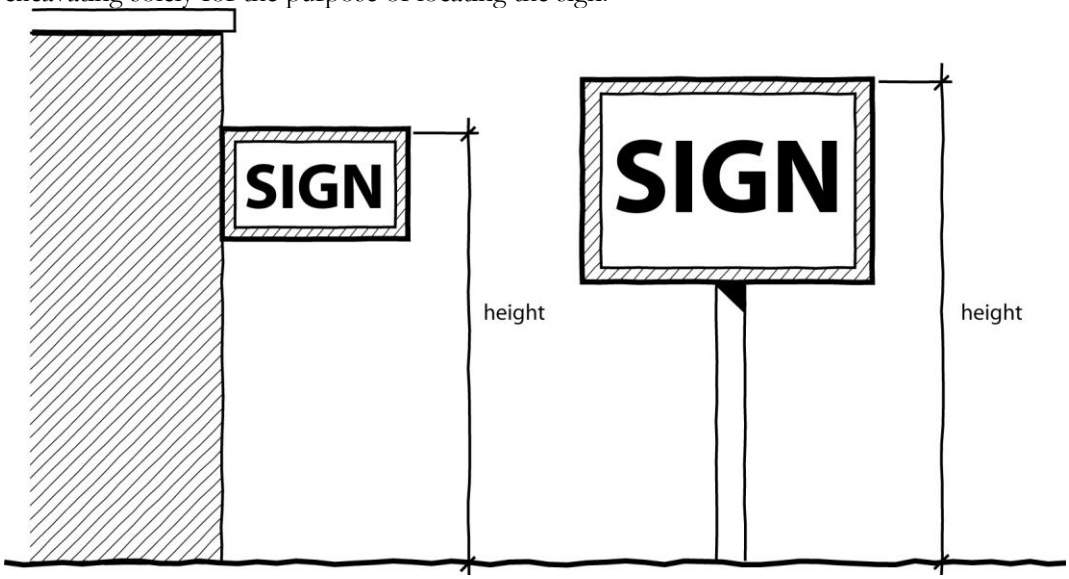


b. Computation of Area of Multi-Faced Signs

The sign area for a sign with more than one face will be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are substantially similar, and when such sign faces are part of the same sign structure the sign area will be computed by the measurement of one of the faces.

c. Computation of Height

The height of a sign will be computed as the mean distance from the base(s) of the sign at normal grade to the top of the highest attached component of the sign. Normal grade will be construed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.



d. Computation of Maximum Total Permitted Sign Area

The permitted sum of the area of all individual signs must be computed by applying the zoning district formulae contained in sections 10-408 and 10-409 for maximum area per sign, to the lot frontage, building frontage, or wall area, as appropriate. Lots fronting on two or more streets are allowed to calculate both street frontages into the allowable allocation to be identified by the master signage plan.

e. Computation of Maximum Number of Signs

Pursuant to the tables in sections 10-408 and 10-409 each lot is allocated the maximum number of signs allowed per district. Where indicated, additional signs beyond the identified allowance will be determined by the linear frontage of the lot. (Ord. No. O-2010-119; 11/10/10)

Sec. 10-405. Sign Lighting

a. Illumination of all outdoor signs and advertising of permanent or temporary duration, must be accomplished by means of indirect light. Illumination of any type may not be animated, chasing, or flashing.

b. When any sign is illuminated, the light(s) must be properly installed, shaded, or concealed, so that the light emitted will illuminate the sign face and will not interfere with the vision of motorists nor shine directly onto residentially zoned property or abutting residential uses.

Sec. 10-406. Sign Construction and Maintenance Standards

All signs must be designed, constructed, and maintained in accordance with the following standards:

a. All signs must comply with applicable provisions of the Tyler City Code at all times.

b. Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this code, all signs must be constructed of durable materials and must be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

c. All signs must be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this code, at all times.

d. All signs must maintain a minimum clearance from electric power lines of ten feet horizontally and 15 feet vertically, or as may otherwise be required by the utility provider. Any relocation of power lines to provide this clearance will be at the expense of the sign owner or as otherwise required by the electrical utility.

e. Any spotlights allowed to illuminate signs or sign illumination must be shielded such that their light source cannot be seen from abutting roads or properties.

Sec. 10-407. Abandoned Signs

a. The city may consider a sign abandoned and cancel the permit or refuse to renew the permit if:

1. a structure is without advertising matter or displays obsolete advertising matter for a period of 365 consecutive days;
2. in the opinion of the building official the sign has fallen into disrepair, become dilapidated, faded to the point of being illegible, or become overgrown by trees or other vegetation; or
3. the permit renewal fees have not been paid in accordance with this subchapter, after demand by the department.

b. The payment of property taxes or retention of the sign as a balance sheet asset will not be considered in determining whether the sign permit should be canceled.

c. A nonconforming sign may not be replaced or rehabilitated without being brought into conformance with the requirements of this section.

d. A sign that has been determined to be abandoned by a building official or code enforcement officer but is otherwise in conformance with this section may be replaced or rehabilitated in adherence to the requirements of this section.

e. Signs eligible for a historic sign designation are not subject to this section. (Ord. No. O-2010-119; 11/10/10)

Sec. 10-408. Sign Standards in Residential Districts

Sign Type district/use	Max. Number	Max. Area (sq. ft.) or Max. Width (ft.)	Max. Height (feet)	Minimum Setback	Additional Requirements
PERMANENT SIGNS					
Wall Sign / Façade Sign					
Single-Family and Two-Family Districts	1	1			Permit/license/bond not required Sign may be substituted with freestanding sign of same size with a maximum height of 6 feet and minimum setback of 5 feet.
Freestanding Sign					
Residential development entry sign in all residential districts	2	100	8	5	Any signs proposed within the r.o.w. require a street use license approved by City Council.
R-MF and PMF districts	1 / frontage	32	8	5	May be substituted with façade sign of same size with a maximum projection of 1.5 feet, or combination thereof. Planned developments must comply with approved Site Development Plan.
Properties developed with Public/Civic uses in all residential districts	1/frontage	32	8	5	May be substituted with façade sign of same size per street frontage, or combination thereof. For included uses see Sec. 10-48.
Electronic message center (EMC) for properties developed with Public/Civic uses in all residential districts	1	24	8	5	See Sec.10-415 For included uses see Sec. 10-48 (Ord. 0-2009-100, 9/23/09) (Ord. No. O-2016-76, 8/24/16)
Monument Signs					
In PMF districts	1/ frontage	32	10	2	Must comply with approved Site Development Plan.
Directional Signs					
Multi-family developments	1/ entrance	8	6	2	Company logo or insignia limited to two square feet of sign. May be substituted with a wall sign of the same size.
Flags					
In all residential districts	3	24	35	5	See Sec. 10-411
Temporary Signs					
R-MF and PMF	1/frontage	50	6	5	See Sec.10-416 One banner is allowed per lot, per street frontage. If the lot has more than 500 feet of frontage, one banner per 500 feet of frontage may be displayed on the same lot.
Banners for properties participating in charitable and humanitarian events		50	6		Planning director to determine number See Sec. 10-416.
Developments under construction in all residential districts	1 / frontage	100	25	5	Displayed only during construction phase; additional sign per 30 acres to be removed upon completion of project. (Ord. No. O-2016-76, 8/24/16)
Properties for sale or lease in single-family and two-family	1/ frontage	6	3	2	

Sign Type district/use	Max. Number	Max. Area (sq. ft.) or Max. Width (ft.)	Max. Height (feet)	Minimum Setback	Additional Requirements
districts					
Properties for sale or lease in multi-family districts	1 / frontage	32	15	2	Developments of 10 acres or more are allowed one 64 SF sign per 500 ft. of frontage. Signs may not exceed 15 ft. in height.

(Ord. 0-2010-20, 3/10/10) (Ord. No. O-2010-119; 11/10/10) (Ord. No. 0-2013-41; 5/22/13) (Ord. No. 0-2015-67; 6/24/15) (Ord. No. O-2016-76, 8/24/16)

Sec. 10-409. Sign Standards in Nonresidential Districts

Sign Type district/use	Max. Number	Max. Area (sq. ft.) or Max. Width (ft.)	Max. Height (feet)	Max. Projection or Min. Setback (ft)	Additional Requirements
PERMANENT SIGNS					
Wall Sign / Façade Sign				**Projection**	
RPO district	1 / business or tenant	16		1	Max. aggregate gross sign area: 48 sq. ft.; when total floor area exceeds 7,500 sq. ft., 1 additional 32 sq. ft. business directory sign is allowed.
All uses in PCD, PMXD-1, and PMXD-2 districts	1 / 500' of frontage or fraction thereof	100		1.5	Base zone standards apply; can be modified w/ approved Site Development Plan. In no case shall a sign be allowed to exceed the sign standards for C-2.
C-1 district					
100-1999 sq. ft. in façade area	1 / façade	100		1.5	
2000+ sq. ft. in façade area	1 / façade	9% of façade		1.5	Additional 3% of façade area may be used for ancillary signs.
INT, OSP, C-2, DBAC, and M-1 and M-2 districts	1 / facade				
100-1999 sq. ft. in façade area	1/ facade	100	na	1.5	Min. clearance 8 ft. above first floor ground level.
2000+ sq. ft. in façade area	1/ facade	9% of façade	na	1.5	Additional 3% of façade area may be used for ancillary signs.
On lower two floors of multi-story building	1/tenant	100	4		Tenant must have a direct, outside entrance or storefront. No letter, insignia, or symbol may exceed 48" in height.
On upper floor of façade	1/facade	9% of façade above the first floor	4		No letter, insignia, or symbol may exceed 48" in height. See Sec. 10-410. (Ord. No. O-2016-76, 8/24/16)
Awning Signs In all commercial, institutional, office, and manufacturing districts	1/ frontage		6	Max 4 ft. projection from wall	See Sec.10-414
Projecting Signs (includes blade signs) INT, C-1, C-2, PCD, M-1, and M-2 districts	1/ tenant	24	4	See chart	Vertical Clearance / Max Projection <7 ft. / 3" 7-8 ft. / 12"

Sign Type district/use	Max. Number	Max. Area (sq. ft.) or Max. Width (ft.)	Max. Height (feet)	Max. Projection or Min. Setback (ft)	Additional Requirements
Projecting Signs (includes blade signs) In PMXD-1. PMXD-2, and DBAC districts	1/ frontage	48	15	See chart	>8 ft. 4'
Electronic message center (EMC) on marquee, DBAC	1/ marquee face	40	na	na	Requires Special Use Permit; DBAC properties within the downtown planning area defined in the Comprehensive Plan See Sec. 10-415
Roof Sign					
Multi-tenant developments	1/frontage	10% of building façade width	4		Must be in compliance with a Master Sign Plan; In lieu of freestanding sign, freestanding sign allowance must be from same elevation; Constructed of individually cut lettering and/or graphics without backing panel.
Freestanding Signs				**Setback**	
AG and AR District	1/frontage	8	8	5	
All uses in RPO district	1/ frontage	32	25	5	
All uses in PCD, PMXD-1, and PMXD-2 districts	1/ frontage	200	35	5	Consistent with approved base zoning and Site Development Plan
Development signs, C-1, C-2, DBAC, PCD, PMXD-1, PMXD-2, M-1, and M-2 districts	1 / thoroughfare with direct access	300	35	5	Applies to developments of 10 to 50 acres
Major Development signs, C-1, DBAC, PCD, PMXD-1, PMXD-2, M-1, and M-2 districts	1 / thoroughfare with direct access	500	50	5	Applies to developments of 50 acres or more
Developments with drive-thru lines in C-1, C-2, DBAC, PCD, PMXD-1, PMXD-2, M-1, and M-2 district	2 / drive-thru line per business	32	6	8	Must be spaced at least 10' from any other menu board sign
Electronic message center (EMC), C-1 district	1 / lot	32	8	5	Additional allowance based on established thoroughfare speed. See Sec.10-415
Electronic message center (EMC), C-2, DBAC, PCD, PMXD-1, PMXD-2, M-1, and M-2 district	1/ lot	64	8	5	See Sec.10-415
Electronic message center (EMC) for properties developed with Public/Civic uses in INT	1 / lot	24	8	5	Additional allowance based on established thoroughfare speed. See Sec. 10-415 For included uses see Sec. 10-33 (Ord 0-2009-100, 9/23/09)

Sign Type district/use	Max. Number	Max. Area (sq. ft.) or Max. Width (ft.)	Max. Height (feet)	Max. Projection or Min. Setback (ft)	Additional Requirements
All other uses in INT, OSP, C-1, C-2, DBAC, M-1, and M-2 district	1/ frontage	100	35	5	Additional signage for multiple tenants: 2 sq. ft. per 10 ft. of frontage, up to 200 sq. ft. when district allows building height >35ft., sign may be affixed at allowed building height. 1 reader board sign allowed per lot, up to 32 sq. ft. Signs up to 10 feet in height must have a setback of 2 feet; Signs between 10 feet and 35 feet in height must have a setback of at least five feet. (Ord. No. O-2016-76, 8/24/16)
DIRECTIONAL SIGNS					
In all nonresidential districts	1 / entrance	8	6	2	Company logo or insignia limited to two square feet of sign. May be substituted with a wall sign of the same size.
FLAGS					
In all nonresidential districts	3	24	35	5	See Sec. 10-411
TEMPORARY SIGNS					
RPO, C-1, C-2, DBAC, PCD, PMXD-1, PMXD-2, INT, M-1, M-2	1/frontage	50	6	2	See Sec.10-416 One temporary sign is allowed per lot, per street frontage. If the lot has more than 500 feet of frontage, one temporary sign per 500 feet of frontage may be displayed on the same lot.
Commercial Banners - Pole-mounted banners (displayed vertically) in C-1, C-2, DBAC, PCD, PMXD-1, PMXD-2, INT, M-1, and M-2	Set of 10 = 1 Banner	8	4	2	Pole-mounted banners must be placed interior to the lot See Sec.10-416
Banners for properties participating in charitable and human activities in all districts		50	6		Planning director to determine number See Sec. 10-416
Developments under construction in non-residential districts	1 / frontage	100	25	5	Displayed only during construction phase; Additional sign per 30 acres to be removed upon completion of project. (Ord. No. O-2016-76, 8/24/16)
Properties for sale or lease in non-residential districts	1 / frontage	32	15	2	Developments of 10 acres or more are allowed one 64 SF sign per 500 ft. of frontage.
Sandwich board signs in DBAC	1	8	6		Must not obstruct pedestrian traffic. (Ord. No. O-2016-76, 8/24/16)
BILLBOARDS					
In M-1, M-2 districts and ETJ	1 / lot within city limits, In ETJ, subject to spacing requirements.	672	35	2 times sign height	See Sec.10-430

(Ord. 0-2010-20, 3/10/10) (Ord. No. O-2010-119; 11/10/10) (Ord. No. 0-2011-45; 6/8/11) (Ord. No. 0-2012-83; 10/10/12) (Ord. No. 0-2013-41; 5/22/13) (Ord. No. 0-2015-67; 6/24/15) (Ord. No. O-2016-76, 8/24/16)

Sec. 10-410. Master Signage Plans

A master signage plan is an administrative permit which establishes standards (size, design, location, etc.) for all exterior signs associated with a multi-tenant/multi-building development with two or more tenants, whether on a single lot or multiple lots. The sign standards of the code provide clear regulations for the permitting, design, location, construction, modification, use, maintenance, and removal of signs in the City of Tyler.

a. Applicability

A master signage plan is required for all multiple-tenant buildings, planned district developments, and all multi-building or multi-occupant commercial developments. (Ord. No. O-2010-119; 11/10/10)

b. General Requirements

1. The lot or lots involved must be contiguous constitute a single cohesive development.
2. The sign or signs must be located on a lot that one of the advertised businesses occupies. Alternately the property owner may secure an easement, and provide written evidence of such, from the owner or entity responsible for an adjacent property where a sign may be placed.
3. The sign must be designed in the overall architectural style of the buildings within the development.
4. The signs may be any sign type that is otherwise allowed by this code.
5. Private streets within the boundaries of the development are treated as public rights- of-way for purposes of determining allowable signage.
6. Individual pad or lease sites, defined in an approved site plan, are treated as separate lots for purposes of determining allowable signage; however, it is intended that a business will not be allowed advertising on both the multiple tenant (shared) sign and another free-standing business identification sign.
7. In addition to signage that would otherwise be allowed on a lot for business identification purposes, one additional monument sign not exceeding eight feet in height and 32 square feet in area may be located at each intersection of public roadways and/or private roadways for purposes of directing traffic to various areas and businesses within the development.
8. All other provisions of this code will be applicable to this sign category, including but not limited to, allowed number based on road frontage (multiple lot developments are treated as a single lot for this purpose), allowable size as a function of zoning district, spacing, illumination, materials, etc.
9. A wall sign displaying the name of a shopping center may be allowed for developments with less than 2,000 square feet in façade area as long as the proposed principal sign and tenants' signs do not exceed the maximum areas which all tenants with direct outdoor entrance or storefront could have individually. (Ord. No. 0-2012-83; 10/10/12)

c. Application Submittal Requirements

1. Master Application Form
2. $80 Filing Fee
3. The applicant shall provide two paper copies and one digital copy of the proposed site plan constent with the information from the Site Development Plan Check List.

d. Review Process

A master sign plan is an administrative permit issued by the planning director. The processing of a master sign plan will involve the following steps:

1. Formal application
2. Review for completeness of application
3. Staff review
4. Final action

e. Signs Subject to the Master Sign Plan

Any sign for which a permit is required and that is part of a development for which a master sign plan has been approved must demonstrate at the time of application that such signs conform to the master sign plan.

f. Appeal

1. Per Article VIII, Division G of this code, an appeal of an administrative decision such as a master sign plan) may be filed by any person aggrieved by the administrative decision; and any officer, department, board or bureau of the city affected by the decision. The appeal is filed with the planning department and must specifically set forth all grounds for the appeal.
2. An appeal of an administrative decision must be made within 30 days after the date of the decision. Such decision will become final following expiration of the 30-day period if no appeal is filed.
3. The appeal authority for administrative decisions is the zoning board of adjustment.

(Ord. No. 0-2011-45; 6/8/11)

Sec. 10-411. Flags

Flags and flag poles are considered signs and are therefore subject to these regulations:

a. Flag poles erected in the city are limited to a maximum height of 35 feet, measured from the highest point of the pole to the ground level. Individual flag size is restricted to 24 square feet in area. A Flag and its ground-supported staff shall be located on private property behind the property line.

b. A maximum of three flags or a maximum of three flagpoles with one flag on each flagpole may be located on a property.

c. Portable signs, advertising flags, excluding those permitted above, pennants, and other attraction gathering devices are prohibited within all zoning districts, except those allowed by the planning director through the issuance of a temporary use permit.

d. In all zoned districts, signs may not be located so as to cause a threat to the public health, safety, or welfare.

e. Allowed flags include a symbol of a nation, state, political subdivision, organization, etc. As long as no commercial message is displayed.

f. For flags and flagpoles with no commercial message, no sign permit is required. (Ord. 0-2010-20, 3/10/10) (Ord. No. O-2010-119; 11/10/10)

Sec. 10-412. Window Signs

Window signs are permitted. The total area of all window signs on any given elevation of a building may not exceed 25 percent of the window area of that elevation.

Sec. 10-413. Freestanding Joint Use Signs

a. Sign Pooling

A freestanding, joint use sign may be permitted to serve two or more tracts, each of which would otherwise be eligible for one freestanding sign. The joint use permit may authorize a larger area of a single sign utilized by all tracts than would be permitted for individual freestanding signs serving each tract. The total square footage of informational area may not exceed 80 percent of the cumulative area which could be permitted for the individual tracts served by the joint use sign. A joint use sign permit may only be granted in lieu of permits for individual freestanding signs. The total square footage in the informational area for a joint use sign may not exceed 300 square feet.

b. Joint Use Sign Permits

1. Before authorization of any joint use sign permit, the request therefore will be referred to the planning director for study and recommendation by staff concerning the effect of the proposed use on the character and development of the adjacent land uses. The planning director will decide whether to approve or deny the request.

2. The following information must accompany all joint use sign permit applications:

   (a) A joint use agreement signed and acknowledged by each participating tract owner.

   (b) The joint use agreement must specify the rights of each owner to use the joint use sign(s).

   (c) The joint use agreement must stipulate that the rights to use the sign through each party to the agreement be set forth and the rights run with the land to the full benefit of the successors of the parties.

   (d) A detailed site plan showing location, size, and architectural elevation of all proposed freestanding signs.

   (e) A legal description of the area served by the joint use permit and sign and of each individual tract.

Sec. 10-414. Awnings, Awning Signs, and Canopies

a. The copy/artwork on an awning or canopy must not exceed the area and size that is allowed for a wall sign on the wall to which it is attached. However, the total area of wall signs, canopy signs, and awning signs on any wall must not exceed the area and size allowed for a single wall sign and must not extend more than 75 percent of the length of the awning.

b. All awnings and canopies have the potential to be signs and are therefore subject to Sign Construction and Maintenance Standards set forth in Section 10-406. (Ord. No. 0-2009-70; 6/10/09)

c. The entire length and height of backlit awnings in which the lighting causes the illumination of the awning, of which the length will be limited to 75 percent of the façade of the building, will be counted toward the allowed square footage of the attached sign. (Ord. No. 0-2009-70, 6/10/09) (Ord. No. 0-2013-27; 8/28/13)

Sec. 10-415. Electronic Message Center Signs

a. In addition to the standards set forth in Table, all electronic message centers (EMC) signs located in the city must adhere to the following requirements:

1. EMCs must meet all the requirements of this sign code. All EMC signs shall comply with the appropriate City sign and other regulations.
2. The maximum height of any freestanding EMC that is not attached to or part of a multi-part freestanding sign is eight feet. Where an EMC is attached to or part of a multi-part freestanding sign, the maximum sign height will be determined according to the maximum permissible height of the sign type of which the EMC is a part.
3. The maximum area of an EMC sign shall not exceed sixty-four (64) square feet, and is in addition to other sign allowances. As an EMC sign is a form of reader board, the EMC sign square footage may not be coupled with any other form of reader board.
4. Minimum separation between EMC signs is 70', unless approved by the Planning Director based on visibility needs.
5. EMCs may be used for all or part of an on-premise sign that displays a commercial or noncommercial message. EMCs may not display off-premises commercial advertising, unless located in DBAC properties within the downtown planning area defined in the Comprehensive Plan and meeting all requirements of subsection 16. below;
6. All EMC signs shall have a minimum hold of three (3) seconds, plus one (1) second for each additional line of copy over three (3) lines. (Ord. No. O-2010-119; 11/10/10)
7. No animation of any type, or flashing light, or "spell on" display mode is allowed on any EMC.
8. All EMC signs shall be antiglare. All EMCs must be equipped with an automatic dimmer device.
9. As measured at the property line, the maximum light emanation from an EMC sign shall be no greater than .2 footcandles.
10. No EMC signs are allowed within or facing historic districts.
11. Any malfunctioning EMC must be turned off or display a blank screen until repaired.

12. All electrical equipment used to operate or install an EMC must be UL listed.
13. All electrical power to an EMC sign must be supplied via underground carrier, inside approved conduit, and must be installed according to the city electrical requirements.
14. All EMC signs shall be kept in good operating condition and maintained with good external appearance.
15. EMC signs must not face single family zoned property consisting of the following zoning designations: RE, R-1A, R-1B, R-1C, R-1D, R-2, PXR and PUR or property used for single family regardless of zoning. Property used for institutional uses regardless of zoning may face single family zoned property or property used for single family.

    (a) Property used for institutional uses regardless of zoning is allowed one EMC sign that shall not exceed 24 square feet; display must be turned off between 9:30 p.m. and 6:00 a.m. Signs within 50 feet of a property line of an adjacent residentially-used property are limited to amber light only. (Ord. No. 0-2016-8; 1/27/16)

    (b) Where the subject property has multiple frontages, EMC signs must be placed on the frontage with the higher road classification.

16. EMC marquee signs in DBAC properties within the downtown planning area defined in the Comprehensive Plan shall be placed on a projecting marquee feature for on-premise and/or off-premise advertising and may only be permitted through a Special Use Permit approved by City Council. When considering a Special Use Permit for an EMC marquee sign, the City Council may consider the following:
    (a) Sign is contextual to the architecture and/or historical image of building and DBAC district in general.
    (b) Sign includes time dedicated to promoting downtown Tyler.
    (c) Sign meets the intent to restore and rehabilitate historically used marquees.
    (d) Sign color scheme promotes downtown sense of place.
    (Ord. No. 0-2013-41; 5/22/13)

17. EMC signs in INT and C-1 districts are permitted additional area allowances given the speed limit of the street adjacent to the sign, as shown in the following table supplied by United States Sign Council:

Speed of street adjacent to sign (MPH)	Sign Size (square feet)
40	32
45	40
50	50
55	60

(Ord. No. 0-2013-41; 5/22/13)

b. If any non-conforming existing EMC sign is damaged so that repairs would cost as much as 60 percent of the value of the sign, the sign may be repaired only if it is

brought into conformance with this ordinance. (ORD. 0-97-62, 12/10/97) (Ord. No. 0-2007-94; 7/25/07). (Ord. No. 0-2009-100, 9/23/09) (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-416. Temporary Signs and Holiday Decorations

a. General Requirements

Only temporary signs listed in this section are allowed.

1. Term

Each type of temporary sign that is allowed under this section may be displayed on a property year round.

2. No Permit Required

The display of temporary signs does not require a Temporary Sign Permit (TSP) or further approval, unless otherwise stated in this Section.

3. Number

One temporary sign is allowed per lot, per street frontage. If the lot has more than 500 feet of frontage, one temporary sign per 500 feet of frontage may be displayed on the same lot.

4. Other Conditions

A temporary sign is allowed only in designated districts and is subject to all other requirements of that district.

5. Maintenance

All allowed temporary signs must be kept in good condition. Temporary signs that do not meet maintenance requirements must be removed.

6. Location

A temporary sign must be placed on the property which it is advertising and not in the public right-of-way. Pole-mounted banners on all street frontages must be setback a minimum of 60 feet from the property line to be considered interior to the lot. (Ord. No. 0-2011-45; 6/8/11) (Ord. No. 0-2013-41; 5/22/13)

b. Temporary Sign Types

1. Commercial Banners and Coroplast Signs

Commercial banners and coroplast signs are subject to the requirements set forth in the table in Sec. 10-409 and of this section. There are two types of commercial banners:

(a) Pole-mounted banners, which are displayed vertically, mounted on two rods that extend perpendicularly to a pole. Such banners may be part of an overall exterior signage package.

(b) Wall mounted banners, which are typically displayed horizontally on a exterior building wall, face, or side. Wall mounted banners typically display information regarding commercial events, such as grand openings, sales, or property leasing information.

For the purposes of this section, a set or group of up to 10 pole-mounted banners will be considered a single banner. (Ord. No. O-2010-119; 11/10/10)

2. Decorative and Noncommercial Banners

Non-Commercial banners placed on private property are limited to 50 square feet and one banner is allowed per street frontage. Banners proposed to be placed in the public right-of-way require a permit from the Planning Director and may be placed for no more than 30 consecutive days.

Such banners will be allowed for the following public events and entities and are permitted year round.

(a) Charitable and humanitarian events;

(b) Educational, scholastic, or artistic events;

(c) Banners intended for use by sponsors of non-profit community activities such as festivals, conventions, major events, and general street beautification will be allowed within all districts if signed by the property owner and if approved by the planning director;

(d) Banners displayed on publicly owned property (parks, convention centers, and buildings) must be approved by the designated representative of the property and are limited to activities occurring on the publicly owned property; or

(e) Within schools, religious institutions, and facilities of similar use, and all office, commercial and industrial zoning districts.

3. Holiday Decorations

Holiday decorations for multi-family and nonresidential Districts are subject to the requirements set forth in the table in Sec. 10-409 and of this section.

(a) Holiday decorations are allowed for a maximum of 14 days prior to a federally recognized holiday. All decorations must be removed immediately following the holiday. A 15 day extension may be allowed with a temporary sign permit granted by the Planning Director. In no case may holiday decorations ever be displayed more than 45 consecutive days.

(b) All decorations must be specific to the holiday celebrated and non-commercial in nature.

(c) Decorations on collector or arterial roadways must not flash, blink, move or otherwise be distracting to the motoring public. (Ord. 0-2010-20, 3/10/10)

Sec. 10-417. Political Signs

Pursuant to Section 216.903 of the Texas Statutes, or successor statute, the following conditions apply to signs in the City of Tyler that are placed on private property with the consent of the owner and that contain political messages. Such signs may:

a. Be up to 36 square feet in area and eight feet in height; but

b. May not be illuminated or have any moving elements.

Sec. 10-418. Sign Code Enforcement

a. Authority

The building official or designated code enforcement officer is hereby authorized to issue a citation and to order the repair or removal of any dilapidated, deteriorated, abandoned, illegal, or prohibited signs from property within the city limits of Tyler, in accordance with the enforcement mechanisms set forth in this section.

b. Notice of Violation

When the building official or designated code enforcement officer, determines that a dilapidated, deteriorated, illegal, prohibited, or abandoned sign located on private property within the city limits of Tyler requires removal by the owner, they must issue a notice of violation to the owner of the sign or to the owner, occupant, or person in control of the property on which the sign is located, except when the sign poses an immediate or imminent threat to public safety because of the condition of the sign, in which case it may be removed without notice.

c. Enforcement and removal of abandoned signs adjacent to interstate and major highways is governed by the Texas Administrative Code.

d. Contents of Notice of Violation

The notice of violation must contain:

1. Name of the owner, occupant, manager, or other person in control of the property.
2. Street address sufficient to identify the property on which the alleged violation occurred.
3. Description of alleged violation and reference to the portion of this section that has been violated.
4. Statement of the action required to correct the violation and a deadline for completing the corrective action.
5. Statement that failure to take the corrective action within the time specified may result in a criminal penalty and possible filing of a civil action by the city against the owner seeking injunctive relief and/or civil penalties.
6. Statement informing recipient of their right to appeal the decision of the building official to the board of adjustment in accordance with Sec. 10-771.
7. Owners or the occupant, or person in control of the property on which the sign is located found to be in violation of this section may be assessed a fine in an amount established by the city council and kept on file in the planning department.

e. Service of Notice of Violation

The city manager, or designee, must serve a written notice of violation on the owner of the sign or the owner, occupant, or person in control of the property on which the sign is located for sign violations on private property within the corporate limits of the city of Tyler or ETJ. The notice of violation should be served by hand or by certified mail with a return receipt requested. Service by certified mail will be effective three days after the date of mailing.

Sec. 10-419 - 429. Reserved

Sec. 10-430. Billboards

Billboards and similar outdoor advertising are allowed in M-1 and M-2 districts in the city and commercial properties in the ETJ provided the billboard meets all federal, state, and city requirements. (Ord. No. 0-2014-33; 4/23/14)

a. General Requirements

All billboards located within the city limits and extraterritorial jurisdiction must adhere to the following requirements. The city's regulations herein governing billboards in the extraterritorial jurisdiction hereby supersede the regulations imposed by or adopted under Chapter 394 of the Texas Transportation Code.

1. Billboards may be up to 35 feet in height, measured from the highest point of the sign to ground level.
2. Billboards must not be located so as to create a safety hazard, or to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct the driver's view of approaching, merging, or intersecting traffic, or to be likely to cause a driver to be unduly distracted in any way.
3. Billboards may not be located within 1,500 feet of any public park, public forest, public playground or scenic area, designated as such by the city or any other governmental agency.
4. Billboard faces may not contain any flashing, fluttering, undulating, swinging, rotating, or other moving elements or any reflective material such as foil, that may simulate movement or that is intended to distract drivers or passers by. (Ord. No. 0-2009-70; 6/10/09)

b. Allowed Area and Height

1. The sign area of a billboard must be calculated as the area enclosed within the outer edge of the frame (border) of each sign face, multiplied by the number of faces.
2. The maximum area for any one billboard must not exceed 672 square feet.
3. Billboard panels may not be stacked, or placed side by side.
4. Billboards may have an interior angle with a maximum 15 foot separation at outer edge.
5. Billboards greater or equal to 400 square feet in gross area must observe the following location retirements:
   (a) Spacing: The minimum sign separation is 750 feet from any other billboards. Separation between billboards will be measured by the linear distance on the same side of the street.
   (b) Setback: A minimum distance of twice the sign height must be observed from any residentially zoned district.
6. Billboards less than 400 square feet in gross area must observe the following location requirements:
   (a) Spacing: The minimum sign separation will be 300 feet from any other billboards. Separation between billboards will be measured by the linear distance on the same side of the street.

(b) Setback: A minimum distance of twice the sign height from any residentially zoned district.

7. Any spherical, free-form, sculptural, or other non-planar sign element protruding outward, above, below, or to either side of the billboard will be measured as 50 percent of the sum of the areas of the four vertical sides of the smallest four-sided polyhedron that will encompass the protruding element. Inclusion of such elements will reduce the overall permitted size of the billboard.

8. Billboards that are illuminated, may be lighted only by lights that are properly installed, shaded or concealed, and are aimed so that the light will project onto the sign face and will not interfere with the vision of motor vehicle operators, nor shine directly onto nearby residential property located in any residentially zoned district. Illumination of such signs must not be flashing or intermittent.

9. Billboards will be considered a structure and must observe all setbacks and structure separation requirements of the zoning district in which they are located.

10. Any non-conforming billboard that is damaged or deteriorated to an extent where restoration costs exceed 60% of the cost of erecting a new sign of the same type at the same location, must be removed. (Ord. 0-98-41, 5/27/98) (Ord. No. 0-2009-07; 6/10/09)

c. Billboard Cap and Reduce

The number of billboards in the City and ETJ is limited to the number of such signs in existence on April 24, 2008. To encourage the reduction of billboards, the owner of a sign that was lawfully erected in compliance with all standards then in effect or lawfully in place at the time it was annexed into the City, or that owner's designee, may be awarded credit for removing such sign. (Ord. No. 0-2014-97; 10/22/14)

1. One credit will be awarded for each face that is removed from a lawfully existing billboard. In order to receive a permit for the erection of a billboard, two credits must be used per each new face.

2. The City shall issue a permit to any billboard owner or designee holding sufficient credits, for erection of an billboard in a location approved by the City, in its sole discretion according to the requirements set forth in this section. The permit must state the number of faces to be erected and must address all requirements set forth in this section.

3. Credits are transferable.

4. Credit is received when a billboard owner or designee removes a sign voluntarily, even if the reason is loss of the lease. No credit may be awarded for the removal of a billboard that was in violation of Federal, State, or City laws when erected.

5. To be awarded a credit under the incentive program, a sign owner or designee must notify the City within 60 days of the removal of a billboard and receive a letter issued by the City awarding a credit. Failure to apply for a credit within 60 days from removal of a sign bars the awarding of credit for that sign. Any unused credits will be held in reserve indefinitely, in order to give incentive for immediate removal of current faces. (Ord. No. 0-2009-70; 6/10/09)

d. Billboard Inventory and Registration

In accordance with Title 43 of the Texas Administrative Code or successor, an inventory of billboards shall be maintained. The purpose of the billboard registration program is to

maintain the billboard inventory and aid the City in enforcing the Billboard Cap and Reduce policy. All billboard owners in the City limits and extraterritorial jurisdiction are required to register their billboards in order for the City to maintain an accurate count and location database. A complete list of an owner's billboards, and locations must be submitted along with an annual fee listed in Section 10-776. The submittal must be made in the first month of each calendar year in order to remain in compliance with this section. (Ord. No. 0-2012-83; 10/10/12)

Sec. 10-431 - 439. Reserved

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DIVISION J. Outdoor Lighting

Sec. 10-440. General Requirements

All lighting fixtures designed or placed so as to illuminate any portion of a site must meet the following requirements:

a. Fixture (luminaire)

The light source must be completely concealed, fully shielded within opaque housing and must not be visible from any street right-of-way.

b. Light Source (lamp)

Only incandescent, fluorescent, color-corrected high-pressure sodium, light-emitting diode (LED) or metal halide may be used. The same type must be used for the same or similar types of lighting on any one site throughout any master-planned development. (Ord. No. 0-2015-67; 6/24/15)

c. Mounting

Fixtures must be designed and mounted in such a manner that the cone of light does not cross any adjacent property lines of neighboring sites.

d. Illumination Levels

All site lighting must be designed and installed so that the level of illumination as measured in foot candles at a height of three feet at the property line does not exceed .2 foot candles in or adjacent to residential uses and 1 foot candle in or adjacent to nonresidential areas.

Sec. 10-441. Lighting Required for Specific Uses and Areas

a. Roads, Driveways, Sidewalks and Parking Lots

All roads, driveways, sidewalks and parking lots must be sufficiently illuminated to ensure the security of property and safety of persons using such areas and facilities. Where such roads, driveways, sidewalks or parking lots fall on private property, the responsibility for lighting such areas will fall upon the developer.

b. Entrances and Exits in Non-Residential and Multifamily Projects

All entrances and exits in buildings used for non-residential purposes and open to the general public, along with all entrances and exits in multifamily residential buildings containing more than four units, must be adequately lighted to ensure the safety of persons and the security of the building.

c. Commercial Parking Lot Lighting

All commercial parking lots are required to provide lighting during nighttime hours of operation.

d. Canopy Area Lighting

All development that incorporates a canopy area over gas pumps, automated bank machines, or similar installations must provide lighting for the canopy area. For the purposes of this Division, the canopy area must be defined as that area immediately below the canopy.

Sec. 10-442. Roof Lighting

a. Application

An application for a permit authorizing a project including the use of roof lighting must include a roof lighting plan containing sufficient information to determine whether the roof lighting, if installed as proposed, will meet the standards and intent of this division.

b. Roof Lighting Standards

1. All bulbs or tubing must be encased so that the bulb is not naked and that direct glare is prevented.
2. Lights may not run along the highest peak of a roof line, except where perimeter lighting around the top of a flat roof is allowed.
3. Roof lighting that qualifies as a sign under this code is prohibited.

Sec. 10-443. Excessive Illumination

a. Lighting within any lot that unnecessarily illuminates and substantially interferes with the use or enjoyment of any other lot is prohibited. Lighting unnecessarily illuminates another lot if it clearly exceeds the requirements of this section, or if the standard could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.

b. Lighting must not be oriented so as to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers on such streets.

Sec. 10-444 - 449. Reserved

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DIVISION K. Outdoor Sales, Storage, and Display

Sec. 10-450. General Requirements

a. Outdoor storage of equipment, materials, and merchandise for sale on the premises is permitted in the C-2, PCD, PMXD-1, PMXD-2, M-1, and M-2 zones, unless otherwise prohibited by ordinance.

b. A Temporary Use Permit (TUP) must be obtained for outdoor storage of equipment, materials, and merchandise for sale on the premises in the DBAC district.

c. The planning director has the authority to grant a temporary permit, with conditions, for outdoor sales and display of merchandise in zoning districts where such is not permitted.

d. Outdoor storage of equipment, materials, or merchandise not actively offered for sale shall be surrounded by an opaque screen which restricts their view from the public.

e. Areas used for outdoor storage or display shall be maintained so that excessive dust, fumes or odors will not be produced by continued use.

f. No manufacturing, assembly, repair, or work activity, other than permitted storage or sales, shall take place outside the confines of an enclosed building.

g. Such outdoor display of merchandise may not occupy areas needed for parking or on-site vehicle maneuvering.

h. No required parking spaces or loading areas shall be used as a display or sales area.

i. Public sidewalk or street right-of-way shall be used for display upon the issuance of a Temporary Use Permit

j. No outdoor storage area or required open space for one building may be count toward the required open space, yard, or area for any other building or other use.

k. Requirements in addition to those of this section will be applied to outdoor storage and display of merchandise at gasoline service stations pursuant to Sec. 10-68. (Ord. 0-2010-20, 3/10/10)

Sec. 10-451. Commercial Establishments

A commercial establishment offering for sale, lumber, building supplies, tools, home improvement materials and related items, where the materials are stored within a building, or if stored outdoors, all supplies and commodities are stored behind a solid screening wall which is located on, or back of the required building line, and where the supplies and commodities are not stacked or arranged so as to extend above the top of the screening wall.

Sec. 10-452. Temporary Outdoor Sales

Open-air sales lot, established for temporary periods for the sale of seasonal commodities such as Christmas trees, lawn and garden supplies, etc. Temporary outdoor sales are permitted through issuance of a temporary use permit (TUP) for a specific period of time, or in some cases, through issuance of a special use permit (SUP) authorizing extended outdoor display. (Ord. 0-2010-20, 3/10/10)

Sec. 10-453. Tents

a. All tents must comply with fire department regulations.

b. Within all office, commercial, and industrial districts; not to exceed a cumulative total of 30 days per lot per calendar year.

c. Seasonal tents used for nurseries, tree lots, or similar type uses, may be approved up to 90 days (maximum of two permits per calendar year per lot) at the discretion of the planning director.

d. Any other attention gathering devices within all zoning districts; location and duration will be at the discretion of the planning director.

Sec. 10-454. Outdoor Transient Vendors

An outdoor transient vendor is a person, or the agent, consignee or employee of a person, who at a fixed location within the city engages in the temporary display, exhibition or delivery for the sale or offering for sale of any goods or services, including animals, with the intent of discontinuing such use upon the expiration of a time period not to exceed a maximum of 60 days, provided this time period shall not apply to Mobile Food Units. Outdoor transient vendor sales are not allowed in residential districts. The outdoor transient vendor regulations do not apply to vendors that are acting with the permission of a business at a fixed location, if such vendor sales occur at that fixed location and if such vendor sales are associated with that business's primary type of good or services sold. Any person receiving an outdoor transient vendor permit related to the sale or offering for sale of animals shall comply with the vaccination requirements set forth in Tyler City Code Section 14-30 or successor, as applicable, and must be able to show proof of such vaccinations upon request . An outdoor transient vendor must obtain an outdoor transient vendor permit by making application to the Planning and Department prior to engaging in such activity. The outdoor transient vendor regulations in this section do not apply to fruit/vegetable stands, fruit/vegetable sales (roadside), the giving away of animals at any location, or the sale of animals at private residences. (Ord. No. 0-2010-19; 3/10/10) (Ord. No. 0-2014-113; 12/10/14)

a. Transient Vendor Application

Outdoor transient vendor permits are subject to approval of the Planning Director. A copy of said permit must be displayed prominently at the location.

b. General Requirements

1. Outdoor transient vendor sales may only be allowed in C-2, DBAC, PCD, PMXD-1, PMXD-2, INT, M-1 and M-2 zoning districts. Mobile Food Units may obtain a transient vendor permit for a C-1 zoning district only if the property has received a special use permit to operate a Food Truck Park.
2. Each lot is allowed only one outdoor transient vendor at a time. This does not apply to Mobile Food Units at Food Truck Parks.
3. A maximum of two permits for no more than 30 consecutive days each per calendar year per lot/contiguous tract is allowed. Mobile Food Units shall be issued a maximum of two permits for no more than six consecutive months per calendar year per location. (Ord. No. 0-2012-83; 10/10/12) (Ord. No. 0-2014-113; 12/10/14)
4. Outdoor transient vendors can occupy parking spaces, but only if the minimum number of parking spaces required under this Chapter for the existing business remains available for patrons to park their vehicles.

5. Outdoor transient vendors are not permitted on lots without a principle structure or use that has approved off-street parking and commercial driveways.
6. Transient Mobile Food Units must comply with Section 10-76 of this Chapter. (Ord. No. 0-2014-113; 12/10/14)

c. Penalties

Violation of any provision of this division, or violation of any term, condition, requirement, or duration of an outdoor transient vendor permit issued under this division, is unlawful and shall subject the violator to the penalties set forth in this chapter.

d. Suspension/Revocation

In addition to the penalties listed in subsection C above, an outdoor transient vendor permit may be revoked or suspended by the planning director with appeal to the Board of Adjustment within 10 days of the revocation or suspension.

e. Enforcement

Planning Department personnel, Police Department personnel and Code Enforcement Department personnel have full and complete authority to enforce the provisions of this section to outdoor transient vendors, and have authority to issue citations for violations thereof. The Local Rabies Control Authority or designee, and Animal Control Officers, have full and complete authority to enforce the provisions of this section related to the sale or offering for sale of animals, and have authority to issue citations for violations of such provisions. (0-2003-38, 7/23/03) (0-2003-61, 11/26/03) (Ord. No. 0-2010-19; 3/10/10) (Ord. No. 0-2012-83; 10/10/12) (Ord. No. O-2016-76, 8/24/16)

Sec. 10-455. Garage Sales

A garage sale is a sale of personal property conducted within a residential district.

f. Only those garage sales in compliance with the regulations of this section are permitted in a residentially zoned district. Any other attempted sale is prohibited in residential districts.

g. Sales that require a sales tax permit are not authorized by this section. The sale of merchandise acquired solely for resale purposes is prohibited.

h. No more than one garage sale may be conducted from any residence during any consecutive six-month period for a maximum of two per year.

i. No garage sale may be held for a period exceeding three consecutive days unless a longer duration is approved by the planning director through issuance of a temporary use permit (TUP).

j. All signs or notices posted in regard to any garage sale shall be posted only on the premises at which said sale is held, and shall be so located as not to constitute an impairment to or obstruction of traffic. No sign permit is required. (ORD. 0-97-62, 12/10/97) (Ord. 0-2003-38, 7/23/03) (Ord. 0-2010-20, 3/10/10)

Sec. 10-456. Outdoor Display and Storage Prohibited

Outdoor display of merchandise or storage of materials is prohibited in the INT, and C-1 districts.

Sec. 10-457. Portable Storage Units

A portable storage unit may be used as a temporary structure within the city when in compliance with the standards of this section. The use of a portable storage container for a period of ninety-six hours or

more in a district zoned residential, office, limited commercial, educational or light commercial, must comply with the regulations set forth in this section. Any use of such structures within the city not in compliance with this section will be unlawful.

a. Duration

1. A portable storage unit may be located as a temporary structure on property within the city for up to 30 days from time of delivery to time of removal. Such units may not be located on a specific property more than a 60-day period per calendar year.

2. A property owner may request and the planning director may grant up to two consecutive 24-hour extensions to the allowed duration of the storage unit on a property. Permission may be granted for thirty (30) days for portable storage containers on a single lot. At the expiration of the thirty-day period, applicants may seek to extend their use for one additional thirty-day period by applying to the Planning Director. The Planning Director shall have authority to approve one (1) additional thirty-day duration of the storage unit on a property if the Planning Director, in the Director's sole discretion, makes a finding that:

   (a) The additional 30-day period is necessary because special circumstances, such as the size, shape, or location of the property, make completion of the use within the initial 60-day period impractical; or

   (b) The additional 30-day period is necessary for the removal of debris caused by a natural or man-made disaster.

   (1) In the event of fire or natural disaster causing substantial damage to the unit, the property owner may apply to the city for permission to extend the time that a portable storage unit may be located as a temporary structure on the property. Application for such extended duration must be made in writing and filed with the city clerk's office and must give sufficient information to determine whether such extended duration should be granted. The planning director will determine whether or not to grant such extended duration and the length of such extension. The applicant may appeal such decision to the planning and zoning commission. In the event of such appeal, the decision of the planning and zoning commission will be final.

3. Any person utilizing a portable storage unit is responsible for having the unit removed at the end of the time for which it may lawfully remain in place or within 48 hours by the company providing the portable storage unit upon the direction of a law enforcement officer for safety reasons. In the event the portable storage unit is not removed within the timeframe allowed, the company providing the portable storage unit will be contacted to facilitate removal within 48 hours, of the portable storage unit. The individual utilizing a portable unit will be responsible for any fines, fees or additional costs and may be assessed against the property on which the temporary structure was located and may be filed as a lien against such property by the city clerk for removing the container when it is not lawfully placed.

b. Number of Units

No more than three such storage units may be located on a specific piece of property within the city at one time.

c. Location and Size

Such unit must be located no closer than 10 feet to the property line unless placed on an existing impervious driveway. Such unit may not exceed eight feet six inches in height, 10 feet in width or 20 feet in length.

d. Maintenance

Such unit must be properly maintained, kept in a condition free from rust, peeling paint, broken portions and deterioration, and must not be allowed to fall into a state of disrepair.

e. Emergency Right-of-Way Placement

Right-of-Way placement (on local streets), for portable storage units is allowed for 72 hours without authorization due to restricted access to the property. If the use of such unit in the public right-of-way is to exceed the 72 hour period, the owner or person in control of the unit must either seek a right-of-way use license pursuant to Section 17-1, or seek a variance from the Zoning Board of Adjustment pursuant to Section 10-251. In the event the portable storage unit is not removed within the timeframe allowed, the company providing the portable storage unit will be contacted to facilitate removal within 48 hours, of the portable storage unit. The individual utilizing a portable unit will be responsible for any fines, fees or additional costs and may be assessed against the property on which the temporary unit was located and may be filed as a lien against such property by the City for removing the container when it is not lawfully placed.

f. Anchoring in Hazardous Conditions

It will be the obligation of the owner or user of such storage unit to secure it in a manner that does not endanger the safety of persons or property in the vicinity of the temporary unit. In the event of high winds or other weather conditions in which such unit may become a physical danger to persons or property, the appropriate law enforcement officers may require removal within 48 hours of such temporary unit by the portable storage company providing the portable storage unit. The individual utilizing a portable unit will be responsible for any fines, fees or additional costs and may be assessed against the property on which the temporary unit was located and may be filed as a lien against such property by the City.

g. Prohibited Uses

Such units must not be used as a habitable structure, a detached, permanent storage building or structure, tool house, greenhouse, home workshop, children's playhouse, storage house, garden shelter, or similar purpose. Such units must not be utilized to store materials classified as hazardous by federal, state, or City laws.

Sec. 10-458. Outdoor Vending Machines.

These guidelines are intended to minimize the visual impacts within commercial areas and maintain the aesthetic within neighborhood commercial areas.

a. Outdoor vending machines shall be placed under roof overhangs or awnings to minimize their visibility from the street as well as provide protection from inclement weather to customers utilizing such devices.

b. A maximum of two outdoor vending machines are allowed per businesses with exterior property frontages of up to 100 feet. No more than three outdoor vending machines are allowed per location.

c. Outdoor vending machines located within the "C-1", Light Commercial Districts are allowed as an accessory use only.

d. No outdoor vending machine shall be placed in a location so as to impede pedestrian access, block parking areas or create an unsafe condition. Vending machines shall not be installed in the public right-of-way or immediately adjacent so as to require customers to stand in the public right-of-way in order to use the machine.

e. No vending machine shall exceed eight feet in height, three feet in depth, or six feet in width.

f. Outdoor vending machines may be externally illuminated to provide security at night. Illumination shall comply with Article VI. Development Standards, Division J. Outdoor Lighting.

g. All outdoor vending machines selling entertainment media must comply with all applicable sexually oriented businesses and zoning regulations. Outdoor vending machines shall not appear to flash, undulate, or pulse, or portray explosions, fireworks, flashes of light, or blinking or chasing light. (Ord. No. 0-2011-8; 1/26/11)

Sec. 10-459 Donation Containers

Donation containers include any structure or container which has four walls, a roof and a floor, not to exceed the dimensions of six feet one inch (6'1") in width or depth, nor shall exceed seven feet (7') in height, which is used for the donation of clothing, appliances, or other similar materials or products. Said structure or container shall be of adequate weight to withstand typical weather conditions as to not be moved within a parking lot by wind. The structure or container must be built substantially enough, as to not pose any public threat, and be painted or finished in a way that is visually coherent and conducive to its environment. Any use of such structures within the city not in compliance with this section will be unlawful. Any existing use of such structures prior to the adoption of this section that are not in compliance with this section must comply within 90 days of the adoption of this section.

a. Permit Required

A Temporary Use Permit (TUP) is required for each donation container that is not accessory to the primary use of the property. TUPs issued for donation bins operated by a 501(c)(3) non-profit organizations registered with the State of Texas are exempt from the filing fee. TUPs for donation containers may be issued for an initial 90 day period and may be renewed at the discretion of the Planning Director on an annual basis thereafter. Institutional uses are exempt from the permit requirement, however all other standards of this Section apply. The permittee must have written permission from the property owner on whose property the donation container will be placed.

b. Number of Containers

Donation containers shall be limited to one per acre with a maximum of four regardless of property size.

c. Location of Containers

1. Donation containers shall only be permitted in zoning districts that allow for outdoor display, provided that properties used for institutional uses are exempt from this restriction.

2. Donation containers shall not be located in any required landscaped area or bufferyard area, and shall not be located within fifty feet (50') of a property being used for residential purposes.
3. Donation containers shall not be located within a required building setback.
4. Donation containers shall be located on a paved surface at all times.
5. Donation containers shall not be located in any parking space required to meet the minimum parking requirements for a site and may not be located in any platted or dedicated access easements, fire lanes, or mapped floodplains.
6. Donation containers shall not be located on vacant lots.

d. Maintenance

Such containers must be properly maintained, kept in a condition free from rust, peeling paint, broken portions and deterioration, and must not be allowed to fall into a state of disrepair. The area around the container must be kept clean and free from litter, garbage, and debris.

e. Anchoring in Hazardous Conditions

It will be the obligation of the owner or user of such donation container to secure it in a manner that does not endanger the safety of persons or property in the vicinity of the temporary container. In the event of high winds or other weather conditions in which such container may become a physical danger to persons or property, the appropriate law enforcement officers may require removal within 48 hours of such temporary container by the container's owner. The donation container's owner will be responsible for any fines, fees or additional costs and may be assessed against the property on which the temporary container was located and may be filed as a lien against such property by the City.

f. Prohibited Uses

Such donation containers must not be used as a habitable structure, a detached, permanent storage building or structure, tool house, greenhouse, home workshop, children's playhouse, storage house, garden shelter, or similar purpose. Containers must not be utilized to store materials classified as hazardous by federal, state, or City laws.
(Ord. No. 0-2016-8; 1/27/16)

Sec. 10-460 - 469. Reserved

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DIVISION A. Drainage and Water Utility Improvements

Sec. 10-470. Purpose

The purpose of this division is to ensure that the drainage facility needs caused by the development or use of a piece of property are identified and provided for in appropriate stages of development. The objective of drainage planning and facilities is to protect the uses of the platted property and safety of citizens who use the platted property in the future and to prevent development and usage of the platted property from adversely affecting others.

Sec. 10-471. Design of Facilities

Design of storm sewer systems, materials, and construction must be in accordance with the Design Guidelines for Subdivision Improvements. When a project is determined to be in the jurisdictional control of the U. S. Corp of Engineers, in regard to the Federal Clean Water Act or successor, the city requirements for drainage improvements will be subordinate to the requirements of a Section 404 Permit of the Federal Clean Water Act, or successor. During the platting process, the flood hazard areas shall be identified and drainage easements dedicated to the public on the final plat. Plans shall be submitted with the plat. The owners and developers of property have the duty to:

a. Accommodate Upstream and Adjacent Drainage Areas

A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from ultimate development conditions from its entire upstream drainage area, whether inside, outside, along or adjacent to the subdivision or addition. The owner's engineer shall initially determine the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by the development code, subject to approval by the development services engineer.

b. Effect on Downstream Drainage Areas

The owner's engineer shall study the affect of each addition's storm runoff on the existing drainage facilities at a reasonable distance downstream of the addition as determined by the development services engineer. Where it is determined that existing capacity is not available immediately downstream, the owner's engineer must design a drainage system, detention facility, or parallel system to mitigate the deficiency. The commission may deny the plat until the construction plans for such mitigation has been approved by the development services engineer. If oversize improvements are required, then the city may participate in the cost as prescribed by this code.

Sec. 10-472. Requirements by Size of Drainage Area

a. Less than 1/2 Square Mile

Developments in drainage areas having a contributing watershed less than 1/2 square mile shall be provided for in accordance with the Design Guidelines for Subdivision Improvements. Water conveyances must consist of pipe culverts, box culverts placed underground, or improved open channels. An improved open channel is one in which the channel bottom sides are lined with reinforced Portland cement concrete or other structurally sound material approved by the development services engineer to the depth that will convey the 100-year frequency flood.

b. Greater than ½ Square Mile and Less than 1 Square Mile

Developments in drainage areas having a contributing watershed greater than 1/2 square mile and less than one square mile shall be provided for by one of the following methods:

1. Drainage improvements may be provided for in accordance with the Design Guidelines for Subdivision Improvements. Water conveyances shall consist of pipe culverts, box culverts placed underground, or improved open channels. An improved open channel is one in which the channel bottom sides are lined with reinforced Portland cement concrete or other structurally sound material approved by the development services engineer to the depth that will convey the 100-year frequency flood.

2. When the floodplain is part of an overall master plan of the development or the Tyler 1st Comprehensive Plan, the development services engineer may allow the floodplain to be left in a natural state or greenbelt. The greenbelt is required to be dedicated to the city in accordance with the Tyler 1st Comprehensive Plan or a homeowner's association for maintenance. The minimum dedication is 100 feet on each side of the defined floodplain limits. If the dedication is to the city, maintenance by the city shall consist of removal of dead or fallen trees blocking the drainage. In general, the greenbelt area shall be left in a natural state.

c. Greater Than One Square Mile

Drainage areas having a contributing watershed greater than one square mile shall be provided for by one of the following methods:

1. The stream may be left in its natural state with minor improvements and no development within its floodplain. Minor improvements include the removal of dead trees, discarded debris, and obstructions that would hinder the conveyance of water. In zones other than RE, R1-A, R1-B, R-2, and PUR zones, the entire floodplain shall be platted and dedicated to the city as a floodway easement. The city will maintain the easement in the same condition as provided when the easement is within the city limits. In RE, R1-A, R1-B, R-2, and PUR zones the entire floodplain shall be platted as a separate lot and dedicated to the city or homeowner's association for maintenance. The city will maintain the easement in the same condition as provided when the easement is within the city limits. The commission may waive this dedication requirement only for the following exceptions:

   (a) Replats which were originally platted prior to the dedication requirements.

   (b) Subdivisions of five lots or less.

2. The floodplain fringe may be reclaimed for use as long as the floodway is protected and the 100-year flood elevation is not raised more than one foot. This method of development may require erosion control to offset changes in the stream regimen caused by development of the property and drainage improvements in accordance with this Article. In zones other than RE, R-1A, R-1B, R-1C, R-2, PXR, PUR, PMF the entire floodway must be platted and dedicated to the city as a floodway easement. The city will maintain the easement in the same condition as provided when the easement is within the city limits. In RE, R-1A, R-1B, R-1C, R-2, PXR, PUR, and PMF zones the entire floodway shall be platted as a separate lot and dedicated to the city or homeowner's association for maintenance. The city will maintain the easement in the same condition as provided when the easement is within the city limits. The commission may waive this dedication requirement only for the following exceptions:

   (a) Replats which were originally platted prior to the dedication requirements.

   (b) Subdivisions of five lots or less.

3. The stream may be reconstructed or relocated to accommodate development. The new channel shall be sufficient to convey the 100-year flood. The design will include erosion control such as seeding, sodding, channel lining, or a combination of these. In zones other than RE, R-1A, R-1B, R-1C, R-2, PXR, and PUR zones, the entire floodway with proper access easements must be platted and dedicated to the city as a floodway easement. The city will maintain the easement in the same condition as provided when the easement is within the city limits. In RE, R-1A, R-1B, R-1C, R-2, PXR, and PUR zones the entire floodway and proper access easement shall be platted as a separate lot and dedicated to the city or homeowner's association for maintenance. The city will maintain the easement in the same condition as provided when the easement is within the city limits. The commission may waive this dedication requirement only for the following exceptions:

   (a) Replats which were originally platted prior to the dedication requirements.

   (b) Subdivisions of five lots or less.

   (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-473. Detention Facilities

Lakes, detention ponds, and retention ponds may be constructed in all areas provided they are approved by the development services engineer. The city may assume maintenance responsibilities for this type of facility only if title to the facility passes to the city, if approved by the council; however, easements shall be provided to ensure protection of these areas for maintenance purposes.

Sec. 10-474. Alternate Facilities

Other innovative drainage concepts will be considered if approved by the development services engineer. Any city costs are subject to approval by the city council.

Sec. 10-475. Access and Dedication of Drainage Easements

a. Access to Floodway Easements

The developer must provide sufficient access on each side of and parallel to creeks or drainage ways for maintenance purposes. The access shall be above the base flood elevation and accessible to vehicles and equipment. Access must also be provided at a maximum 1,200 foot spacing along streets or alleys. The location and size of the floodway easement shall be determined by the development services engineer. The width of the access easement shall be 20 feet. Permanent monuments, the type and location of which to be determined by the development services engineer, shall be placed along the boundaries of the maintenance and access easement and private property. This access easement shall be included in the dedication requirements of this division and included in the drainage and floodway easement width.

b. Drainage Easements

Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within street rights-of-way, perpetual, unobstructed easements must be provided. The minimum width of the easements must be 12 feet in R-1B zoning and 15 feet in RE and R-1A zones. Depending on depth and size of drainage facility, the development services engineer may require wider easements. Easements must be indicated on the plat. Drainage easements must extend from the street to a natural watercourse or to other drainage facilities. When a proposed drainage system will carry water across private land outside the subdivision or addition, when not a natural drainage course, appropriate drainage easements must be secured. (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-476. Sewage Facilities

a. Adequate Sewage Facilities

Sanitary sewer facilities serving the subdivision or addition shall connect with the city's sanitary sewer system or state approved utility system, and shall conform to the city's master sewer plan for sewage treatment and collection. Sewers shall be installed to serve each lot and to grades and sizes according to specifications herein identified or referenced.

b. Design and Construction Requirements

Design of sanitary sewers shall be in accordance with the City's Design Guidelines for Subdivision Improvements and 30 T.A.C. 317, or successor. Materials and construction shall conform to the Standard Specifications and Standard Construction Details of the City of Tyler. The sanitary sewer system shall conform to the city's sewer studies for the various drainage basins.

c. Sewage Locations

Sanitary sewers must be located within street or alley rights-of-way unless topography dictates otherwise. When located in easements on private property, access must be provided to all manholes. A manhole must be provided at each street or alley crossing. End lines shall be extended to provide access from street or alley right-of-way when possible.

Sec. 10-477. Plan Approval

The development services engineer shall be responsible for receiving and approving construction plans for sewage facilities.

Sec. 10-478 - 489. Reserved

DIVISION B. Low Impact Development Alternative

Sec. 10-490. Purpose and Intent

The purpose of this division is to promote low-impact development (LID) approach to stormwater management that would minimize the hydrologic impact of development and redevelopment on storm water quantity and quality using primarily nonstructural storm water controls in place of conventional engineering applications.

Sec. 10-491. Applicability

Any person or entity that files an application for a rezoning, subdivision plat approval, or site plan review may opt to apply LID stormwater management standards to the proposed development.

Sec. 10-492. Development Incentives and Alternative Standards

1. The development incentives and alternative standards listed below may be used provided the development complies with associated nonstructural storm water controls, such as stormwater conservation areas and/or structural storm water controls, such as permeable pavement, grassy swales/buffer strips, storm water ponds, and bio retention areas. The intent of a storm water conservation area is to reduce impervious surfaces; to allow natural infiltration of storm water runoff; to preserve floodplain, wetlands, and other undisturbed natural areas; and to provide space for other nonstructural or structural storm water controls. The intent of permeable pavement, grassy swales/buffer strips, storm water ponds, bio retention areas, and other structural controls is to provide infiltration, filtration, and pollutant removal of storm water runoff.

2. Developments that propose to use the development incentives and alternative standards must follow the site development plan review process in Article VIII, Division E and the plat review process in Article IX, of this chapter.

3. The areas proposed for nonstructural and/or structural storm water controls must be shown as a stormwater conservation area on any site plan and/or land study associated with the development and must be designated as a storm water quality easement on any plat associated with the development. In addition to the site plan and plat review process, developments shall follow the site-specific storm water management plan procedures herein.

a. Residential Development

Note: For residential developments that are [10 acres or larger] and in PUR would have two options of development standards. One option would be the standard requirements the other option would be the stormwater management alternative. The stormwater management option would allow for reduced lot size, reduced lot depth, reduced front yard setback, and/or increased lot coverage if a storm water conservation area is provided. Storm water conservation areas may not be part of required usable open space, but may contain structural or other nonstructural storm water controls.

b. Off-Street Parking and Loading

The following stormwater management options are available for off-street parking and loading areas.

1. **Alternative Pavement Construction**

For most types of development, this code requires that off-street parking and circulation lanes be constructed of asphalt or concrete. Permeable pavement and associated drainage system, such as modular porous pavers or porous concrete may be used. Only developments that have minimum required parking of a certain size (e.g., 100 spaces or more) would eligible for this permeable pavement option. Gravel parking is not an acceptable permeable pavement and must not be used for parking and/or circulation lanes, except where allowed in this code. Developments may utilize alternative pavement construction for parking in excess of Code requirements regardless of size. This alternative pavement construction requires professional installation according to manufacturer's specifications. Alternative pavement options must be maintained according to manufacturer's specifications and must be in compliance with Tyler City Code Chapter 18, Article II., Weeds and Debris. (Ord. No. O-2010-119; 11/10/10)

2. **Parking Reduction**

Up to ten percent of required off-street parking spaces may be permanently set aside as a parking reduction subject to the standards of this division. Only developments that have minimum required parking of 100 spaces or greater are eligible for this parking reduction option. The area of the parking reduction shall be set aside as a storm water conservation area. For the purpose of parking reduction, storm water conservation areas may not be part of required interior landscape area and/or landscape edge, and may not contain structural or other nonstructural storm water controls.

3. **Excess Parking**

For development with 10 or more required parking spaces, the developer may accommodate any parking spaces in excess of the basic requirement on an unpaved, permeable surface such as permeable pavement and an associated drainage system, such as modular porous pavers, Grass-Crete, and porous concrete. At the discretion of the planning director, some or all excess parking may be accommodated on a gravel surface.

Excess parking may be provided and constructed with asphalt or concrete pavement if grassy swales/buffer strips are provided to mitigate the storm water runoff of the impervious surfaces of the excess parking. For the purpose of excess parking, grassy swales/buffer strips shall be delineated on a site plan. Grassy swales/buffer strip areas will not be considered part of required interior landscape area and/or landscape edge.

4. **Landscaping Requirements**

The landscaping and tree preservation requirements of Article VI would provide a storm water management option for alternative placement of interior parking lot landscaping. Up to 50 percent of the required interior parking lot landscaping for nonresidential and multifamily development may be placed outside of the paved boundaries of the parking lot to provide areas for storm water conservation and/or grassy swales/buffer strips, detention ponds, bio-retention areas, or other structural storm water controls. The relocation of required landscape areas would not reduce the required number of trees or other improvements associated with required landscape areas. Required landscape areas, either within or outside of parking lot boundaries, may not be part of required usable open space for multifamily development.

Sec. 10-493. Site-Specific Storm Water Management Plan [RESERVE]

Sec. 10-494 – 499. Reserved

DIVISION C. Water Facilities

Sec. 10-500. Adequate Water Facilities

Water systems serving the subdivision or addition shall connect with the city's water supply and distribution system, and shall conform to the city's master water plan for water supply, treatment, and distribution. Water facilities shall be installed to serve adequately each lot and to grades and sized according to specifications herein contained or referenced.

Sec. 10-501. Design and Construction Requirements

Design of water systems must be in accordance with the Design Guidelines for Subdivision Improvements and 30 T.A.C. 290, Subchapter D, "Rules and Regulations for Public Water Systems," or successor. Materials and construction must conform to the Standard Specifications and Standard Construction Details of the City of Tyler. The water system must be in accordance with the city's master water plan.

Sec. 10-502. Fire Hydrants

Fire hydrants and valves are required for all subdivisions and additions and must be located to satisfy the requirements of the fire department. Fire hydrants shall be located in accordance with the Design Guidelines for Subdivision Improvements and 30 T.A.C. 290, Subchapter D, "Rules and Regulations for Public Water Systems," or successor and must be approved by the applicable fire protection unit. To eliminate future street openings, all underground utilities for fire hydrants, together with the fire hydrants themselves and all other supply improvements, must be installed before any final paving of a street shown on the subdivision plat. Reflective fire hydrant buttons must be installed in all streets at a point adjacent to fire hydrants. The buttons must conform to Water Utilities and Fire Department specifications. At corner locations, buttons must be installed in both streets.

Sec. 10-503 - 509. Reserved

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DIVISION D. Public and Private Utilities

Sec. 10-510. Easements

a. The property owner will be required to furnish all easements and rights-of-way required to serve the development. Where reasonable, utilities should be located within streets or alley rights-of-way. Notwithstanding the above, developers may offer easements outside of street and alley rights-of-way. All utility facilities existing and proposed throughout the property must be shown on the preliminary plat.

b. Easements shall be provided for both municipal and private utilities and must be recorded on the final plat or replat. Municipal easements for water and sanitary sewer shall be a minimum of ten feet in width. Storm sewer easements shall be a minimum of fifteen feet in width. All municipal easements may be wider as determined by the development services engineer depending on the depth and the size of the utility. Private utility easements must be sized by the utility company. Proper coordination shall be established between the property owner and the applicable utility companies for the establishment of utility easements on adjoining properties.

c. All water and sewer easements must be submitted in an acceptable form to the development services engineer.

Sec. 10-511. Damage

The contractor and owner shall be responsible for all damage to existing public improvements caused during construction of new public improvements.

Sec. 10-512. Underground Utilities

In new residential subdivisions, all utilities, including electrical distribution and communication, must be installed underground along streets and alleys, unless otherwise approved by the development services engineer. Electrical utility service to non-residential properties from overhead distribution lines must be placed underground from the right-of-way to the point of service, unless otherwise approved by the development services engineer. Developers are encouraged to install all utilities underground on each property in new subdivisions.

Sec. 10-513. Construction Permit & Inspection Procedures

It shall be the responsibility of the contractor to pay to the City of Tyler an amount of money specified in Article X., Division B., Fees, for Quality Control Testing as percentage of the cost of construction of a public street or streets prior to the beginning of construction. The cost of construction shall include, but not be limited to, the cost of the following items: clearing, excavation, embankment, subgrade preparation, base, surfacing, curb and gutter, valley gutters, retaining walls, water and sanitary sewer improvements, under-drains and storm sewer facilities.

Sec. 10-514. Standards and Specifications Incorporated by Reference

The following Design Standards and Specifications are incorporated by reference into this code:

a. Design Guidelines for Subdivision Improvements

b. Standard Construction Details

c. Texas Department of Transportation Standard Specifications for Construction of Highways, Streets and Bridges, or successor

d. Storm Drainage Design Standards

e. Master Water Plan

f. Master Sewer Plan

g. 30 T.A.C. 285 On Site Sewage Facilities (or its successor)

h. 30 T.A.C. 290, Subchapter D, "Rules and Regulations for Public Water Systems, or successor

i. 30 T.A.C. 317 "Design Criteria for Sewer Systems" (or its successor)

j. Standard Specifications for Water - Sanitary Sewer System Construction, City of Tyler

(Ord. No. 0-2000-11, 3-1-2000) (Ord. 0-2006-19, 2/8/06)

Sec. 10-515 - 519. Reserved.

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DIVISION E. Erosion and Sedimentation Control

Sec. 10-520. Findings of Fact and Purpose

When development or construction activities result in earth changes, soil erosion is likely to occur which will result in hazards to health and safety with damage to property under both normal rainfall events and/or heavy rainfall/flooding events, unless erosion and sedimentation control measures are implemented. (Ord. No. 0-99-19; 2/24/99)

The purpose of this division is to promote the public health, safety, and welfare and to minimize public and private losses due to erosion and sedimentation in all areas by provisions designed to:

a. Protect human life and health;

b. Minimize expenditure of public money for costly erosion control projects;

c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at public expense;

d. Minimize negative impacts to adjacent properties due to erosion and sedimentation and prevent water pollution;

e. Minimize prolonged business interruptions;

f. Minimize negative impact to public streets, storm sewer systems and drainage ways;

g. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges; and

h. Help maintain a stable tax base by providing for the sound use and development of property so as to minimize erosion. (Ord. No. 0-99-19; 2/24/99) (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-521. Reserved

Sec. 10-522. Methods of Reducing Erosion and Sedimentation Losses

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

a. Restricts or prohibits uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

b. Controls the alteration of natural floodplains, stream channels and natural protective barriers;

c. Controls filling, grading, dredging and other development which may increase erosion damage; and

d. Controls earth changes which may cause erosion and/or sedimentation damage. (Ord. No. 0-99-19; 2/24/99)

Sec. 10-523. Establishment of Clearing and Grading Permit

A clearing and grading permit is required to ensure conformance with the requirements of this Code prior to any agricultural timbering, predevelopment clearing, or depositing of fill on an undeveloped site. (Ord. No. 0-99-19; 2/24/99) (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-524. Compliance with Clearing and Grading Permit

No structure or land may be located, altered or have its use changed or earth changes made without full compliance with this division and other applicable regulations. (Ord. No. 0-99-19; 2/24/99) (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-525. Abrogation and Greater Restrictions; Interpretation

a. This division is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this division and another ordinance conflict or overlap, the more stringent restriction will prevail.

b. In the interpretation and application of this division, all provisions must be considered as minimum requirements, liberally construed in favor of the city, and deemed neither to limit nor repeal any other powers granted under state statute. (Ord. No. 0-99-19; 2/24/99)

Sec. 10-526. Erosion and Sediment Control Plan

The development service engineer is designated to administer and implement the provisions of this code. (Ord. No. 0-99-19; 2/24/99)

a. The Erosion and Sediment Control Plan shall comply with the requirements of the State of Texas TPDES Permit TXR 150000.

b. Design requirements shall comply with the requirements of the State of Texas TPDES Permit TXR 150000.

c. Inspections required and/or performed shall comply with the requirements of the State of Texas TPDES Permit TXR 150000. (Ord. No. 0-2011-45; 6/8/11) (Ord. No. 0-2016-76; 8/24/16)

Sec. 10-527. Clearing and Grading Permit Required

a. Applicability

Unless specifically exempted in writing, a clearing grading permit must be obtained from the city engineer or designee prior to commencement of any development, excavating, grading, regrading, landfilling, berming, paving, diking, clearing and grubbing, or other earth changes made to any property within the city. A separate permit is required for each separate, non-contiguous site or lot. (Ord. No. 0-99-19; 2/24/99)

b. Approval Criteria

The development services engineer will approve a clearing and grading permit if the application complies with section 10-529 and demonstrates the following conditions will be met:

1. The applicant must comply with Tree Preservation in accordance with Chapter 10, Article VI., Division A., Sections 10-301 through 10-304, as applicable.

2. No person shall be granted a permit for land-disturbing activity which would require grading without the approval of an Erosion and Sedimentation Control Plan by the City of Tyler.

3. Each application shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm, and shall be accompanied by a filing fee.

4. The City of Tyler will review each application for a permit to determine its conformance with the provisions of this local regulation. Within ten (10) working days after receiving an application, the City of Tyler shall, in writing:

   (a) Approve the application; or

   (b) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulations, and issue the permit subject to these conditions; or

   (c) Disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.

Failure of the City of Tyler to act on original or revised applications under this Section within thirty (30) calendar days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the City of Tyler. (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-528. Policies for Issuance

a. The issuance of a grading permit will be governed by these policies and those set forth in the Storm Drainage Design Standards.

b. Earth changes will be permitted which do not create a public hazard upon any property within the city through obstruction, impairment, sedimentation, blockage, or alteration of any natural or artificial drainage facility or which do not create an unlawful diversion under the Texas Water Code.

c. Earth changes will be permitted which do not channelize, obstruct, or otherwise change any drainage facility in a manner inconsistent with the Storm Drainage Design Standards, or requirements of the Federal Emergency Management Agency under the National Flood Insurance Program.

d. Earth changes will be permitted which will not unreasonably increase surface runoff. However, this Article does not preclude or prevent the use of regional or off-site stormwater detention or retention facilities provided that adequate facilities to convey increased rates of stormwater runoff to the regional or off-site detention or retention facility are provided. (Ord. No. 0-2011-45; 6/8/11)

e. All earth changes must be designed, constructed, and completed so as to minimize loss of soil from a construction area in accordance with the Storm Drainage Design Standards.

f. The requirements and conditions for a grading permit for any lot, parcel, or tract of land for which an erosion control plan, drainage plan or abbreviated drainage plan exists must incorporate the provisions of the drainage plan or abbreviated drainage plan. (Ord. No. 0-99-19; 2/24/99)

Sec. 10-529. Clearing and Grading Permit Requirements

A grading permit must consist of a Drainage Plan or Abbreviated Drainage Plan, and an Erosion Control Plan. The grading permit for any lot to be used for building construction may not be issued unless the plan has been reviewed and accepted by the City.

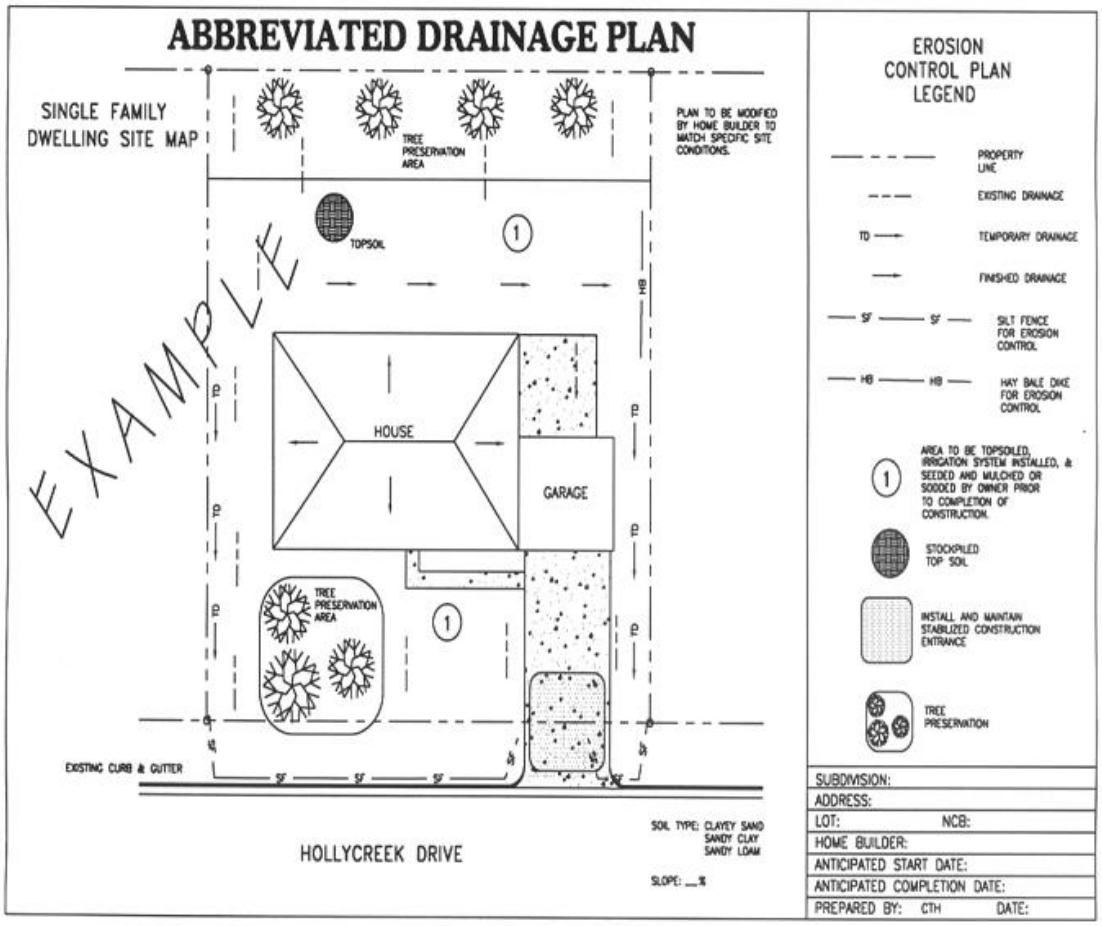
a. Drainage Plan Contents

A drainage plan must consist of engineering drawings, contour maps, erosion control plan and all supporting engineering calculations, as applicable to the land area covered by the plan, which are required to demonstrate substantial compliance with this chapter, the Design Guidelines for Subdivision Improvements, Best Management Practices of the U.S. Corp. of Engineers, Texas Council of Governments, or other best management practices acceptable to the City of Tyler.

b. Abbreviated Drainage Plans

Upon review of a grading permit application, the City will determine if an abbreviated drainage plan is necessary in order to meet the purposes of this article. If an abbreviated drainage plan is required, it must be submitted to and reviewed by the City prior to granting of the grading permit. Although the abbreviated drainage plan does not require the seal or signature of a registered professional engineer, it must be prepared according to the city format, as shown in the exhibit below. An abbreviated drainage plan will generally be sufficient for construction of single-family residences on subdivision lots. An erosion control plan is required. An abbreviated drainage plan is applicable to development sites of less than one acre, and for all single-family residential lots.

Abbreviated Drainage Plan



c. Drainage Plan Required

1. Upon review of an application for a grading permit, the City will determine if a drainage plan is necessary to meet the purposes of this chapter. A drainage plan is required. It shall be submitted to and reviewed by the city engineer prior to granting of the grading permit. Drainage plans are required on all development sites greater than 1-acre, except for single-family residential lots.

2. The drainage plan, but not the abbreviated drainage plan, must be prepared under the direct supervision of a registered professional engineer, licensed to practice in the state, according to a City format. Each plan submitted for final review and acceptance must bear the signature and seal of the submitting engineer under the following statement: "I hereby certify that I am familiar with the adopted codes, regulations, standards and policies of the City governing development, that these plans have been prepared under my supervision, and that this drainage plan complies with all governing codes and regulations to the best of my knowledge."

3. If the site in question lies outside an area of special flood hazard, the plans must bear the signature of the engineer or applicant under the following statement: "No part of this site lies within the established area of special flood hazard as established by the current flood insurance study of Flood Hazard Boundary Map." (Ord. No. 0-99-19; 2/24/99) (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-530. Exemptions

A grading permit is not required for the following:

a. Bona fide agricultural and farming operations requiring no other permit, with the exception of tree harvesting operations;

b. Customary and incidental routine grounds maintenance, landscaping, and home gardening which does not require platting, replatting, variance request, or building permit and which does not affect stormwater drainage on or through the site;

c. Emergency repairs of a temporary nature made on public or private property which are necessary for the preservation of life, health or property, and which are made under circumstances where it would be impossible or impracticable to obtain a grading permit. (Ord. No. 0-99-19; 2/24/99)

d. Clearing and grading on a lot for which a building permit has been approved.

e. Clearing and grading related to the installation of public improvements (utilities, streets and/or drainage) within dedicated right-of-way or easements. (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-531. Revocation or Suspension

A grading permit may be revoked or suspended by the development services engineer or construction board of adjustment and appeals. Written notice must be given to the permit holder stating the grounds for such action. A grading permit may be revoked or suspended upon one or more of the following:

a. Violation of any conditions of the permit and any associated drainage plan or abbreviated drainage plan after notification of non-compliance and failure to take remedial actions as outlined in these sections.

b. Violation of any applicable law, code, or regulation pertaining to the grading permit contained in this Article after written notification of non-compliance.

c. Existence of any condition or performance of any act constituting a hazard or endangering human life or property. (Ord. No. 0-99-19; 2/24/99)

Sec. 10-532. Compliance

a. Unless exempted under this chapter, it is unlawful to conduct any development, excavating, grading, regrading, excavating, landfilling, berming, paving, diking, clearing, and grubbing, or other earth changes either without a grading permit required under this article, or contrary to the terms of a grading permit issued under this article.

b. Upon revocation or suspension of a grading permit issued under this article, it shall be unlawful to continue to conduct any development, excavating, grading, regrading, landfilling, berming, paving, diking, clearing and grubbing, or other earth changes without having a valid grading permit in effect.

c. If it is determined that an individual is conducting activities without a grading permit required under this article, or upon revocation or suspension of a grading permit, the development services engineer may issue a stop-work order on all construction activity on the individual's property which may be directly or indirectly related to site drainage and which is being performed pursuant to any permits, licenses, franchises or contracts issued by the city. Such stop-work order may order a work stoppage on

all construction activity on buildings or structures and all appurtenances thereto, including building, electrical, plumbing, mechanical, street work, storm sewer, sanitary sewer, gas lines, and all utilities. Notices in writing and orders required by this division shall be considered effective if served upon the parties concerned either personally or by certified mail, addressed to the individual, contracting party, or permittee at the address given on the contract document or permit application filed with the city.

d. In addition to the enforcement and penalties provided for in this chapter, no certificate of occupancy for buildings or structures may be issued until the grading and drainage of the site has been constructed in accordance with the plan required by this division.

e. When a grading permit and drainage plan are required prior to issuance of a building permit, the structure for which the building permit is issued may not be used, occupied, or receive a certificate of occupancy unless the facilities as shown on the accepted drainage plan have been completed by the permit applicant or representative and reviewed and accepted by the city. Such acceptance will be made on the basis of certified as-built drawings prepared by a registered professional engineer. If the structure is in a designated special flood hazard area, it may not be used or occupied until an elevation certificate, properly completed, has been filed with the city.

f. Each day that a violation of this article shall continue, or be permitted to continue, will be deemed a separate offense. (Ord. No. 0-99-19; 2/24/99)

Sec. 10-533. - 536. Reserved.

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DIVISION F. Control of Post Construction Stormwater Runoff

Sec. 10-537. General Provisions

a. Findings of Fact

It is hereby determined that:

1. Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition;

2. This stormwater runoff contributes to increased quantities of water-borne pollutants, and Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

3. Therefore, the City of Tyler establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will help minimize threats to public health and safety.

b. Purpose

The purpose of this ordinance is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This ordinance seeks to meet that purpose through the following objectives:

1. Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;

2. Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality

3. Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable.

4. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

c. Applicability

This ordinance shall be applicable to all subdivision or site plan applications, unless eligible for an exemption or granted a waiver by the City of Tyler under the specifications of Sec 10-540 of this ordinance. The ordinance also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules.

To prevent the adverse impacts of stormwater runoff, the City of Tyler has developed a set of performance standards that must be met at new development sites. These standards apply to any construction activity disturbing 5,000 or more square feet of land. The following activities may be exempt from these stormwater performance criteria:

1. Any logging and agricultural activity which is consistent with an approved soil conservation plan or a timber management plan prepared or approved by the Development Services Department or designated agent, as applicable.

2. Additions or modifications to existing single family structures

3. Developments that do not disturb more than 5,000 square feet of land, provided they are not part of a larger common development plan;

4. Repairs to any stormwater treatment practice deemed necessary by the City of Tyler.

5. Any permit issued or construction activity legally begun on or any planned development site plan approved before the effective date of this ordinance.

d. Compatibility with Other Permit and Ordinance Requirements

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, stature, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

e. Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance.

f. Development of Stormwater Design Guidelines

The City of Tyler may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this ordinance and may provide such information in the Subdivision Design Guidelines. This manual will include a list of acceptable stormwater treatment practices, including the specific design criteria and operation and maintenance requirements for each stormwater practice.

The manual may be updated and expanded from time to time, at the discretion of the local review authority, based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards. (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-538. Definitions

"**Accelerated Erosion**" means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

"**Applicant**" means the owner of land proposed to be subdivided or its representative who must have express written authority to act on behalf of the owner. Consent is required from the legal owner of the premises.

"**Building**" means a combination of materials to form a construction that is safe and stable, and designed to be built for the support, enclosure, shelter or protection of persons, animals, cattle or property of any kind including, but not limited to, permanent or continuous occupancy for assembly, business, education, industrial, institutional, mercantile, residential or storage purposes. The term building shall be construed to include the term "structure," and as if followed by the words, "or portion thereof." When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.

"**Channel**" means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

"**Dedication**" means the deliberate appropriation of property by its owner for general public use.

"**UDC Dedication Plat**" means a plat prepared for the purpose of dedicating land or easements for rights-of-way to the City.

"**Detention**" means the temporary storage and controlled release of stormwater runoff.

"**Detention Facility**" means a facility that provides temporary storage of stormwater runoff and controlled release of this runoff.

"**Developer**" means a person, business, corporation, or association responsible for the development of a subdivision, addition, or other any other residential, commercial, industrial, or institutional properties. In most contexts the terms developer and property owner are used interchangeably in these regulations.

"**Drainage Easement**" means a parcel of land or portion thereof dedicated for passage of stormwater either overland or underground. No fences, alterations, improvements, or structures which hinder or impede the flow of stormwater must be constructed within such parcels or portions of parcels of land. The city may remove any encroachments within drainage easements which, in the opinion of the administrator, constitute a hindrance or obstruction to maintenance or the flow of stormwater.

"**Erosion and Sediment Control Plan**" means a set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and sequencing to be used controlling sediment and erosion on a development site before, during and after construction.

"**Fee in Lieu**" means a payment of money in place of meeting all or part of the storm water performance standards required by this ordinance.

"**Hotspot**" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

"**Hydrologic Soil Group (HSG)**" means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

"**Impervious Cover**" means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

"**Industrial Stormwater Permit**" means an National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

"**Infiltration**" means the process of percolating stormwater into the subsoil.

"**Infiltration Facility**" means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

"**Jurisdictional Wetland**" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

"**Land Disturbance Activity**" means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

"**Landowner**" means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

"**Maintenance Agreement**" means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

"**Nonpoint Source Pollution**" means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

"**Off-Site Facility**" means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

"**On-Site Facility**" means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.

"**Recharge**" means the replenishment of underground water reserves.

"**Stop Work Order**" means an order issued which requires that all construction activity on a site be stopped.

"**Storm Water Management**" means the use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

"**Storm Water Retrofit**" means a stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

"**Stormwater Runoff**" means flow on the surface of the ground, resulting from precipitation.

"**Watercourse**" means any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water. (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-539. Stormwater Management Plan Requirements

a. Stormwater Management Plan Required

The plans and documentation submitted for a Building Permit or Land Subdivision Construction Plans shall include the Stormwater Management Plan to be used on the project. No land owner, land operator, or contractor shall receive plan approval for a building permit, or a land development permit required for land disturbance activities without first meeting the requirements of this ordinance.

b. Stormwater Management Plan Requirements

The stormwater management plan shall be prepared to meet the requirements of Sec. 10-541 of this ordinance, and the maintenance agreement, if required, shall be prepared to meet the requirements of Sec. 10-545 of this ordinance. (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-540. Waivers to Stormwater Management Requirements

a. Waivers for Providing Stormwater Management

1. Every applicant shall provide for stormwater management as required by this ordinance, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the City of Tyler for approval. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

(a) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives found in Sec. 10-537. b. of this ordinance.

(b) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the City of Tyler and the implementation of the plan is required by local ordinance.

(c) Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.

(d) The City of Tyler finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.

(e) Non-structural practices will be used on the site that reduce
(i) the generation of stormwater from the site,
(ii) the size and cost of stormwater storage and
(iii) the pollutants generated at the site. These non-structural practices are explained in detail in the Subdivision Design Guidelines and the amount of credit available for using such practices shall be determined by the City of Tyler.

2. In instances where one of the conditions above applies, the City of Tyler may grant a waiver from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a variance, the applicant must demonstrate to the satisfaction of the City of Tyler that the variance will not result in the following impacts to downstream waterways:

(a) Deterioration of existing culverts, bridges, dams, and other structures;
(b) Degradation of biological functions or habitat;
(c) Accelerated streambank or streambed erosion or siltation;
(d) Increased threat of flood damage to public health, life, property.

3. Furthermore, where compliance with minimum requirements for stormwater management is waived, the applicant will satisfy the minimum requirements by meeting one of the mitigation measures selected by the City of Tyler. Mitigation measures may include, but are not limited to, the following:

(a) The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reforestation. These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat,

(b) The creation of a stormwater management facility or other drainage improvements on previously developed properties, public or private, that currently lack stormwater management facilities designed and constructed in accordance with the purposes and standards of this ordinance,

(c) Monetary contributions (Fee-in-Lieu) to fund stormwater management activities such as monitoring of stormwater management practices or funding capital improvement projects.

b. Fee in Lieu of Stormwater Management Practices

Where the City of Tyler waives all or part of the minimum stormwater management requirements, or where the waiver is based on the provision of adequate stormwater facilities provided downstream of the proposed development, the applicant shall be required to pay a fee in an amount as determined by the City of Tyler.

When an applicant obtains a waiver of the required stormwater management, the monetary contribution required shall be in accordance with a fee negotiated with and established by the City of Tyler, and based on the cubic feet of storage required for stormwater management of the development in question. All of the monetary contributions shall be credited to the City of Tyler stormwater utility fund, and shall be made by the developer prior to the issuance of any building permit for the development.

c. Dedication of land

In lieu of a monetary contribution, an applicant may obtain a waiver of the required stormwater management by entering into an agreement with the City of Tyler for the granting of an easement or the dedication of land by the applicant, to be used for the construction of an off-site stormwater management facility. The agreement shall be entered into by the applicant and the City of Tyler prior to the recording of plats or, if no record plat is required, prior to the issuance of the building permit. (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-541. General Performance Criteria for Stormwater Management

Unless judged by the City of Tyler to be exempt or granted a waiver, the following performance criteria shall be addressed for stormwater management at all sites:

a. Site designs should establish stormwater management practices to control the peak flow rates of stormwater discharge associated with specified design storms and reduce the generation of stormwater. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

b. All stormwater runoff generated from new development shall be treated to the maximum extent practicable by minimum best management practices (BMPs) before discharging directly into a jurisdictional wetland or local water body. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the City of Tyler. In no case shall the impact on functional values be any less than allowed by the Army Corp of Engineers (ACE) or the appropriate State Agency responsible for natural resources.

c. Groundwater recharge shall be encouraged, by promoting infiltration through the use of structural and non-structural methods.

d. To protect stream channels from degradation, a specific channel protection criteria shall be provided as prescribed in the current stormwater design manual.

e. Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

f. Certain industrial sites, as defined in the Texas Pollutant Discharge Elimination System (TPDES) general permit, are required to prepare and implement a stormwater pollution prevention plan, and shall file a notice of intent (NOI) under the provisions of the TPDES general permit. The stormwater pollution prevention plan requirement applies to both existing and new industrial sites.

g. Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as "hotspots", may require the use of specific structural STPs and pollution prevention practices.

h. Prior to design, applicants are required to consult with the City of Tyler to determine if they are subject to additional stormwater design requirements.

i. The calculations for determining peak flows as found in the Subdivision Design Guidelines shall be used for sizing all stormwater management practices. (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-542. Basic Stormwater Management Design Criteria

a. Minimum Best Management Practices

The Best Management Practices to be included in the Stormwater Management Plan are shown in Table 10-542 "Post Construction Best Management Practices". For each zoning class or land use designation, the minimum number and type of BMP required for the Stormwater Management Plan is shown.

Table 10-542. Post Construction Best Management Practices

	Allowed Best Management Practices	UDC Best Management Practices	Zoning/ Land Use Designation					
			Single Family/ Two Family Residential	Multi-Family Residential	Office	Commercial	Industrial	Institutional
			Minimum Number of BMPs required for each Zoning/ Land Use Designation					
			4	11	11	11	11	11
BMP TYPE	(Refer to BMP Chart Guidelines)		**"X" Denotes UDC Required BMPs** **"O" Denotes UDC pre-approved optional BMPs**					
SC-1	Rain Water Harvesting							
SC-2	Bioretention (Rain Garden)							
SC-3	Stormwater Planters/Planter Boxes							
SC-4	Downspout Drywell (Perforated Manhole)							
SC-5	Green Roof							
SC-6	Urban Forestry/ Preservation of existing tree canopy/Tree Planting							
SC-6A		Sec 10-295-Landscaping- (d.) Required tree plantings.		X	X	X	X	X
SC-6B		Sec 10-301-Trees-(f.)-Public Tree Care						
SC-6C		Sec 10-302-Pre-Development Tree Buffers are required.		X	X	X	X	X
SC-6D		Sec 10-303- Tree Preservation is required.		X	X	X	X	X
SC-6E		Sec 10-305-(c.) Residential tree plantings are required	X					
SC-6F		Sec 10-320- Post-Development Tree Bufferyards are required.		X	X	X	X	X

SC-7	Landscaping/Natural Landscaping							
SC-7A		Sec 10-295 Landscaping- (c.) Non-residential lots are required to have 15% landscaping (green area).		X	X	X		X
		Sec 10-295 Landscaping- (c.) Industrial lots are required to have 5% landscaping (green area).					X	
SC-7B		Sec 10-295 Landscaping- Residential Lots are required to have not more than 50% building coverage.	X					
SC-7C		Sec 10-296-Street Trees-Street parkways must be planted with grass, or groundcover.	X	X	X	X	X	X
SC-7D		Sec 10-296-Street Trees-Street trees are allowed in parkways.	O	O	O	O	O	O
SC-7E		Sec 10-297-Landscaping- (f.) Lot surfaces must have sod or ground cover.	X	X	X	X	X	X
SC-7F		Sec 10-298-Irrigation-Irrigation required.		X	X	X	X	X
SC-8	Xeriscaping							
SC-9	Soil Amendments/Alum Treatment							
SC-10	Green Parking							
SC-11	Porous Concrete/Asphalt							
SC-12	Modular Porous Paver System							
SC-13	Create Parking Lot Storm Water "Islands"							
SC-13A		Sec 10-299-Parking Lots- Landscaped islands are required in parking lots.		X	X	X	X	X

SC-14	Alternative Turnaround	Fire Department allows alternate Turn-Around Designs according to Appendix D of IFC.		O	O	O	O	O
TC-1	Dry Extended Detention Basin	Sec 10-473 Allows detention facilities.	O	O	O	O	O	O
TC-2	Multi-Purpose Detention Areas							
TC-3	Underground Detention							
TC-4	Underground Wet Vault							
TC-5	Wet Pond							
TC-6	Storm Water Wetland							
TC-7	Retention and Irrigation							
TC-8	Street Surface and Subsurface Storage							
TC-9	Infiltration Basin							
TC-10	Infiltration Trench							
TC-11	Open Sand Filters							
TC-12	Organic Filter							
TC-13	Underground Sand Filter							
TC-14	Soakage Trench (Variation of Infiltration Trench)							
TC-15	Semi-pervious Channel Paving							
TC-16	Interceptor Swales/Grass Channel/Vegetated Swale							
TC-17	Enhanced Swales							
TC-18	Grassed Filter Strips/Vegetated Buffer Strip							
TC-19	Open Conveyance Channel/Natural Drainage ways							
TC-20	Inlet Inserts							
TC-21	Water Quality Inlet - Gravity (Oil-Grit) Separator/Hydrodynamic Separator							
TC-22	Proprietary Structural Controls (Vortex hydrodynamic separators, catch basin media inserts)							
TC-23	Stream Restoration							
TC-24	Forest/Prairie/Meadow Restoration							

TC-25	Microbial Disinfection							
SD-1	Open Space Design/Cluster Development							
SD-2	Preserve Riparian Buffers / Use Buffers and Undisturbed Areas/Avoid Floodplains	Sec 10-472-(b.2) Dedication of floodplain as greenbelt is allowed.	O	O	O	O	O	O
		Sec 10-472-(c.1) Dedication of floodplain as reserved floodway easement is allowed.	O	O	O	O	O	O
		Sec 10-554 Floodplain Management						
SD-3	Preserve Undisturbed Natural Areas	Sec 10-472-(b.2) Dedication of floodplain as greenbelt is allowed.	O	O	O	O	O	O
		Sec 10-472-(c.1) Dedication of floodplain as reserved floodway easement is allowed.	O	O	O	O	O	O
SD-4	Fit Design to the Terrain	Sec 10-492 Low Impact Development allows alternate paving, storm water conservation easements, permeable pavements, and island placement adjustments.	O	O	O	O	O	O
SD-5	Locate Development in Less Sensitive Areas							
SD-6	Reduce Limits of Clearing and Grading							
SD-7	Minimize Siting on Porous or Erodible Soils							
SD-8	Avoid Steep Slopes / Use Retaining Walls							
SD-9	Reduce Setbacks and Frontages	Sec 10-490 Allows Low Impact Development.	O	O	O	O	O	O
SD-10	Dedication of Linear Park	Sec 10-472-(b.2) Dedication of floodplain as greenbelt is allowed.	O	O	O	O	O	O
		Sec 10-472-(c.1) Dedication of floodplain as reserved floodway easement is allowed.	O	O	O	O	O	O
SD-11	Conservation Easements							
SD-12	Consider Creative Design (LEED, Smart Growth)							

SD-14	Narrower Roadway ROW	Sec 10-155 Right of Way Width- Allows cul-de-sacs and local residential streets to have only 55' ROW. (Narrow right-of-way).	O					
SD-15	Narrower Residential Streets/Reduce Roadway lengths and widths	Sec 10-155 Street Construction- Allows cul-de-sacs and local residential streets to be only 28' F-F. (Narrow streets).	O					
SD-16	Eliminating Curbs and Gutters/Use Vegetated Swales	Sec 10-162 Curb and Gutter-Curb and gutter not required in a subdivision with all lots greater than 2 acres	O					
SD-17	Modify Driveway Standards/Alternative Driveway Surfaces/Shared Driveways	Sec 10-380- Surfacing-(c.) Maximum Parking Areas.		O	O	O	O	O
SD-18	Reduce the Parking Footprint/Shared Parking							
SD-18A		Sec 10-357-Parking Space Design- designs that minimize paved areas are allowed.		X	X	X	X	X
SD-18B		Sec 10-362- Shared parking arrangements-arrangements that minimize paved areas are allowed.		O	O	O	O	O
SD-20	Reduce Directly Connected Impervious Area/Drain Rooftop Runoff to Pervious Area							
SD-21	Reduce Building Footprints							
SD-22	Design of Fueling Areas							
SD-23	Design of Maintenance Bays and Docks							
SD-24	Design of Trash Storage Areas	Sec 10-340-Trash Enclosures are required.		X	X	X	X	X
SD-25	Design of Vehicle Washing Areas							
SD-26	Design of Outdoor Material Storage Areas							
SD-27	Design of Outdoor Work Areas							

SD-28	Design of Outdoor Processing Areas							

For stormwater management practices requiring run-off calculations, the designs will be based on the Subdivision Design Guidelines.

In addition, if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City of Tyler reserves the right to impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

For site design feasibility, conveyance issues, pretreatment requirements, treatment/geometry conditions or other design criterion, refer to the Subdivision Design Guidelines.

b. Maintenance Agreements

If used and required by the City, stormwater treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required to access and inspect the stormwater treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater treatment practice. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all stormwater treatment practices shall be secured prior to issuance of any permits for land disturbance activities.

c. Non-Structural Stormwater Practices

The use of non-structural stormwater treatment practices is encouraged in order to minimize the reliance on structural practices. These non-structural practices are explained in detail in the Subdivision Design Guidelines. (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-543. Requirements for Stormwater Management Plan Approval

a. Stormwater Management Plan Required for All Developments

No Building Permit application or Land Subdivision Construction Plans for development will be approved unless it includes a stormwater management plan outlining the Best Management Practices to be used This plan must be prepared by an a Professional Engineer licensed to practice in the State of Texas and must indicate whether stormwater will be managed on-site or off-site and, if on-site, the general location and type of practices. (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-544. Maintenance and Repair of Stormwater Facilities

a. Maintenance Easement

Prior to the issuance of any Certificate of Occupancy for a Building Permit that has a stormwater management facility as one of the requirements of the permit, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the City

of Tyler, or their contractor or agent. The agreement shall also provide for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. The easement agreement shall be recorded by the City of Tyler in the land records.

b. Maintenance Covenants

Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the City of Tyler and recorded into the land record prior to a Certificate of Occupancy for a Building Permit. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the stormwater management facility. The covenant shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts. The City of Tyler, in lieu of a maintenance covenant, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

c. Requirements for Maintenance Covenants

All stormwater management facilities must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this ordinance and accomplishment of its purposes. These needs may include; removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed in a timely manner, as determined by the City of Tyler, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the stormwater management facility.

d. Inspection of Stormwater Facilities

Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.

e. Right-of-Entry for Inspection

When any new stormwater management facility is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the property owner shall grant to the City of Tyler the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

f. Records of Installation and Maintenance Activities

Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least 5 years. These records shall be made available to the City of Tyler during inspection of the facility and at other reasonable times upon request.

g. Failure to Maintain Practices

If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the City of Tyler, after written notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City of Tyler shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have 15 days to effect maintenance and repair of the facility in an approved manner. After written notice, the City of Tyler may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property. (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-545. Enforcement and Penalties

a. Violations

Any development activity that is commenced or is conducted contrary to this Ordinance, may be restrained by injunction or otherwise abated in a manner provided by law.

b. Notice of Violation

When the City of Tyler determines that an activity is not being carried out in accordance with the requirements of this Ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

1. the name and address of the owner or applicant;
2. the address when available or a description of the building, structure or land upon which the violation is occurring;
3 a statement specifying the nature of the violation;
4 a description of the remedial measures necessary to bring the development activity into compliance with this Ordinance and a time schedule for the completion of such remedial action;
5 a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
6 a statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

c. Stop Work Orders

Persons receiving a notice of violation will be required to halt all construction activities. This "stop work order" will be in effect until the City of Tyler confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation within 30 days can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this ordinance.

d. Criminal Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Ordinance shall be punished by a fine up to $2,000.00 as provided for in Chapter 1 Article I Sections 1-4 of the Code or Ordinances.

e. Restoration of lands

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within 30 days after notice, the City of Tyler may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

f. Holds on Occupation Permits

Occupation permits will not be granted until corrections to all stormwater practices have been made and accepted by the City of Tyler. (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-546. - 549. Reserved.

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DIVISION G. Floodplain Regulations

Sec. 10-550. Statutory Authorization

a. The Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, Section 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of City of Tyler, Texas does ordain as follows:

Sec. 10-551. Findings of Fact

b. The flood hazard areas of the city are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare.

c. These flood losses are created by cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed, or otherwise protected from flood damage. (Ord. No. 0-98-91, 11/18/98)

Sec. 10-552. Statement of Purpose

It is the purpose of this Division to promote the public health, safety, and welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

a. Protect human life and health;

b. Minimize expenditure of public money for costly flood-control projects;

c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the public;

d. Minimize prolonged business interruptions;

e. Minimize negative impact to public streets, storm sewer systems and drainage ways;

f. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

g. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas so as to minimize future flood blight areas; and

h. Insure that information is available to potential buyers concerning property in a designated flood area. (Ord. No. 0-98-91, 11/18/98)

Sec. 10-553. Methods of Reducing Flood Losses

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

a. Restricts or prohibits uses that are dangerous to health, safety or property in times of flood or cause excessive increases in flood heights or velocities;

b. Requires that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

c. Controls the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of floodwaters;

d. Controls filling, grading, dredging and other development which may increase flood damage;

e. Prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands. (Ord. No. 0-98-91, 11/18/98)

Sec. 10-554. Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

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.

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.

Appurtenant Structure – means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

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

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

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

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 one percent chance of equaling or exceeding that level in any given year - also called the Base Flood.

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

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.

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.

Development - means any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

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.

Elevation Certificate – means a form provided by the Federal Emergency Management Agency for certification of flood damage prevention measures.

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

Existing Manufactured Home Park Or Subdivision - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion To An Existing Manufactured Home Park Or Subdivision - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood Or Flooding - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) the overflow of inland or tidal waters.
(2) the unusual and rapid accumulation or runoff of surface waters from any source.

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

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

Flood Insurance Study (FIS) – see Flood Elevation Study

Floodplain – means an area of land subject to inundation by a 100-year frequency flood, as shown on the flood plain map of the city.

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

Floodplain Management Regulations - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood-Prone Area - Any land area susceptible to being inundated by water from any source (see definition of flooding).

Flood Protection System - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. 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 – see Regulatory Floodway

Floodway Easement – means an easement within the flood plain as defined herein which includes a channel, plus any adjacent flood plain area that must be kept free of encroachment and obstruction in order that the one hundred year frequency flood may be conveyed without increasing the flood elevation at any point on the channel by more than one foot. For streams analyzed in detail in the Federal Flood Insurance Study, its floodways and subsequent letters of map amendment will be the criteria.

Floodway Fringe – means the portion of the area of special flood hazard not occupied by the floodway.

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 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.

Highest Adjacent Grade - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure - means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior or;

(b) Directly by the Secretary of the Interior in states without approved programs.

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.

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

Manufactured Home - 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".

Manufactured Home Park Or Subdivision - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

New Construction - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park Or Subdivision - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Recreational Vehicle - means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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 one foot.

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

Special Flood Hazard Area – see Area of Special Flood Hazard

Start Of Construction - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition 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 stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure – means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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 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 correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance – means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

Violation - means the failure of a structure or other development to be fully compliant with the community's floodplain 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 (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation - means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Sec. 10-555. Lands to Which this Division Applies

This Division shall apply to all areas of special flood hazard within the jurisdiction of the City of Tyler, Texas. (Ord. No. 0-2008-130, 9/24/08) (Ord. No. 0-2015-67; 6/24/15)

Sec. 10-556. Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency, in a scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Smith County, Texas and Incorporated Areas", dated April 16, 2014, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRMs and FBFMs) and any revisions thereto, are hereby adopted by reference and declared to be part of this ordinance. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2008-48; 4/23/08) (Ord. No. 0-2008-130; 9/24/08) (Ord. No. 0-2014-8; 1/22/14)

Sec. 10-557. Establishment of Floodplain Development Permit

A Floodplain Development Permit is required to ensure conformance with the provisions of this Division. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

Sec. 10-558. Compliance

No structure or land may be located, altered or have its use changed or earth changes made without full compliance with this article and other applicable regulations. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

Sec. 10-559. Abrogation and Greater Restrictions

a. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance conflict or overlap, the more stringent restriction shall prevail. (Ord. No. 0-2015-67; 6/24/15)

Sec. 10-560. Interpretations

In the interpretation and application of this ordinance, all provisions shall be considered as minimum requirements; liberally construed in favor of the City; and deemed neither to limit nor repeal any other powers granted under State statute. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

Sec. 10-561. Warning an Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On occasions, greater floods can and will occur, and flood heights may be increased by manmade or natural causes. This Division does not imply that land outside the areas of special hazards or uses permitted within such areas will be free from flooding or flood damages. This Division shall not create liability on the part of the City or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

Sec. 10-562. Designation of Floodplain Administrator

The Development Services Engineer is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations), or successor regulations, pertaining to floodplain management. (Ord. No. 0-98-91, 11/18/98; Ord. 0-2006-98, 11/21/06) (Ord. No. 0-2015-67; 6/24/15)

Sec. 10-563. Duties and Responsibilities of Floodplain Administrator

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

a. Maintain and hold open for public inspection all records pertaining to this ordinance.

b. Review permit applications to determine whether to assure that the proposed building site project, including the pacement of manufactured homes will be reasonably safe from flooding.

c. Review, approve or deny all appications for development permits required by adoption of this Division.

d. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344), or successor statutes, from which prior approval is required.

e. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the floodplain administrator shall make the necessary interpretation based on information supplied by applicant.

f. Notify, in riverine situations, adjacent communities and the state coordinating agency, currently the Texas Water Development Board (TWDB) and the Texas Commission on Environmental Quality (TCEQ) or successor, prior to any alteration or relocation

of a watercourse and submitting evidence of such notification to the Federal Emergency Management Agency.

g. Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

h. When base flood elevation data have not been provided in accordance with Sec. 10-556 the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source in order to administer the provisions of Secs. 10-566 through 10-573.

i. Under the provisions of 44 CFR Chapter 1, Section 65.12 of the National Flood Insurance Program regulations or successor, a community may approve certain development in Zones A1-30, AE, and AH on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all of the provisions required by Section 65.12 or successor. (Ord. No. 0-98-91, 11/18/98; 0-2006-98, 11/21/06) (Ord. No. 0-2008-48; 4/23/08) (Ord. No. 0-2008-130; 9/24/08)

j. When regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 and AE on the City's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. (Ord. No. 0-98-91, 11/18/98; 0-2006-98, 11/21/06) (Ord. No. 0-2015-67; 6/24/15)

Sec. 10-564. Permit Procedures

a. Application for a development permit shall be presented to the floodplain administrator on city forms and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alternations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

2. Elevation, in relation to mean sea level, to which any nonresidential structures shall be flood proofed;

3. A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of Sec. 10-567.b.

4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and

5. Maintain a record of all such information in accordance with Sec.10-563.a. (Ord. No. 0-2015-67; 6/24/15)

b. Approval or denial of a Floodplain development permit by the Floodplain

Administrator shall be based on this ordinance and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;

2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

3. The danger that materials may be swept onto other lands to the injury of others;

4. The compatibility of the proposed use with existing and anticipated development;

5. The safety of access to the property in times of flood for ordinary and emergency vehicles;

6. The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges and public utilities and facilities such as sewer, gas, electrical and water systems;

7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and effects of wave action, if applicable, expected at the site;

8. The necessity to the facility of a waterfront location where applicable;

9. The availability of alternative locations, not subject to flooding or erosion damange, for the proposed use;

10. The relationship of the proposed use to the comprehensive plan for that area. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

Sec. 10-565. Variance Procedures

a. The Construction Board of Adjustment and Appeals (the Board) shall hear and render judgment of requests for variances from the requirements of this division.

b. The board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this ordinance.

c. Any person(s) aggrieved by the decision of the Board may appeal such decision to a court of competent jurisdiction.

d. The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

e. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Division.

f. Variances may be issued for new construction and substantial improvements to be erected on a lot on one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant

factors in Sec. 10-564.b have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

g. Upon consideration of the factors noted above and the intent of this ordinance, the board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance as set forth in Sec.10-552.

h. Variances may not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

i. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure. Also, any repair or rehabilitation to a structure that has been designated as a Tyler Historic Landmark must comply with any applicable Certificate of Appropriateness or other applicable requirements in the historic preservation regulations in Article XI. of this Code.

j. Prerequisites for granting variances:

1. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
2. Variances may only be issued upon (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing ordinances.
3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

k. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

1. The criteria outlined in Sec. 10-565 a. through i. are met; and
2. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

Sec. 10-566. General Standards for Flood Hazard Reduction

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

a. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

c. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

d. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding;

e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

f. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and

g. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. No. 0-98-91, 11/18/98)

Sec. 10-567. Specific Standards for Flood Hazard Reduction

In all areas of special flood hazards where base flood elevation data have been provided as set forth in sections 10-556 10-563.h, and 10-566 the following are required:

a. Residential construction

New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to one foot above the base flood elevation. A registered professional engineer or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection is satisfied and that the standard of this subsection as proposed in Sec. 10-564.a. is satisfied. (Ord. No. 0-2015-67; 6/24/15)

b. Nonresidential construction

New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review design, specifications, and plans for the construction and shall certify that the design and methods of construction are in accordance with this subsection. A record of such certification, which includes the specific elevation in relation to mean sea level to which such structures are flood proofed, shall be maintained by the floodplain administrator.

c. Enclosures

New construction and substantial improvements with fully enclosed areas below the floor that are subject to flooding shall be designed to equalize automatically the hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

1. A minimum of two openings, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, shall be provided.
2. The bottoms of all openings shall be no higher than one foot above grade.

3. Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit automatic entry and exit of floodwaters.

d. Manufactured homes

1. All manufactured homes to be placed within Zone A shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

2. Require that manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE on the City's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. (Ord. No. 0-2015-67; 6/24/15)

3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the City's FIRM that are not subject to paragraph d.1. and d.2. of this section be elevated so that either:

   (a) the lowest floor of the manufactured home is at or above the base flood elevation; or

   (b) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. (Ord. No. 0-2015-67; 6/24/15)

e. Recreational Vehicles

1. Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

   (a) be on the site for fewer than 180 consecutive days,

   (b) be fully licensed and ready for highway use, or

   (c) meet the permit requirements of Section 10-564.a. and the elevation and anchoring requirements for "manufactured homes" in subsection (d) of this section. (Ord. No. 0-2015-67; 6/24/15)

2. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions. (Ord. No. 0-98-91, 11/18/98)

Sec. 10-568. Standards for Subdivision Proposals

a. All subdivision proposals including manufactured home parks and subdivisions shall be consistent with Secs. 10-551, 10-552, and 10-553 of this Division.

b. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Secs. 10-557, 10-564, and 10-566 through 10-573 of this Division.

c. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 30 lots or three acres, whichever is lesser, if not otherwise provided pursuant to Secs. 10-556 or 10-563.h. of this Division.

d. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

e. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewers, gas, electrical and water systems located and constructed to minimize or eliminate flood damage. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

Sec. 10-569. Floodways

Floodways located within areas of special flood hazard established in Sec. 10-556 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following shall apply:

a. Encroachments are prohibited, including fill, new construction, substantial improvements, and other developments unless certification by a professional registered engineer or architect is provided demonstrating that encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. (Ord. No. 0-2015-67; 6/24/15)

b. If paragraph a. above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Secs. 10-564 through 10-566. (Ord. No. 0-98-91, 11/18/98) (Ord. No. 0-2015-67; 6/24/15)

c. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, the City may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the City first completes all of the provisions required by Section 65.12. (Ord. No. 0-2015-67; 6/24/15)

Sec. 10-570. City's Participation in Flood Control

a. The city's participation in controlling flooding and erosion within creeks and drainage courses is hereby established as follows:

1. Creek clearing and cleaning: If the city deems a project practical, economical and in the best interest, the city shall provide the equipment and labor for clearing, dredging and

hauling materials such as brush, trees and other rubbish and debris from the creek bottom. This will be done at no expense to the property owners.

2. Drainage improvement project initiations:

   (a) The city, upon petition of a majority of the involved property owners and approval of the project, may survey, design, and provide for construction of improvements to the drainage course in accordance with established city criteria.

   (b) A work order for construction of improvements may be issued after completion of arrangements for the financing of this project.

   (c) Upon agreement by 100 percent of the involved property owners, completion of the following shall be considered adequate: Execution of mechanic's lien contracts by all participants to secure payment of the property owners' share or payment in advance of the property owners' entire share.

   (d) Upon agreement of less than 100 percent of the property owners, the city council may, if it deems the project in the public interest, proceed to convene a public hearing and establish assessments in accordance with state law against the property improved by the project.

b. Cost Distribution

1. Contract jobs. A portion of the costs of said improvements will be assessed to abutting property owners on the following basis:

   (a) When the creek is on common lot line:

      (1) Property owners shall be responsible for payment of a maximum one-third of the cost of improvements abutting the property.

      (2) The city shall be responsible for the cost of the balance of the contract.

   (b) When the creek lies across single property:

      (1) If the city determines that said improvements would allow subdivision of the property into two or more lots, each capable of separate development, the property owners shall be responsible for payment of a maximum of two-thirds of the cost of improvements.

      (2) If the city determines that the improvements serve only to join inaccessible portions to the remainder of the lot, the property owner shall be responsible for a maximum of one-half of the cost of improvements.

2. Project in which work is done by city crews. The following are examples of methods of allocating participation in drainage improvements which are constructed in whole or in part by City crews. The following list illustrates common means of sharing participation which result in cost distributions very near that expressed in the policy for contract jobs in subsection B.1.b(1) above. It is not intended to preclude other types of participation where special conditions warrant. The city council will determine on a case-by-case basis whether such allocations of cost or effort are appropriate:

   (a) The city provides equipment and labor, while the property owner pays for the concrete necessary to cover the bottom of an improved creek channel.

(b) The property owner pays for and constructs the sidewalls of the channel, while the city provides labor, equipment and pays for materials to be placed in the bottom of the channel.

(c) The city provides equipment and labor for the installation of pipe. The cost of the pipe is charged back to the adjacent property owners.

3. If the property owner wishes to participate in a project in which costs are allocated in accordance with subsection B.1.b(2) above, the following apply:

   (a) The property owner shall make written request to the city engineer for a study prior to securing materials.

   (b) Upon approval of the project, the property owner will be notified as to scheduling of work.

   (c) Material furnished must be approved by the city engineer, delivered to the job site, and the city notified of such delivery before the date agreed upon for beginning work. In the event of any delay in the receipt of materials, the city must be notified so that the project may be rescheduled. Failure to supply materials properly or notify the city may result in the project being bypassed or deleted altogether.

4. Unless other financial arrangements are approved by the city council, the property owners' pro rata cost for improvements may be payable to the city in five successive annual payments, the first being due upon notice by the city of acceptance of the work.

5. A time differential charge of eight percent annual interest on the unpaid balance shall be added to any installment contract pursuant to this ordinance.

c. Easements

No work of any nature shall be performed until written drainage easements, approved by the Legal Department, are granted to the City. When easements are provided at no cost, that contribution may offset the assessments described above.

d. Materials and Workmanship

All work shall be in accordance with city plans and specifications.

e. Limitations

1. It is the intent of this policy to provide relief from flooding, erosion and health hazards beyond the scope of normal homeowner maintenance to developed residential properties.

2. Nothing in this policy shall be construed as authorizing city participation in the development of private property for resale or the improvement of commercial property.

3. The City reserves the right to refuse to participate in any project deemed to be impractical, uneconomical, or otherwise not in the city's best interest.

4. The city reserves the right to establish priorities for rescheduling work to be done. (Ord. No. 0-98-91, 11/18/98)

Sec. 10-571 Severability

If any section, clause, sentence, or phrase of this Division is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Division. (Ord. No. 0-2015-67; 6/24/15)

Sec. 10-572 Penalties for Non Compliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this court order and other applicable regulations. Violation of the provisions of this court order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Tyler from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. No. 0-2015-67; 6/24/15)

Sec. 10-573 - 579. Reserved.

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DIVISION A. General/Common Procedures

Sec. 10-580. Form of Application

Applications required under this development code must be submitted in a form and in such numbers as required by the official responsible for accepting the application. That official must develop checklists of application submittal requirements and make those checklists available to the public.

Sec. 10-581. Preapplication Consultations

a. Preapplication consultations are encouraged in all cases.

b. Preapplication consultations may be scheduled with the planning department staff and should occur at least 48 hours before submitting an application.

Sec. 10-582. Application Processing Cycles

Officials responsible for accepting applications may, after consulting with review and decision-making bodies, promulgate processing cycles for applications. Processing cycles may establish:

a. Deadlines for receipt of complete applications;

b. Dates of regular meetings;

c. The scheduling of staff reviews and staff reports on complete applications; and

d. Time frames for review and decision-making.

Sec. 10-583. Application Filing Fees

Applications must be accompanied by the fee amount that has been established by the city council. Fees are not required with applications initiated by the city council, planning and zoning commission, or planning director. Application fees are nonrefundable after an application has been deemed complete.

Sec. 10-584. Application Completeness, Accuracy, and Sufficiency

a. An application will be considered complete and ready for processing only if it is submitted in the required number and form, includes all required information, and is accompanied by the required filing fee.

b. The official responsible for accepting an application must make a determination of application completeness within seven days of the application filing.

c. If an application is determined to be incomplete, the official responsible must provide paper or electronic notice to the applicant, along with an explanation of the application's deficiencies. No further processing of the application will occur until the deficiencies are corrected. If they are not corrected within 10 days from time of notice of deficiency, the application will be considered incomplete and returned. When the deficiencies are corrected, the application will be placed in the next available processing cycle.

d. Applications deemed complete will be reviewed by staff and other review and decision-making bodies in accordance with all review and approval procedures of this development code.

Sec. 10-585. Public Hearings

a. Parties in interest and citizens must be given proper notice of an opportunity to appear and be heard at required public hearings, subject to reasonable rules of procedure.

b. A public hearing may be continued to a later date without providing additional notice as long as the continuance is set for specified date and time that is announced at the time of the continuance.

c. If a public hearing is tabled or deferred for an indefinite period of time or postponed more than three months from the date of the originally scheduled public hearing, new public notice must be given before the rescheduled public hearing.

Sec. 10-586. Public Hearing Notices

a. Notice Required

The individual procedures of this division specify the types of public hearing notice required.

1. Newspaper Notice

When newspaper notice is required, it must be published in a newspaper of general circulation within Tyler at least 15 days prior to the public hearing. Whenever a procedure requires multiple hearings—one before the planning and zoning commission and one before the city council, for example—a single notice or separate notices for each hearing may be provided.

2. Mailed Notice

Not less than 15 days before the date set for the public hearing, mailed notices must be sent by first class U.S. mail to all owners of real property subject to the action and to all owners of real property situated within 200 feet of the property on which the proposed action would occur as recorded on the current Smith County Appraisal District tax roll. The notification by mail of owners of property in the ETJ whose property is within 200 feet of the proposed action is provided as a courtesy to such owners and should not be construed as conferring standing to protest such action.

3. Posted Notice

Posted notice should be at least ten days prior to the date of the first public hearing, before the planning and zoning commission, the applicant must post one or more signs on the property under consideration announcing the proposed action. The applicant must make every effort to ensure that the sign is posted in a conspicuous place on the property where the action is pending and must be visible from the street. The applicant must place a $20 deposit with the City of Tyler, refundable upon sign return.

b. Content of Notice

All public hearing notices must:

1. Indicate the date, time, and place of the public hearing or date of action that is the subject of the notice;
2. Describe the property involved in the application by street address or by general description;
3. Describe the general nature, scope, and purpose of the application or proposal; and
4. Indicate where additional information on the matter can be obtained.

5. The applicant may submit additional information to the planning department in support of its application that will be include in whole or in part in any mailed, published, or posted notices.

Sec. 10-587. Burden of Proof or Persuasion

In all cases, the burden is on the applicant to show that an application complies with review or approval criteria.

Sec. 10-588. Conditions of Approval

When a review body or decision-making body recommends the approval of an application with conditions, the conditions must relate to a situation created or aggravated by the proposed use or development and must be roughly proportional to the impacts of the use or development.

Sec. 10-589. Vested Rights

All matters concerning vesting of property rights in the City of Tyler are governed by Texas Local Government Code Chapter 245. Issuance of Local Permits.

Sec. 10-590. Review Authority

This section establishes review authority under this Unified Development Code. Specific requirements for each type of application or permit are contained within this code. The following table summarizes the decision-making authority of each review body.

Table 10-590 Summary of Review Authority

Application Or Permit	Flood Plain Administrator	Building Official	Development Services Engineer / Traffic Engineer	Planning Director	Historic Preservation Com-mission	Construction Board of Adjustment & Appeals	Zoning Board of Adjustment (ZBA)	Planning Commission	City Council	Division
Building Official										
Sign Permit		R/D							A*	Article IX., Div. D
City Council										
Annexation				R				{R}	{D}	Article X., Div. A
Broadcasting/Comm. Towers (SUP)				R				{R}	{D}/{A}	Article III., Div. C
Certificate of Appropriateness				R	R				{D}	Article XI., Div. B
Designation of Historic Landmark				R	R				{D}	Article XI., Div. A
Master Street Plan Amendment				R				{R}	{D}/{A}	Article V., Div. A
Special Use Permit				R				{R}	{D}/{A}	Article IX., Div. A
Tax Abatement for Historic Landmark				R	R				{D}	Article XI., Div. C
UDC Text Amendment				R				{R}	{D}	Article VIII., Div. B
Thoroughfare Closure/Street Name Change				R				{R}	{D}	Article V., Div. F
Zoning Map Amendment (Rezoning)				R				{R}	{D}	Article VIII., Div. C
Development Services Engineer										
Grading Permit			R/D			{A}				Article IX., Div. C
Sidewalk License			R/D						{A}*	Article V., Div. E
Development Services Engineer/Traffic Engineer										
Private Driveway Permit/Variance/Appe als			R/D						{A}*	Article V., Div. D
R = Review or Recommendation D = Decision A = Appeal { } = Decision following a Public Hearing										

Application Or Permit	Flood Plain Administrator	Building Official	Development Services Engineer / Traffic Engineer	Planning Director	Historic Preservation Com-mission	Construction Board of Adjustment & Appeals	Zoning Board of Adjustment (ZBA)	Planning Commission	City Council	Division
*Except as noted in the relevant Ordinance Section										
Flood Plain Administrator										
Flooding & Flood Damage Development Permit	R/D					{A}				Article VII., Div. F
Planning Director Action										
Appeal of Off-Street Parking/Loading				R/D			{A}			Article IV., Div. A
Broadcasting/Comm. Towers (SUP) (Change or Alteration)				R/D				{A}	{A}	Article III., Div. C
Minor Administrative Plat				R/D				{A}	{A}	Article VII., Div. D
Outdoor Transient Vendor				R/D			{A}			Article VIII., Div. E
Sexually Oriented Business License				R/D			{A}			Article III., Div. C
Temporary Use Permit				R/D			{A}			Article IX., Div. B
Waiver of Development Exactions/Plat				R/D					{A}	Article IV., Div. A
Planning and Zoning Commission										
Final Plat				R				{D}	{A}	Article VIII., Div. D
Preliminary Plat				R				{D}	{A}	Article VIII., Div. D
Zoning Board of Adjustment Action										
Appeal of Administrative Decision				R/D			{A}			Article VIII., Div. G
Special Exceptions (Zoning)				R			{D}			Article X., Div. A
Variance to Zoning				R			{D}			Article VIII., Div. F
R = Review or Recommendation D = Decision A = Appeal { } = Decision following a Public Hearing *Except as noted in the relevant Ordinance Section										

(Ord. No. 0-2014-97; 10/22/14)

Sec. 10-591 – 599. Reserved

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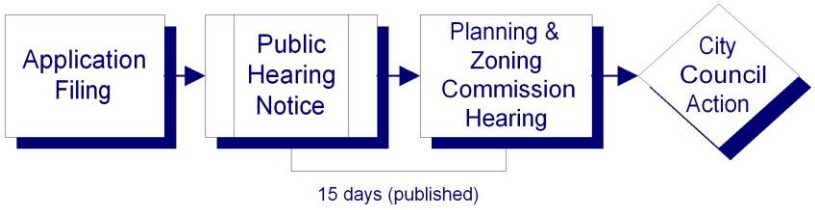
DIVISION B. Development Code Text Amendments



Sec. 10-600. Authority to File

Applications to amend the text of this development code may be initiated by the city council, planning and zoning commission, or the planning director.

Sec. 10-601. Notice of Hearing

Notice of any proposed amendment to the text of this development code must comply with the public hearing requirements in accordance with Article VIII, Division A, above. When any such amendment relates to a change of a zoning regulation not affecting specific property, notice of the public hearing of the city council must be given by publication in a newspaper of general circulation in the City of Tyler at least 15 days prior to the public hearing. Such notice must state the time and place of such hearing and the nature of the subject to be considered. Mailed notification of property owners is not required in such instances where the change of a zoning regulation does not affect a specific property.

Sec. 10-602. Review and Report—Planning Director

The planning director must prepare a report that evaluates the proposed development code text amendment in light of adopted plans, the relevant provisions of this development code and the review criteria of Sec. 10-605.

Sec. 10-603. Hearing and Recommendation—Planning and Zoning Commission

The planning and zoning commission must hold a public hearing on each proposed text amendment. The commission may act by simple majority vote to recommend that the proposed text amendment be approved, approved with modifications, or denied. If the commission does not act on a proposed text amendment within 60 days of the date of the public hearing, the proposed text amendment must be forwarded to the city council with no recommendation.

Sec. 10-604. Hearing and Final Action—City Council

a. Following a hearing and recommendation by the planning and zoning commission, the city council may convene its own public hearing on the proposed text amendment.

b. The city council may act by simple majority vote to approve the proposed text amendment, approve it with modifications, or deny the amendment. The city council may also return the application to the planning and zoning commission for further consideration, together with a written explanation of the reasons for doing so.

Sec. 10-605. Review Criteria

In reviewing and making decisions on text amendments, review and decision-making bodies must consider at least the following factors:

a. whether the proposed text amendment corrects an error or inconsistency in the development code or meets the challenge of a changing condition; and

b. whether the proposed text amendment is consistent with adopted plans and the stated purpose of this development code.

Sec. 10-606 – 609. Reserved

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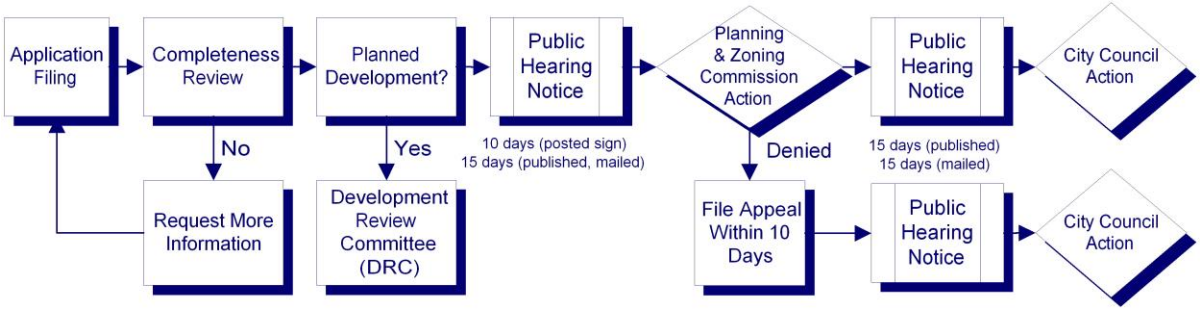
DIVISION C. Zoning Map Amendments (Rezoning)



Sec. 10-610. Authority to File

An application to amend the zoning map may be initiated by any person or corporation having a proprietary interest in any real property located within the city. Zoning map amendments may also be initiated by the city council, without prejudice.

Sec. 10-611. Applications for Planned District Rezonings

a. Applicants for rezonings to planned districts must prepare and submit a site development plan at the time of application filing (O-2003-38, 7-23-03)

b. The planning director may defer at the submittal of the application the requirements for a site development plan if the director determines that site development plan is not necessary for adequate review of the requested planned district.

c. No building permits may be issued for any portion of a planned district until the city council, upon recommendation of the planning and zoning commission approves a site development plan for the subject property or a written narrative specifying the development regulations. (Ord. No. 0-2013-16; 2/27/13)

d. Subject to the provisions of this Article, an occupancy or use legally established in a planned district, including an occupancy or use approved pursuant to an approved site development plan, shall continue to conform to the requirements of such district or such plan, as well as any conditions or restrictions placed on the property by the Planning and Zoning Commission and City Council. The adoption of any provisions in this Unified Development Code or any amendments thereto that results in an expansion or addition of permissible uses generally allowed within a planned district shall not serve to expand the uses of, nor shall it alter or change the original restrictions or requirements placed upon, any specific properties previously approved as a planned district, including those adopted pursuant to a previous site development plan. Subject to the provisions of this Article, any proposed change in the use of property previously approved in a planned district, or any proposed addition or change to a previously approved site development plan for property within a planned district, shall require adoption of a separate ordinance approved by the City Council.

Sec. 10-612. Notice of Hearing

Public notice of zoning map amendment applications must be provided in accordance with Sec. 10-586 in addition to the following requirements:

a. A sign posted on a property announcing the proposed zoning map amendment (rezoning) must indicate the current zoning status of the property, the requested zone change, and date of meeting.

b. When any such amendment relates to a change of a zoning regulation not affecting specific property, notice of the public hearing of the city council must be given by publication in a newspaper of general circulation in the City of Tyler at least 15 days prior to the public hearing. Such notice must state the time and place of such hearing and the nature of the subject to be considered. Mailed notification of property owners is not required in such instances where the change of a zoning regulation does not affect a specific property.

Sec. 10-613. Review and Report—Planning Director

The planning and zoning director must prepare a report that evaluates the proposed zoning map amendment in light of adopted plans, the relevant provisions of this development code and the review criteria of Sec.10-617.

Sec. 10-614. Hearing and Recommendation—Planning and Zoning Commission

The planning and zoning commission must hold a public hearing on a proposed zoning map amendment. The commission may act by simple majority vote to recommend that the proposed zoning map amendment be approved, approved with modifications, or denied. If the commission does not act on a proposed zoning map amendment within 60 days of the date of the public hearing, the proposed zoning map amendment must be forwarded to the city council with no recommendation.

Sec. 10-615. Appeals

If the planning and zoning commission decides not to recommend approval of the proposed zoning map amendment, the applicant or proponents of such zone map amendment may, within 10 calendar days of the commission meeting, file a written appeal during normal business hours with the planning department requesting council consideration of their request. (Ord. 0-2003-38, 7/23/03)

Sec. 10-616. Council Action

a. Following a public hearing and recommendation by the planning and zoning commission, the city council may convene its own public hearing on the proposed zoning map amendment.

b. Except in the case of written protest, the city council may act by simple majority vote to approve the proposed zoning map amendment, approve it with modifications, or deny the amendment. The city council may also return the application to the commission for further consideration, together with a written explanation of the reasons for doing so.

c. In the case of a written protest against a proposed zoning map amendment that would affect property owners within the City of Tyler, signed by the owners of at least 20 percent of either 1) the total area of the lots or land included in such proposed change; or 2) the area of the lots or land immediately adjoining proposed change and 200 feet there from, and located with the Tyler city limits, such amendment will not become effective except by the favorable vote of three-fourths of all of the members of the city council.

Sec. 10-617. Review and Approval Criteria

The city council will consider the following approval criteria for zoning changes:

a. The application is complete and the information contained within the application is sufficient and correct enough to allow adequate review and final action;

b. The zoning change is consistent with the Tyler 1st Comprehensive Plan;

c. The zoning change promotes the health, safety, or general welfare of the city and the safe, orderly, and healthful development of the city;

d. The zoning change is compatible with the present zoning and/or conforming uses of nearby property and with the character of the neighborhood; and

e. The property to be rezoned is suitable for uses permitted by the District that would be applied by the proposed amendment.

Sec. 10-618. Review and Approval Criteria for Planned District Rezoning

In addition to the zoning change criteria above, the city council will consider the following specific objectives and criteria for approving any type of planned district currently permitted in this code.

a. A variety of housing types, employment opportunities, or commercial services to achieve a balanced community;

b. An orderly and creative arrangement of all land uses with respect to each other and to the entire community;

c. A planned and integrated comprehensive transportation system providing for a separation of pedestrian and vehicular traffic, to include facilities such as roadways, bicycle ways and pedestrian walkways;

d. The provisions of cultural or recreational facilities for all segments of the community;

e. The location of general building envelopes to take maximum advantage of the natural and manmade environment; and

f. The staging of development in a manner which can be accommodated by the timely provision of public utilities, facilities, and services.

Sec. 10-619. Reconsideration

Should the decision of the planning and zoning commission not be appealed to the city council, or should the city council fail to pass an ordinance approving the rezoning, a new application for the same zoning may not again be considered for six months from the date that it was disapproved or withdrawn. Any new application for rezoning will be regarded as if the applicant had never filed a previous application.

Sec. 10-620. Amendment of Site Development Plans

In the case of a planned district rezoning, after the site development plan has been approved and the zoning change made, adjustments or rearrangement of buildings, parking areas, entrances, heights, setbacks, or open spaces requested in writing by the developers, may be approved by the planning director if the changes conform to the standards established by the site development plan. (ORD. 0-97-62, 12/10/97)

Sec. 10-621 – 629. Reserved

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DIVISION. D. Subdivisions

Sec. 10-630. General

a. Applicability; Classification of Subdivisions

Except as otherwise provided these regulations apply to all subdivisions of land located within both the city limits and its extraterritorial jurisdiction. Before any land is platted, the property owner must apply for and secure approval of the proposed subdivision plat or addition plat in accordance with the procedures of this division. Subdivisions are classified as major or minor, depending on the number of lots proposed and the extent of public improvements required.

1. **Minor subdivisions**
   A minor subdivision is the creation of four or fewer lots and does not require the creation of a new street or the extension of municipal facilities. A minor subdivision may be approved for residential and non-residential properties. Minor plat approval requires the submission of a final plat as described under Sec.10-635.

2. **Major subdivisions**
   A major subdivision involves the creation of more than four lots, as well as new streets or the extension of municipal facilities. Major subdivisions may be approved for residential and non-residential properties.

b. Exceptions

The following types of subdivision do not require approval by the city. However, the city may not extend utilities, provide access to public roads, or issue building permits for the development of any property which has not received final plat approval, except as otherwise provided by this development code.

1. The division of land into two or more parts where all parts are larger than five acres, where each part has access, and where no new building or improvement is proposed and no required public improvement is to be dedicated.
2. The creation of a remainder of a tract caused by the platting of a portion of the tract provided the remainder is larger than 20 acres.
3. The creation of a leasehold for agricultural use of the property, provided that the use does not involve the construction of one or more buildings to be used as a residence or for any purpose not directly related to agricultural use of the land or crops or livestock raised thereon.
4. The division of property through inheritance, the probate of an estate, or by a court of law.

c. Official Submission Date for Items Requiring Commission and Staff Approval

1. An application will be considered complete and ready for processing only if it is submitted in the required number and form, includes all required information, and is accompanied by the required filing fee.
2. The official responsible for accepting an application must make a determination of application completeness within seven days of the application filing.

3. If an application is determined to be incomplete, the official responsible must provide paper or electronic notice to the applicant, along with an explanation of the application's deficiencies. No further processing of the application will occur until the deficiencies are corrected. If they are not corrected within 10 days from time of notice of deficiency, the application will be considered incomplete and returned. When the deficiencies are corrected, the application will be placed in the next available processing cycle.
4. Applications deemed complete will be reviewed by staff and other review and decision-making bodies in accordance with all review and approval procedures of this development code.

d. Approval Criteria

Applications for plat approval will be evaluated for compliance with these regulations.

e. Minor Plats

Pursuant to Chapter 242 of the Texas Local Government Code, or successor, the planning director is hereby authorized to approve minor plats. The director may, for any reason, elect to present a minor plat to the planning and zoning commission for approval. The director may not disapprove a minor plat and must refer any minor plat refused for approval to the commission within 30 days of the official date of application.

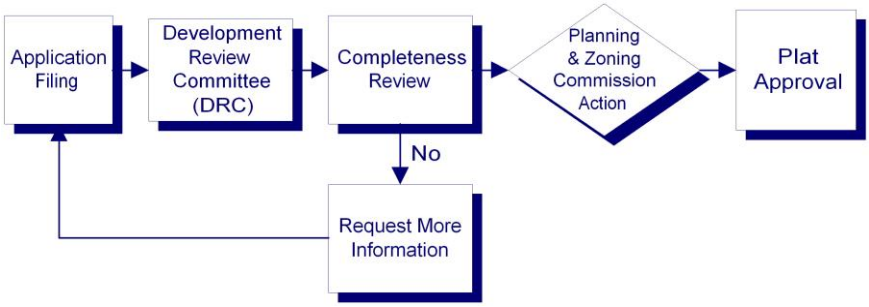
f. Statutory Compliance Procedure

The Planning Director must place a complete application on the agenda of a Planning and Zoning Commission meeting that is scheduled within 30 days following the official submission date. An applicant may submit a Waiver of Right to 30-day Action which must be submitted in writing no less than ten days before the scheduled Planning and Zoning Commission meeting. The Commission must approve or disapprove the application at the meeting. If the Commission fails to approve or disapprove an application within 30 days of the official submission date and the applicant has not submitted a Waiver of Right to 30-day Action, the application must be deemed approved in accordance with Section 212.009 (b) of the Texas Local Government Code. Unless the Commission unconditionally disapproves the plat application within such period, the City will continue to process the application for compliance with these regulations. The Commission must consider the application within 30 days absent a Waiver of Right submitted by the applicant. (Ord. No. 0-2015-67, 6/24/2015)

g. Extraterritorial Jurisdiction

Land in the city's extraterritorial jurisdiction is subject to platting, as provided in Chapter 242 of the Texas Local Government Code, or successor. The approval of a plat within the extraterritorial jurisdiction does not constitute approval of land use. Properties incorporated subsequent to platting are subject to the city's zoning authority. (Ord. No. 0-2000-11, 3-1-2000)

Sec. 10-631. Preliminary Plat



a. Applicability

A preliminary plat is required for all major subdivisions prior to the construction of public improvements except as permitted under subsection b. herein. If a preliminary plat is omitted, a final plat must be required in conformance to Sec.10-635, and contain all information required on the preliminary plat.

b. Exceptions to Preliminary Plat Requirements

The preliminary plat approval requirement and procedures of this section are waived if the following criteria are met:

1. The subdivision is actually a resubdivision of lots previously platted and filed of record in Plat Records, Smith County, Texas; or, all proposed lots of the subdivision abut an existing street of adequate width such that no additional right-of-way is required. In either case, no construction of public streets, alleys, storm sewers, sanitary sewers, or water mains is required within or for extension to the subdivision; and

2. The developer first secures written permission from the planning director to waive the preliminary plat and proceed directly to the final plat procedure. (Ord. No. 0-2000-11, 3-1-2000) (Ord. No. 0-2006-19, 2/8/06)

c. Application Procedure and Requirements

On forms approved by the city, the applicant must file two hard copies and one digital copy in portable document format (pdf) of the proposed preliminary plat, with the planning department. The plat must be prepared by or under the supervision of a licensed professional engineer or surveyor or land planner in the State of Texas and must bear the signature of the preparer and the date on each sheet. The payment of all applicable fees is required at the time of submission.

d. General Application Requirements

One digital copy in pdf format and two hard copies of the proposed preliminary plat at a scale of 1" = 100', unless otherwise approved by the planning director, and should be in a form substantially as follows:

1. A title including the name of the subdivision, developer, engineer, (or surveyor), name of survey, the scale, date, a north point, and approximate acreage.

2. The boundary lines of the tract to be subdivided with courses, angles, and distances, the property lines and names of record owners of adjoining undeveloped property, easements, building lines, buildings and lots, physical features including water courses, ravines, bridges, culverts, drain pipes, sanitary and storm sewers, water mains, and other existing features on the property being developed and on undeveloped properties within 200 feet of the subject property.

3. Contours based on U.S. Coast and Geodetic Survey mean sea level elevations at intervals, as required by the city engineer or development services engineer, of two to five feet, and approximate flood hazard lines delineating the limits of the floodplain on the unimproved property as depicted on FEMA map.
4. Location and width of existing streets, street names, width between curbs, if paved, and alleys, within and adjacent to the property.
5. The location, widths and names of all proposed streets, alleys or other public ways, all lots, blocks and all parcels of land to be dedicated for public use. Roadway names are checked for duplication and clarity at the preliminary plat submittal, but names are not assigned until the final plat is approved.
6. A vicinity map showing sufficient area to properly locate the proposed subdivision in relation to schools, parks, shopping centers, thoroughfares and highways.
7. Description of subdivision by metes and bounds.
8. Location of subdivision with respect to a corner of the survey or tract, or an original corner of the original survey of which it is a part. (Ord. No. 0-2009-19; 3/11/09)

Sec. 10-632. Standards for Approval

No preliminary plat will be approved by the planning and zoning commission or city council as applicable, unless the following standards have been met:

a. Provision for installation and dedication of public improvements has been shown;

b. Plat conforms to applicable zoning and other regulations;

c. Plat meets all other requirements of these regulations; and

d. Plat conforms generally to the Tyler 1st Comprehensive Plan.

Sec. 10-633. Approval Procedure

After review of the preliminary plat, the report and recommendations of the planning director concerning the application and the report and any exhibits submitted at a public meeting, the applicant will be advised of any required changes or additions. The planning and zoning commission must approve or disapprove the preliminary plat. One copy of the proposed preliminary plat will be returned to the owner with the date of approval or disapproval and the reasons therefore accompanying the plat. If the commission disapproves the proposed preliminary plat, the applicant may execute an appeal pursuant to section 10-615.

a. Effect of Approval

Approval of a preliminary plat also authorizes the property owner, upon fulfillment of all requirements and conditions of approval, to submit an application for final plat approval.

b. Lapse of Preliminary Plat Approval

The approval of a preliminary plat will be effective for 48 months from the date of approval by the commission or the council. If a final plat is not submitted and approved within that period, the preliminary plat approval will lapse. (See Sec.10-634(e). below concerning extensions and reinstatement of approval.)

c. Lapse of Preliminary Plats for Phased Project

For preliminary plats on projects that are phased, or that will be developed sequentially, the approval of a final plat for a phase of the project will extend the expiration date for the remaining portion of the original preliminary plat for a period of 24 months after the date of

approval of the final plat. Approval of each subsequent final plat within 12 months of the date of approval of the preceding final plat will extend the expiration date for the portion of the original preliminary plat for which no final plats have been approved for an additional 24 months from the date of approval of such final plat.

1. Each 24-month extension period for the expiration of the original preliminary plat runs from the date of the latest final plat approval. Extension periods are not cumulative.
2. If a final plat is not filed and recorded during the 24-month extension period, the original preliminary plat, together with any unapproved Final Plat applications or expired final plats, lapse.

Sec. 10-634. Amendments to Preliminary Plat

a. At any time following the approval of a preliminary plat, and before the lapse of such approval, a property owner may request an amendment. The rerouting of streets, addition, or deletion of alleys, or addition or deletion of more than 10 percent of the approved number of lots will be considered a major amendment. The adjustment of street and alley alignments, lengths, and paving details; the addition or deletion of lots within 10 percent of the approved number and the adjustment of lot lines will be considered minor amendments.

b. The planning director may approve a minor amendment. If the director does not approve the amendment, it will be referred to the planning and zoning commission under the terms of this division. Major amendments may be approved by the commission at a public meeting in accordance with the same requirements for the approval of a preliminary plat.

c. Approval

The commission may approve or disapprove any proposed major amendment and may make any modifications in the terms and conditions of preliminary plat approval reasonably related to the proposed amendment.

d. Retaining Previous Approval

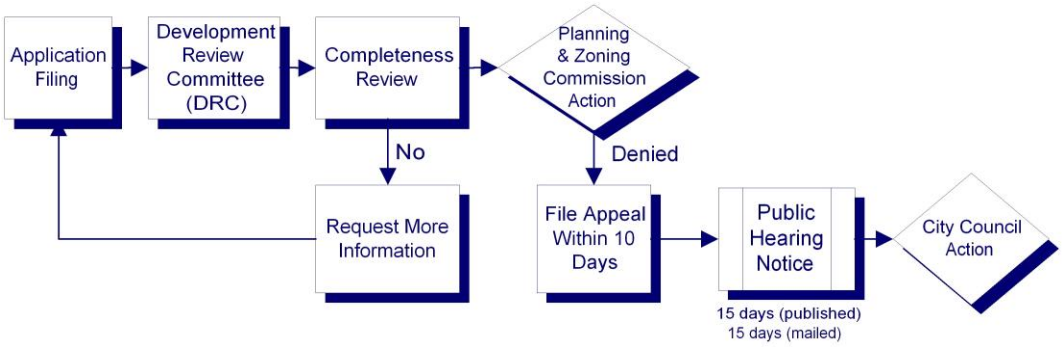
If the applicant is unwilling to accept the proposed amendment under the terms and conditions required by the commission, the applicant may withdraw the proposed major amendment or appeal the action of the commission to the city council pursuant to Sec 10-639 of this development code.

e. Extension and Reinstatement Procedure

1. 90 days prior to or following the lapse of approval for a preliminary plat, the property owner may petition the commission to extend or reinstate the approval. Such petition will be considered at a public meeting of the commission.
2. In determining whether to grant such request, the commission must take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which newly adopted subdivision regulations will apply to the plat. The commission may extend or reinstate the plat or deny the request, in which instance the property owner must submit a new application for approval.
3. The commission may extend or reinstate the approval subject to additional conditions based upon newly enacted regulations or such as are necessary to assure compliance

with the original conditions of approval. The commission may extend or reinstate a plat in 2-year increments.

Sec. 10-635. Final Plat



a. Applicability

A final plat is required for subdivisions of property and the recording of lots, if a preliminary plat has either been approved or waived pursuant to Sec. 10-631.

b. Application Procedure and Requirements

A final plat for minor subdivisions may be approved by the planning director. A final plat for a major subdivision will require approval by the commission. Final plats must comply with the preliminary plat where applicable. The application must be accompanied by the following:

1. On forms approved by the city, the applicant must file two hard copies and one digital copy in portable document format (pdf) of the proposed final plat bearing all information specified in Sec. 10-631, except Sec. 10-631(d.)(3) relating to contours, and the following language:

   > Notice: Selling a portion of this addition by metes and bounds is a violation of city ordinance and state law and is subject to fines and withholding of utilities and building permits.

   This notice does not apply to land within an industrial park.

2. Formal offers of irrevocable dedication to the public of all streets, local government uses, utilities, parks, and easements, in a form approved by the city attorney. The plat must be marked with a notation indicating the formal offers of dedication.

3. The improvement agreement and security, if required, in a form satisfactory to the development services engineer, must include a provision that the property owner will comply with all the terms of the final plat approval as determined by the commission.

4. A recording fee in an amount required by the county clerk.

5. Construction plans.

6. One copy of plat in digital pdf format as approved by planning director.

7. All major plat applications must submit an AutoCAD DrawingFile (.dwg) or a Geographic Information System (GIS) shapefile in compliance with this section.

8. Original Tax Certificate as required by Texas Local Government Code or successor, Texas Property Code Section 12.002 or successor, and all other applicable state laws. (Ord. No. 0-2012-83; 10/10/12)

9. A statement acknowledging the existence of flood plains on the property, and dedicating a floodway easement, in a format approved by the development services engineer.

STATE OF TEXAS

KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF SMITH

THAT whereas we _____, are the owners of the above described property and we are familiar with the terrain, elevation, high water level and all physical conditions, in, on and adjacent to said property; and

WHEREAS, said property is subject to flooding, high water and inundation due to the terrain, elevation and the fact that a creek(s) traverses or runs adjacent to said property; and

WHEREAS, the property subject to flooding, high water and inundation is marked on the plat and with the "Floodway Easement" line as shown and outlined on the plat.

WHEREFORE, PREMISES CONSIDERED:

We hereby agree that no obstruction to the natural flow of water, including storm waters and overflow water from any creek(s) shall be permitted by filling or by construction of any type of dam, building, bridge, walkway or any other structure within the floodway easement unless designed in accordance with the Storm Drainage Criteria of the City of Tyler. In the event any property owner obstructs the natural flow of the water in any manner, the City of Tyler may summarily remove any of said obstructions upon notification by mail to the owner.

We do hereby declare and dedicate this "Floodway Easement" to be a "covenant running with the land" and that this shall constitute a notice to all parties concerned including our heirs, successors or assigns and any and all purchasers of property within said subdivision.

Minimum finish floor elevation _____ feet.

WITNESS OUR HANDS AT _____, **TEXAS**, this _____ day of _____, 2_____.

(Ord. No. 0-2013-41; 5/22/13)

10. The following two signed and notarized certificates placed on the face of the map:

    (a) Certificate, shown in Attachment A, of ownership and dedication of all streets, alleys, easements, and public areas to the public use forever, signed by the owner of the land; and

ATTACHMENT "A"

OWNER'S STATEMENT

I (WE) _____ (owners name and title if applicable) AM (ARE) OWNER(S) of the tract of land shown hereon and do accept this as its Plan for the subdividing into lots and blocks and do dedicate to the public forever the streets, alleys, and easements as shown. It is the owner's responsibility to verify easements prior to constructing any improvements.

_____ _____
(Signature) (Signature)

SUBSCRIBED AND SWORN BEFORE ME, a Notary Public, in and for the State of Texas, this the _____ day of _____, 2_____.

_____
Notary Public, State of Texas
(Seal)

    (b) Certificate, shown in Attachment B, of the registered public surveyor who surveyed, mapped, and monumented the land, signed by the surveyor.

ATTACHMENT "B"

SURVEYOR'S STATEMENT

I, _____, Registered _____ (Public Land Surveyor or Professional Engineer) No. _____, do hereby certify that the above plat was prepared from an actual survey made _____ (by me) or _____ (under my direction and supervision) on the ground during _____ (Month & Year).
GIVEN UNDER MY HAND AND SEAL this the _____ day of _____, 2_____.

_____
(Signature)
(Seal)

11. An area closure computation printout. (Ord. No. 0-2016-8; 1/27/16)

c. Construction Plans

1. Authority to Prepare

Construction plans must be prepared by or under the supervision of a professional engineer registered in the State of Texas. Plans submitted for review by the city must be dated and bear the responsible engineer's name, serial number and designation of engineer, professional engineer, or P.E., and an appropriate stamp or statement near the engineer's identification, stating that the documents are for preliminary review and are not intended for construction. Final plans acceptable to the city must bear the seal, signature of the engineer, and the date signed on all sheets of the plans. Public works construction in streets, alleys, or easements which will be maintained by the city must be designed by a professional engineer registered in the State of Texas.

2. Review for Compliance

Copies of the construction plans and the required number of copies of the plat must be submitted to the development services engineer for final approval. The plans must contain all necessary information for construction of the project, including screening walls and other special features. All materials specified must conform to the Design Guidelines for Subdivision Improvements. Each sheet of the plans must contain a title block including space for the notation of revisions. This space is to be completed with each revision to the plan sheet and must clearly note the nature of the revision and the date the revision was made. The development services engineer will release the plans for construction after approval of the final plat by the commission and payment of all inspection fees. Upon such release, each contractor must maintain one set of plans, stamped with city release, on the project at all times during construction.

3. Failure to Commence Construction

If construction has not commenced within two years after approval of the plans, resubmittal of plans may be required by the development services engineer for meeting current Design Guidelines for Subdivision Improvements. Construction means installation of city-maintained public improvements.

d. Approval Criteria

No final plat will be approved by the planning director or the planning and zoning commission or city council unless the following standards have been met:

1. Plat substantially conforms to the preliminary plat;
2. Plat conforms to requirements of the UDC;
3. Provision has been made for adequate public facilities under the terms of this ordinance;
4. Plat meets all other requirements of this ordinance; and
5. Plat conforms generally to the Tyler 1st Comprehensive Plan.

e. Approval Procedure

After review of the final plat, the planning director must place the final plat for consideration on the agenda of a public meeting of the commission. Minor plats may be approved by the planning director or referred to the commission in accordance with Sec.10-630(e). In the event of disapproval, reasons for disapproval must be stated. One copy of the final subdivision plat must be returned to the applicant with the date of approval or disapproval noted on the final plat and, if the final plat is disapproved, the reasons for disapproval accompanying the final plat.

f. Appeals

If the commission disapproves the final plat, the applicant may appeal to the city council pursuant to Sec 10-615 of this development code.

g. Letter of Compliance

Upon final approval of a final plat required by these regulations, the planning director will issue to the applicant a Letter of Compliance stating that the final plat has been approved by the commission or the city council. For purposes of this division, final approval must not occur until all conditions of approval have been met.

h. Submittal of Computer Aided Drafting Files

All major subdivisions plats, as defined by the City of Tyler, must be based on an on-the-ground survey using the Texas Coordinate System North Central Zone 4202 North American Datum of 1983 (adjustment of 1996). Metadata should include the combination scale factor and declination angle at a specific point on the plat and a stated basis of the established coordinate system. The subdivision plat shall show the grid coordinates of at least two opposite property corners that are monumented on the ground.

i. Signing and Recording of Final Plat

It is the responsibility of the planning director to file the final plat with the county clerk. Simultaneously with the filing of the final plat, the city must record such other agreements of dedication for on- or off-site easements and legal documents as required by the city attorney. The final plat must be recorded after final approval and within 10 working days of receipt of the originals, which must include the owners' signatures, owners' mailing address and contact information, and an original tax certificate. One copy of the recorded final plat, with street addresses assigned, will be forwarded to the property owner and others as designated by the director.

j. Effect of Approval

Approval of a final plat will certify compliance with city regulations pertaining to the subdivision of land. An approved and signed final plat will be filed with Smith County as a record of the subdivision of land and will be used to reference lots and interests in property thereon defined for the purpose of conveyance and development as allowed by these regulations. (Ord. No. 0-2000-11, 3-1-2000)

k. Exemption to Public Improvement Requirements for Certain Plats

An exemption to the requirements for improvement, widening, and realignment of existing and proposed streets set forth in Sec. 10-156(a-c) may be allowed if the requirements of Section 10-156 (d) and (e) are met. (Ord. No. 0-2006-19; 2/8/06)

Sec. 10-636. Replatting

a. Replat Required

Unless otherwise expressly provided for herein, a property owner who proposes to replat any portion of an already approved final plat, other than to amend or vacate the plat, must first obtain approval for the replat under the same standards and by the same procedures prescribed for the platting of land by these regulations. An exemption to right-of-way dedication requirements in Sec. 10-156 for certain replats is allowed if the requirements of Sec. 10-153(a) or (b) are met.

b. Replatting Without Vacating Preceding Plat

A replat of a final plat or portion of a final plat may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

1. Is signed and acknowledged by only the owners of the property being replatted;
2. Does not attempt to amend or remove any covenants or restrictions previously incorporated in the final plat.
3. Is approved by the planning director, commission, or city council, as applicable.
4. Any replat which adds or deletes lots must include the original lot boundaries.
5. Plats must conform to applicable state law with regard to public notification requirements in Texas Local Government Code Sections 212.014 and 212.015, or successors. (Ord. No. 0-2000-11, 3-1-2000) (Ord. No. 0-2006-11, 1/11/06)
6. An exemption to the requirements for improvement, widening, and realignment of existing and proposed streets set forth in Section 10-156(a-c) is allowed if the requirements of Section 10-156 (d) and (e) are met. (Ord. No. 0-2006-19; 2/8/06).

Sec. 10-637. Amending Plats

The planning director may, upon petition of the property owner or developer, approve and issue an amending plat where one or more purposes for amending plats (as set forth in Texas Local Government Code Section 212.016), or successor is satisfied. Such plat amendments do not require notice, hearing, or approval of other lot owners (Ord. No. 0-2000-11, 3-1-2000).

Sec. 10-638. Plat Vacation

a. By Property Owner

The property owner of the tract covered by a plat may vacate, upon the approval of the planning and zoning commission, the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat.

b. By All Lot Owners

If lots in the plat have been sold, the plat may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.

c. Criteria

The commission will approve the petition for vacation on such terms and conditions as are reasonable to protect public health, safety, and welfare. As a condition of vacation of the plat, the commission may direct the petitioners to prepare a revised final plat in accordance with these regulations.

d. Effect of Action

On the execution and recording of the vacating instrument, the vacated plat will have no effect. Regardless of the planning and zoning commission's action on the petition, the property owner or developer will have no right to a refund of any monies, fees or charges paid to the city nor to the return of any property or consideration dedicated or delivered to the City except as may have previously been agreed to by the commission. (Ord. No. 0-2000-11, 3-1-2000).

Sec. 10-639. Waivers and Modifications of Subdivision Design/Improvement Standards

a. The City Council commission may authorize waivers or modifications from the subdivision design and improvement standards of this development code if they determine that undue hardship will result from requiring strict compliance. In granting a waiver or modification, the commission may prescribe any conditions deemed necessary or desirable to the public health, safety, and welfare. A waiver or modification of subdivision design and improvement standards may not be granted unless there exists a special circumstance or unique condition affecting the land involved so that strict application of the provisions of this ordinance would deprive the landowner of a substantial property right or a reasonable use of the land, and the waiver or modification would not be detrimental to the public health, safety, and welfare, nor would be injurious to other property in the area.

b. Financial hardship alone is not sufficient to show undue hardship. Therefore, a waiver or modification will not be granted solely because nonconformance is more profitable to the developer.

c. All matters pertaining to the interpretation or enforcement of this ordinance, including the definition of a word as it relates to this ordinance, will be referred to the planning director for a decision. The decision of the director may be appealed to the commission upon written notice by any party.

d. Commission decisions, including granting of waivers or modifications, may be appealed to the city council upon written notice by an applicant, an affected party, or by the city. However, any recommendation by the Planning and Zoning Commission to approve a request to waive or reduce escrow allowed or required under this ordinance shall be forwarded to the City Council for final approval, and the Planning and Zoning Commission shall only have advisory authority with regard to waiver or reduction of escrow. The City Council shall have authority to grant the request for waiver or reduction of escrow, to modify the request, or to deny such request in its entirety. (Ord. No. 0-2009-19; 3/11/09)

e. Written notice of appeal must be filed with the office of the planning director not later than 21 calendar days from the date of subject decision so that the item may be placed on the agenda for the next available planning and zoning commission or city council meeting as the case may be and the affected parties notified of the appeal.

f. The planning director or the development services engineer are authorized to grant a modification to subdivision design and improvement standards in instances where the requested modification is not visually detectable and does not exceed 10 percent of the overall dimensional standard or measurement.

Sec. 10-640. Pre-plat agreements authorized

The Planning Director may waive the requirement that an application first have property platted before obtaining a Building Permit. In such instance, the Planning Director shall require a Pre-Plat agreement in which the applicant agrees to the following:

a. As required by City Code Section 10-140 or successor, applicant shall be responsible for the entire cost of designing and installing all public improvements that will

primarily serve the subdivision or addition.

b. Applicant acknowledges and agrees that the property may be subject to dedication requirements, and that the applicant may be subject to the payment of fees, payment of construction costs, and/or associated escrow payments that are roughly proportionate to the proposed development.

c. Upon completion of the construction, remodeling or replacement of improvements on the property, and upon verification by the Building Inspection Division of the Development Services Department that all City codes have been met, including all requirements of City Code Code Chapter 10, and that a legal plat has been approved by the City of Tyler and recorded with Smith County, a Certificate of Occupancy to occupy the space shall then be issued by the City.

d. No Certificate of Occupancy or final inspection will be issued if an approved plat is not recorded by completion of the construction, remodeling or placement of improvements.

e. Pre-plat agreements shall be effective for ninety (90) days after the date of the Agreement, and will not be valid for the issuance of a Building Permit thereafter.

(Ord. 0-2010-20, 3/10/10)

Sec. 10-641. Administrative plat authorized

a. The Planning Department may accept certain minor plats out of the main plat cycle if the purpose of the plat is limited to one or more of the following:

1. Add/Correct an error in a course or distance;
2. Correct an error in a property description or any other type of scrivener or clerical error or omission;
3. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
4. Relocate or remove one or more lot lines between one or more adjacent lots;
5. Create six or few lots in a subdivision under an existing plat.

b. The official responsible for accepting an application under this section must make a determination of application completeness within seven days of the application filing. Should a plat not meet the administrative approval criteria, the application will be returned and the applicant must re-file during the typical Planning and Zoning Commission review cycle.

c. The approvals by City staff shall be in accordance with Texas Local Government Code Section 212.016, or successor. Such plat amendments do not require notice, hearing, or approval of other lot owners. (Ord. No. 0-2012-83; 10/12/12)

Sec. 10-641 – 649. Reserved

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DIVISION E. Site Development Plan Review

Sec. 10-650. Applicability

a. Applicants for planned district approval must prepare and submit a site development plan at the time of application for zoning for review and recommendation by the planning and zoning commission and city council. (O-2003-38, 7-23-03)

b. A site plan is also required for day care centers, broadcast and communication towers, and other uses where a special use permit is required.

Sec. 10-651. Waiver of Site Development Plan Requirement

The planning director may waive the required submission of the site development plan at the time of application, if, in the director's opinion, a site plan is not necessary for adequate review of the requested zoning district and allowed uses. However, no building permits may be issued for any portion of a planned district until the city council, upon recommendation of the planning and zoning commission approves a site development plan for the subject property. (O-2003-38, 7-23-03) .

Sec. 10-652. Application Requirements

A site development plan must be prepared in accordance with and include all items noted on the site development plan application and checklist which is kept on file in the planning department.

Sec. 10-653. Site Development Plan Approval

a. Where the proposed planned district zoning and the site development plan both comply with the intent and requirements of this code, the planning and zoning commission may make a recommendation to the city council that an amendment to this ordinance to establish a zoned district for the land subject to the plan be approved. (O-2003-38, 7-23-03)

b. Should the city council accept the recommendation of the planning and zoning commission, then the council may rezone the land covered by the site development plan.

Sec. 10-654. Existing Site Conditions

If undeveloped, any use proposed for such properties will be required to adhere to the approved site development plan. If the property is developed, any proposed use will be required to use the existing structures.

Sec. 10-655. Lapse of Site Development Plan Approval

a. A site development plan will be deemed void if the developer fails to follow the construction time schedule, abandon the plan, or if construction is terminated after the completion of any phase or at any stage and evidence that further development is not contemplated. In such circumstances the planning director may initiate a rezoning of the property back to the original zoning.

b. Should the property for which a site development plan not be rezoned, any further development of the district property will require the preparation and submittal of a new site development plan to the planning and zoning commission where it must be approved development of the property may proceed. (O-2003-38, 7-23-03)

Sec. 10-656. Administrative Approval of Site Plan Modifications

After a site development plan has been approved and the zoning change made, adjustments or rearrangement of buildings, parking areas, entrances, heights, setbacks, or open spaces requested in writing by the developers, may be approved by the planning director if the changes substantially conform to the standards established by the Site Development Plan. (ORD. 0-97-62, 12/10/97)

Sec. 10-657 – 659. Reserved

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DIVISION F. Variances

Sec. 10-660. Purpose

Zoning Variances are intended to address unnecessary hardships or practical difficulties resulting from strict application of zoning-related standards.

Sec. 10-661. Authority to File

Appeals to the zoning board of adjustment (ZBA) may be made by any person aggrieved or affected by any decision of the planning department in the enforcement of this development code.

Sec. 10-662. Procedures

a. Requests for variances from this ordinance must be submitted in writing to the zoning board of adjustment. Such appeal or request must be filed with the planning department and must specify the grounds thereof.

b. Each variance request must be accompanied by payment of the appropriate fee to be charged by the city for administering the appeal. The fee is non-refundable, and under no circumstances may the fee (or any portion thereof) be refunded for failure of such proposed variance to be enacted into law.

c. The planning department must transmit to the board all of the papers constituting the record upon which the action appealed from was taken.

d. The board must consider such appeals in the same manner as other appeals within its jurisdiction. All cases will always be heard by a minimum of four members or members and alternates. The concurring votes of four members are necessary to reverse any decision of any administrative official, to decide in favor of the applicant, or to effect any variation to this development code.

e. The zoning board of adjustment may authorize a variance from this development code when an undue hardship will result from requiring strict compliance. The board has the responsibility of making the findings herein below required, and must take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed development, and the probable effect of such variance upon the public health, safety, convenience, and welfare in the vicinity.

Sec. 10-663. Review Criteria

a. No variance may be granted unless the board finds:

1. special circumstances or conditions affecting the land involved such that the strict application of the provisions of this development code would deprive the applicant of the reasonable use of the land
2. the granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant.
3. a variance is necessary for the preservation and enjoyment of substantial property right of the applicant
4. the authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the damages of fire or impair the public safety or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the City.
5. the granting of the application will not be contrary to the plan of development for the general area.
6. in exercising the above-mentioned powers and in determining whether the required special conditions and hardships are present, the board may consider the size and shape of the subject property, any and all financial considerations to the applicant, and any other matters that the board determines material to the application.

b. Such findings of the ZBA together with the specific facts, upon which the finding is based, must be incorporated into the official minutes of the meeting at which such variance is granted. Variances may be granted only when it is in harmony with the general purpose and intent of this development code so that the public health, safety, and welfare may be secured and substantial justice done.

1. Monetary hardship to the developer, standing alone, must not be deemed to constitute undue hardship. (Ord. No. 0-98-90, 11/18/98) (Ord. No. 0-2002-46, 10/09/02)

Sec. 10-664. Public Hearing Notices

a. Notice Required

The individual procedures of this division specify the types of public hearing notice required.

1. Newspaper Notice

When newspaper notice is required, it must be published in a newspaper of general circulation within Tyler at least 15 days prior to the public hearing. Whenever a procedure requires multiple hearings—one before the planning and zoning commission and one before the city council, for example—a single notice or separate notices for each hearing may be provided.

2. Mailed Notice

Not less than 15 days before the date set for the public hearing, mailed notices must be sent by first class U.S. mail to all owners of real property subject to the action and to all owners of real property situated within 200 feet of the property on which the proposed action would occur as recorded on the current Smith County Appraisal District tax roll. The notification by mail of owners of property in the ETJ whose property is within 200

feet of the proposed action is provided as a courtesy to such owners and should not be construed as conferring standing to protest such action.

b. Content of Notice

All public hearing notices must:

1. Indicate the date, time, and place of the public hearing or date of action that is the subject of the notice;
2. Describe the property involved in the application by street address or by general description;
3. Describe the general nature, scope, and purpose of the application or proposal; and
4. Indicate where additional information on the matter can be obtained.
5. The applicant may submit additional information to the planning department in support of its application that will be include in whole or in part in any mailed or published notices.

Sec. 10-665. Administrative Approval

a. Requests for variances from this ordinance that are ≤10 percent of the applicable standard may be approved by the planning director.

b. The planning director may approve variance requests for residential setbacks from the applicable standard if the following conditions are met:

1. The variance request is intended to correct an encroachment of an existing structure into a setback yard; and
2. The variance request is not meant to circumvent development standards; and
3. The variance request is consistent with the overall plan of development of the general area.

Sec. 10-666 – 669. Reserved

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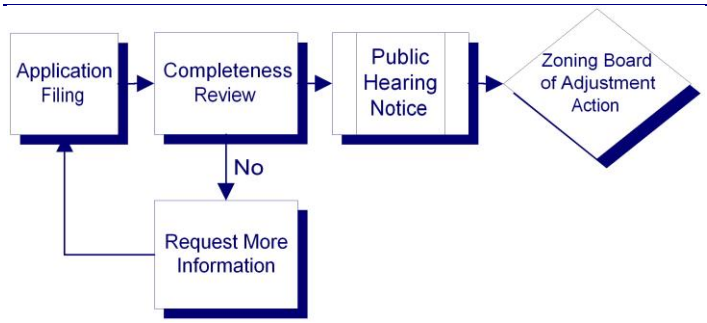
DIVISION G. Appeals of Planning Department Administrative Decisions



Sec. 10-670. Effect of Appeal

The zoning board of adjustment may hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this code. In exercising its authority, the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official.

Sec. 10-671. Appeal Procedures

a. Initiation

Within 30 days after the date of the administrative decision, appeal of an administrative decision may be initiated by any person aggrieved by the administrative decision, or any officer, department, or board of the city affected by the decision.

b. Content of Notice of Appeal

The notice of appeal must specifically set forth all grounds for appeal.

c. Effect of Appeal

An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board the facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record, after notice to the official and if due cause is shown.

Sec. 10-672. Review Criteria

The zoning board of adjustment considers whether the planning director or other administrative official's action was appropriate considering the details of the case and the requirements contained in this unified development code. The board will make its decision based on this unified development code and the information presented to the Zoning Board of Adjustment by the applicant and the director or other administrative official.

a. Appeal Hearing

The zoning board of adjustment must set a reasonable time for hearing the appeal and must give notice to the parties and to the public. Each appeal must be heard by at least 75 percent of the members of the board.

b. Burden of Proof in Appeals

When an appeal is taken to the zoning board of adjustment, the director's or other administrative official's action is presumed to be valid. The applicant must present sufficient evidence and have the burden to justify a reversal of the action being appealed. The director may present evidence and argument to the contrary.

c. Findings and Conclusions

All findings and conclusions necessary to the permit or appeal decision must be based upon reliable evidence. Competent evidence, that is, evidence admissible in a court of law is preferred whenever reasonably available. In no case may findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed. In exercising its authority, the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official.

d. Decision on Appeal

The board must review the application, the director's report, conduct a hearing in accordance with the board's established procedures and state law, and take final action on the application. It must require a concurring vote of three-fourths vote of all members of the zoning board of adjustment to overturn an administrative decision.

Sec. 10-673 – 679. Reserved

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DIVISION H. Landscaping and Tree Preservation

Sec. 10-680. Procedures

a. Appeals to the zoning board of adjustment of any determination regarding landscaping and tree preservation requirements of Article VI may be taken by any person aggrieved or affected by any decision of the planning department in the enforcement of this article. Requested variances from this code must be submitted in writing. Such appeal or request for a variance must be filed with the planning department, must specify the grounds thereof, and must be accompanied by a filing fee in an amount established by the city council and kept on file in the planning department. The planning department will transmit to the board all of the papers constituting the record upon which the action appealed from was taken.

b. The board will consider such appeals in the same manner as other appeals within its jurisdiction. All cases to be heard by the board will always be heard by a minimum of four members or members and alternates. The concurring votes of four members of the board or members and alternates will be necessary to reverse any decision of any administrative official, to decide in favor of the applicant, or to effect any variation to this article.

c. The zoning board of adjustment may authorize a variance from this article when an undue hardship will result from requiring strict compliance. The board has the responsibility of making the findings herein below required, and will take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed development, and the probable effect of such variance upon the public health, safety, convenience and welfare in the vicinity.

Sec. 10-681. Violation, Penalty, and Enforcement

a. It is the duty of the city to enforce this code. Appeals from the decision of the planning director may be made to the zoning board of adjustment, as provided by Article VIII, Division F. Reports of non-compliance with this code should be directed to the planning department. The planning department will accept complaints from the public. Upon receipt of a complaint, the zoning inspector will investigate and, if non-compliance exists, will inform the property owner of the violation, giving a reasonable amount of time to comply. Should the owner fail to comply within the time period, the owner will be subject to a fine established by the city council and kept on file in the planning department. Notice will:

1. Be in writing;
2. Include a statement of the reason for its issue;
3. Allow a reasonable time for compliance;
4. Be served upon the owner, or agent responsible for property maintenance provided that such notice or order can be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any method authorized or required by state law; and

5. Will contain an outline of remedial action, which, if taken, will effect compliance with this division. At the end of such period as noted above, the Planning Director or designated enforcement officer will re-inspect, and if such conditions or practices have not been corrected, further legal action by the city may be instituted. Any person violating any of the requirements of this division may be deemed guilty of a misdemeanor and, upon conviction, may be punished by a fine in an amount established by the city council and kept on file in the planning department. (Ord. No. 0-98-90, 11/18/98) (Ord. No. 0-2002-46, 10/09/02) (Ord. No. 0-2016-76; 8/24/16)

Sec. 10-682 – 713. Reserved

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DIVISION I. Historic District Overlay Designation

Sec. 10-714. Historic District Overlay

a. Purpose

A Historic District Overlay is intended to establish and preserve structures, sites or areas that have outstanding historical and cultural significance. It is not intended to limit the development of undeveloped lands.

b. Designation

The City Council may designate sites, buildings, structures, landscapes and objects as historic districts, including the public rights-of-way in and surrounding such historic districts, by adopting a zoning district designated as the Historic District Overlay (HD-O) on the City's official zoning map pursuant to the procedures set forth herein. Nothing contained in the designation of a property as a HD-O shall affect the use of the property, and all uses shall be governed by the zoning use districts established by the Unified Development Code. The City is divided into "Zoning Districts" which are restricted to residential use; for office, limited commercial or educational use; for commercial, mixed use or educational, industrial/manufacturing use.

c. Ordinance required

Each HD-O shall be designated by a separate ordinance. Such an ordinance will set forth the boundaries of a HD-O and will include regulatory standards and guidelines applicable to the district.

d. HD-O Criteria

An HD-O may be established to preserve areas of exemplary architectural, archaeological, cultural, or historic value provided such areas are located within an area contained within the Historic Resources Survey, when such survey conforms to survey guidelines established by the Texas Historical Commission and the National Park Service, is on file at the City, and which meet one or more of the following characteristics:

1. Significance in history, architecture, archaeology or culture.
2. Association with certain events that have made a significant contribution to the broad patterns of local, regional, state or national history.
3. Association with the lives of significant persons in the past.
4. Embodies the distinctive characteristics of an architectural or engineering type, period or method of construction.
5. Represents the work of a master designer, builder or craftsman.
6. Represents an established and familiar feature of the community.

7. A HD-O must consist of an area of at least one block face, with a minimum of three contiguous properties and with at least three-fourths of the properties that are at least fifty years old. Properties not required to meet the 75% or the block face that do not want to join into the district are not required to become part of the district. Commercial zoned property contained within the district must be at least 75 years old and must be a contributing property or structure as defined in subsection e below. Vacant properties over two acres may not be included in a proposed district unless they are contributing properties. As it relates to this ordinance, a block face consists of a minimum of one side of a street between two boundary streets or a dead end (cul de sac). Once a HD-O is created, adjoining properties may be included by a separate ordinance, and must complete the required process established in subsection f.

e. Guidelines and regulations applicable to HD-O

Design guidelines and other appropriate regulations concerning exterior and site development or redevelopment of the HD-O may be recommended by the Historical Preservation Board and adopted by the City Council as part of the ordinance establishing the HD-O. Interior renovations are exempt from all requirements of the HD-O. Any regulation for a specific HD-O shall apply to all contributing properties or structures wholly contained within the HD-O. As it relates to this ordinance a contributing property or structure is one that by location, design, setting, material, workmanship, feeling and association adds to the district's sense of time and place and historical development. All new additions, exterior alterations or related new construction for non-contributing properties or structures wholly contained within the HD-O must conform and be contextual as it relates in scale, mass, placement and materials to the surrounding properties.

Standards for the HD-O shall be as set out in the following Secretary of Interior Standards for Rehabilitation:

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features for elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved. Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.

5. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
6. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
7. Material and significant archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
8. New additions, exterior alterations or related new construction will not destroy historic materials, features and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with historic materials, features, size, scale and proportion and massing to protect the integrity of the property and its environment.
9. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired. New construction, in general, shall be compatible with the existing buildings or structures in the HD-O regarding scale, mass, placement and materials.

Additional guidelines for the HD-O shall be found in the Secretary of Interior Guidelines for Rehabilitating Historic Buildings. A copy of such regulations shall be available in the Planning Department, as well as on the Planning Department website.

f. Authority to designate

Designation of a HD-O may be accomplished by ordinance of the City Council if all of the following requirements are met:

1. A petition to the Planning and Zoning Department containing the signatures of at least 75 percent of the property owners located within the proposed HD-O; and
2. A recommendation for approval by the Historical Preservation Board; and
3. Favorable vote of a simple majority of the members of the City Council.

g. Notice requirements

Notice shall be provided as set forth in Section 10-586.

h. Scope of City Council Review

In its review of the proposed HD-O the City Council may:

1. Revise the proposed regulatory standards or guidelines attached to the proposed ordinance designating a HD-O; and
2. Reduce the boundaries of the HD-O as proposed in the map attached to the proposed ordinance.

The designation, amendment or retraction of a designation will not become effective until a map setting forth the boundaries of the HD-O, or change in the boundaries thereof, has been filed with the Planning and Zoning Department and as listed on the tax rolls of the Smith County Appraisal District (SCAD). (Ord. No. 0-2008-147; 11/19/08) (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-715 – 719. Reserved

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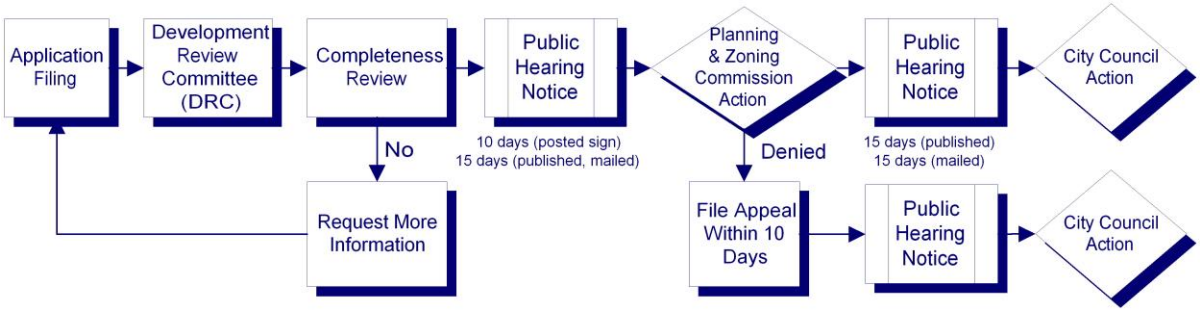
DIVISION A. Special Use Permits



Sec. 10-720. Purpose

Special use regulations set standards, conditions, and procedures whereby special uses may be approved. A use is considered special by this development code when there is potential for it to have adverse impact on nearby property and because the actions needed to minimize or eliminate the adverse impacts vary from site to site.

Sec. 10-721. Authority to File

Special use permit applications may be filed only by the owner of the property on which the special use will be constructed or by the property owner's authorized agent.

Sec. 10-722. Application Procedure

Only uses designated as special uses by this development code are eligible for consideration. Such special uses and the zoning districts in which the use is permitted are shown on the use tables in Article III of this chapter.

Sec. 10-723. Application and Processing Requirements

The planning and zoning commission must hold a public hearing on all requests for a special use permit. The public hearing will be held at a regular meeting. The completed application must include a site plan of the property which contains all information as required by the site plan guidelines of the planning department.

Sec. 10-724. Notice of Hearing

Public notice must be provided in accordance with Sec. 10-586.

Sec. 10-725. Planning and Zoning Commission Action

a. Upon receipt of a completed application for a special use permit requesting an amendment to this code, the planning department subject to the appropriate application deadline, will schedule the request for a public hearing before the planning and zoning commission at its next regularly scheduled monthly meeting

b. The commission will take one of the following actions:

1. recommend the application to the city council as submitted;
2. recommend the application with modifications;
3. table the application for consideration at a later meeting; or
4. deny the application.

c. Final approval of all special use permits rests with the city council.

d. The commission may impose conditions and restrictions upon the special use under consideration with the intent of minimizing the impact of the on nearby properties.

e. By recommending the special use, the commission thereby recommends final approval by the city council of an ordinance granting a special use permit. (O-2003-38, 7-23-03)

Sec. 10-726. Review Criteria

The planning and zoning commission and city council, in considering each special use permit (SUP) request, will review the overall compatibility of the proposed special use with surrounding property as well as such specific items as screening, parking, and landscaping to make sure that the impact of the special use is minimal and that little or no adverse effects occur to nearby property. (O-2003-38, 7-23-03)

Sec. 10-727. Development Standards and Review Guidelines

At the discretion of the planning and zoning commission the following development standards and design specifications can or may be the basis for approval of a special use permit:

a. The design, location, and operating plans must be such that the safety of the public is protected.

b. Consideration of the zoning district of the proposed special use and the adjacent land within 200 feet.

c. The location and dimensions of all public rights-of-way on or abutting the proposed special use.

d. Existing and proposed vehicular and pedestrian circulation systems; including streets, alleys, walkways, service areas and loading areas, the location and arrangement of off-street parking areas and all points of vehicular entrance and exit.

e. The outdoor surfacing and paving for all parking and loading areas.

f. The proposed perimeter treatment of the property, with indication of screening materials to be used, including fences, walls, and plants, together with a description of uses, setbacks and the relationship to surrounding areas.

g. A landscape plan showing proposed treatment of the areas designated as either buffers or open space.

h. The location and dimensions of all existing and proposed easements and public improvements on the site.

i. The location and size of all structures, distances between buildings, and distances from structures to property lines.

j. The location and description of all signage, including facade signs on buildings.

k. The proposed use of all structures and their dimensions, i.e., height, floor areas, entrances, and loading areas.

Sec. 10-728. Conditions

a. Term and Duration of Approval

Special use permits are approved for a specific period of time. The term and duration of a special use permit rests with the city council. Most first-time special use permits are issued for three years. Renewals of existing special use permits will be renewed for a longer time period, usually for five years. Some special uses, due to their nature and the cost associated with their operation, may be approved indefinitely.

b. Violations

All conditions required for a special use permit must be met before any part of the use can be occupied. Violation of any term, condition, requirement, or duration of a special use permit approved under this division is unlawful, and will constitute a violation of this development code, and will subject the violator to the penalties set forth in Sec. 10-774. In addition, the special use permit may be revoked or suspended by the city council due to such violation, following public hearings by both the planning and zoning commission and the city council.

c. Compliance with Conditions

Compliance with all conditions required for a special use permit must be completed within one year of the authorization, unless a special time limit has been imposed by the city council. An extension of time beyond [one] year, or that imposed by the council, may be granted by the planning director, one time, for up 90 days.

d. No variance may be granted through issuance of a special use permit, except for variances granted to the alcohol distance requirements by the City Council pursuant to Section 10-96. The planning director may grant minor changes to the conditions imposed as long as those changes conform to the intent of the commission. No building permit involving a special use must be issued by the building official unless all of the requirements of this division have been met. (Ord. No. 0-2013 41; 5/22/13)

Sec. 10-729. Appeal of a Special Use Permit

The decision of the planning and zoning commission concerning a special use permit may be appealed to the city council. The applicant must file the appeal with the planning department by the 5:00 p.m. on the 10th calendar day following the date of decision by the commission.

Sec. 10-730 – 739. Reserved

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DIVISION B. Temporary Use Permits

The planning department may issue a temporary use permit (TUP) for the uses defined in Article III provided that the temporary use complies with regulations of this ordinance governing area, parking, signage, sanitation requirements, etc., for the district in which it is to be conducted and does not constitute a nuisance for adjacent properties.

Sec. 10-740. Applicability

a. Temporary uses shall comply with the minimum requirements set forth in Section 10-64. (Ord. 0-2010-20, 3/10/10)

Sec. 10-741. Review and Approval by the Planning Director

a. The director must approve, approve with conditions, or deny the temporary use permit.

b. The director must review all signs in conjunction with the issuance of the temporary permit. Such signs must be in accordance with the requirements of this UDC.

Sec. 10-742. Review Criteria

In determining whether to approve, approve with conditions, or deny a temporary use permit, the director will consider the following criteria:

a. Land Use Compatibility

Whether the proposed temporary use:

1. is compatible with the purpose and intent of this UDC and the zoning district in which it is located;
2. does not impair the normal, safe, and effective operation of a permanent use on the same site; and
3. does not endanger or is not materially detrimental to the public health, safety, or welfare or injurious to property or improvements in the immediate vicinity of the temporary use, given the nature of the activity, its location on the site, and its relationship to parking and access points.

b. Compliance with Other Regulations

The structures and the site meets all applicable building code, zoning district, and fire code standards and must be promptly removed upon the cessation of the use or event. Upon cessation of the event or use, the site must be returned to its previous condition (including the removal of all trash, debris, signs, or other evidence of the temporary use).

1. **Traffic Circulation**
   The temporary use does not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections, and traffic controls.

2. **Off-Street Parking**
   Off-street parking for the temporary use does not eliminate required parking for any of the other existing uses on the site, thus creating a parking shortage.

3. **Public Conveniences and Litter Control**
Adequate on-site rest room facilities and refuse containers will be provided. All litter generated by the event or use will be removed at no expense to the city.

4. **Appearance and Nuisances**
The temporary use is compatible in intensity, appearance, and operation with surrounding land uses in the area, and it does not unduly impair the usefulness, enjoyment, or value of adjacent property due to the generation of excessive noise, dust, smoke, glare, spillover lighting, or other forms of environmental or visual pollution.

c. Other Criteria

The planning director may establish any additional review criteria deemed necessary to ensure land use compatibility and to minimize potential adverse impacts on nearby uses, including, but not limited to, restrictions on hours of operation, temporary arrangements for parking and traffic circulation, requirements for screening or buffering and guarantees for site restoration and cleanup following the temporary use.

d. Expiration

The planning director must set the time limit of the temporary use permit at the time of approval, but in no case must the duration exceed 90 days. Renewals and their duration shall be at the discretion of the Planning Director. (Ord. No. 0-2016-8; 1/27/16)

e. Violations, Penalties, and Revocation

Violation of any term, condition, requirement, or duration of a temporary use permit approved under this division is unlawful, must constitute a violation of this development code. The violator may be subject to penalties set forth in Sec. 10-774. In addition, the temporary use permit may be revoked or suspended by the city council due to such violation, following public hearings by both the planning and zoning commission and the city council.

Sec. 10-743 – 749. Reserved

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DIVISION C. Development Related Permits.

Sec. 10-750. Stormwater Permit [Reserved]

Sec. 10-751. Erosion and Sedimentation Control Permit

When development or construction activities result in earth changes, soil erosion is likely to occur which will result in hazards to health and safety with damage to property under both normal rainfall events and/or heavy rainfall/flooding events, unless erosion and sedimentation control measures are implemented. (Ord. No. 0-99-19; 2/24/99)

Sec. 10-752. Establishment of Development Permit

See Sections 10-555 and 10-556.

Sec. 10-753. Compliance and Development Permit

No structure or land may be located, altered or have its use changed or earth changes made without full compliance with this ordinance and other applicable regulations. (Ord. No. 0-99-19; 2/24/99)

Sec. 10-754. Abrogation and greater restrictions; interpretation

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

b. In the interpretation and application of this ordinance, all provisions shall be considered as minimum requirements, construed in favor of the City, and deemed neither to limit nor repeal any other powers granted under State statute. (Ord. No. 0-99-19; 2/24/99)

Sec. 10-755. Designation of Administrator

The Development Services Engineer is designated to administer and implement the provisions of this ordinance. (Ord. No. 0-99-19; 2/24/99)

Sec. 10-756. Grading Permit Required

Unless specifically exempted in writing, a grading permit shall be obtained from the City Engineer or designee prior to commencement of any development, excavating, grading, regrading, landfilling, beaming, paving, diking, clearing and grubbing, or other earth changes made to any property within the City. A separate permit shall be required for each separate, non-contiguous site or lot. (Ord. No. 0-99-19; 2/24/99)

Sec. 10-757. Policies for Issuance

The issuance of a grading permit shall be governed by these policies and those set forth in the City Drainage Design Guideline Manual.

a. Earth changes shall be permitted which do not create a public hazard upon any property within the City through obstruction, impairment, sedimentation, blockage or alteration of any natural or artificial drainage facility or which do not create an unlawful diversion under the Texas Water Code.

b. Earth changes shall be permitted which do not channelize, obstruct or otherwise change any drainage facility in a manner inconsistent with the Drainage Design Guideline Manual, or requirements of the Federal Emergency Management Agency under the National Flood Insurance Program.

c. Earth changes shall be permitted which will not, in the opinion of the City Engineer, unreasonably increase surface runoff. However, this Article does not preclude or prevent the use of regional or off-site stormwater detention or retention facilities provided that adequate facilities to convey increased rates of stormwater runoff to the regional or off-site detention or retention facility are provided.

d. All earth changes shall be designed, constructed and completed so as to minimize loss of soil from a construction area in accordance with the Drainage Design Guideline Manual.

e. The requirements and conditions for a grading permit for any lot, parcel, or tract of land for which an Erosion Control Plan, Drainage Plan or Abbreviated Drainage Plan exists shall incorporate the provisions of the Drainage Plan or Abbreviated Drainage Plan. (Ord. No. 0-99-19; 2/24/99)

Sec. 10-758. Grading Permit Requirements

A grading permit shall consist of a Drainage Plan or Abbreviated Drainage Plan, and an Erosion Control Plan. The grading permit for any lot to be used for building construction may not be issued unless the plan has been reviewed and accepted by the City Engineer.

A Drainage Plan shall consist of engineering drawings, contour maps, Erosion Control Plan and all supporting engineering calculations, as applicable to the land area covered by the Plan, which are required to demonstrate full compliance with this Article, the City of Tyler Design Guidelines for Subdivision Improvements, Best Management Practices of the U.S. Corp. of Engineers, Texas Council of Governments, or other Best Management Practices acceptable to the City Engineer.

a. Abbreviated Drainage Plans. Upon review of a grading permit application, the City Engineer shall determine if an Abbreviated Drainage Plan is necessary in order to meet the purposes of this Article. If an Abbreviated Drainage Plan is required, it shall be submitted to and reviewed by the City Engineer prior to granting of the grading permit. Although the Abbreviated Drainage Plan does not require the seal or signature of a registered professional engineer, it must be prepared according to the City format, as described in Section 10-529. An Abbreviated Drainage Plan will generally be sufficient for construction of single-family residences on subdivision lots. An Erosion Control

Plan is required. An Abbreviated Drainage Plan is applicable to development sites of less than one (1) acre, and for all single-family residential lots.

b. Drainage Plans. Upon review of an application for a grading permit, the City Engineer shall determine if a Drainage Plan is necessary to meet the purposes of this Article. If a Drainage Plan is required, it shall be submitted to and reviewed by the City Engineer prior to granting of the grading permit. Drainage Plans are required on all development sites greater than one (1) acre, except for single-family residential lots.

c. The Drainage Plan, but not the Abbreviated Drainage Plan, shall be prepared and implemented under the direct supervision of a registered professional engineer, licensed to practice in the State, according to a City format. Each plan submitted for final review and acceptance shall bear the signature and seal of the submitting engineer under the following statement: "I hereby certify that I am familiar with the adopted ordinances, regulations, standards and policies of the City governing development, that these plans have been prepared under my supervision, and that this Drainage Plan complies with all governing ordinances and regulations to the best of my knowledge."

d. If the site in question lies outside an area of special flood hazard, the plans shall bear the signature of the engineer or applicant under the following statement: "No part of this site lies within the established area of special flood hazard as established by the current flood insurance study of Flood Hazard Boundary Map. (Ord. No. 0-99-19; 2/24/99)

Sec. 10-759. Exemptions

A grading permit is not required for the following:

1. Bona fide agricultural and farming operations requiring no other permit, with the exception of tree harvesting operations;

2. Customary and incidental routine grounds maintenance, landscaping, and home gardening which does not require platting, replatting, variance request, or building permit and which does not affect stormwater drainage on or through the site;

3. Emergency repairs of a temporary nature made on public or private property which are necessary for the preservation of life, health or property, and which are made under circumstances where it would be impossible or impracticable to obtain a grading permit. (Ord. No. 0-99-19; 2/24/99)

Sec. 10-760. Revocation or Suspension

A grading permit may be revoked or suspended by the City Engineer or Construction Board of Adjustment and Appeals. Written notice shall be given to the permit holder stating the grounds for such action. A grading permit may be revoked or suspended upon one (1) or more of the following:

1. Violation of any conditions of the permit and any associated Drainage Plan or Abbreviated Drainage Plan after notification of non-compliance and failure to take remedial actions as outlined in these sections.

2. Violation of any applicable law, ordinance, or regulation pertaining to the grading permit contained in this Article after written notification of non-compliance;

3. Existence of any condition or performance of any act constituting a hazard or endangering human life or property. (Ord. No. 0-99-19; 2/24/99)

Sec. 10-761. Compliance

a. Unless exempted under this Article, it is unlawful to conduct any development, excavating, grading, regrading, excavating, landfilling, beaming, paving, diking, clearing and grubbing, or other earth changes either without a grading permit required under this Article, or contrary to the terms of a grading permit issued under this Article.

b. Upon revocation or suspension of a grading permit issued under this Article, it shall be unlawful to continue to conduct any development, excavating, grading, regrading, landfilling, beaming, paving, diking, clearing and grubbing, or other earth changes without having a valid grading permit in effect.

c. If it is determined that an individual is conducting activities without a grading permit required under this Article, or upon revocation or suspension of a grading permit, the City Engineer may issue a stopwork order on all construction activity on the individual's property which may be directly or indirectly related to site drainage and which is being performed pursuant to any permits, licenses, franchises or contracts issued by the City. Such stopwork order may order a work stoppage on all construction activity on buildings or structures and all appurtenances thereto, including building, electrical, plumbing, mechanical, street work, storm sewer, sanitary sewer, gas lines and all utilities. Notices in writing and orders required by this Division shall be considered effective if served upon the parties concerned either personally or by certified mail, addressed to the individual, contracting party, or permittee at the address given on the contract document or permit application filed with the City.

d. In addition to the enforcement and penalties provided for in this Article, no certificate of occupancy for buildings or structures may be issued until the grading and drainage of the site has been constructed in accordance with the Plan required by this Division.

e. When a grading permit and Drainage Plan are required prior to issuance of a building permit, the structure for which the building permit is issued may not be used, occupied, or receive a certificate of occupancy unless the facilities as shown on the accepted Drainage Plan have been completed by the permit applicant or representative and reviewed and accepted by the City. Such acceptance will be made on the basis of certified as-built drawings prepared by a registered professional engineer. If the structure is in a designated special flood hazard area, it may not be used or occupied until an elevation certificate, properly completed, has been filed with the City.

f. Each day that a violation of this Division shall continue, or be permitted to continue, shall be deemed a separate offense. (Ord. No. 0-99-19; 2/24/99)

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DIVISION D. Sign Permit

Sec. 10-762. Applicability

a. No sign may be erected, constructed, altered, moved, extended or enlarged without the owner or operator first obtaining a sign building permit thereof from the development services department. Such permit will require conformity with the provisions of this ordinance.

b. The modification of a sign face will not require a sign permit in accordance with this Division, provided that such modification does not increase the sign area or height or change the sign type.

Sec. 10-763. Review Process

a. An approved certificate of occupancy will be required prior to issuance of a sign permit.

b. The building official will approve, approve with conditions, or deny the sign permit.

Sec. 10-764. Review Criteria

a. In determining whether to approve, approve with conditions, or deny a sign permit, the building official will consider the following criteria.

b. The sign complies with the standards in all applicable zoning districts, including overlay districts.

c. The subject sign is consistent with an approved master sign plan, where required.

Sec. 10-765. Work on Signs Without a Permit

No person may erect or assist in the erection, construction or alteration of any sign for which a sign permit has not been issued as required by this division. Such work will be deemed a violation of this UDC in accordance with Sec. 10-774.

Sec. 10-766. Expiration

A sign permit will expire if work on the subject sign has not begun within six months from the date of issuance. Any further action after the expiration will require a new application and approval.

Sec. 10-767 – 769. Reserved

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ARTICLE X. ADMINISTRATION AND ENFORCEMENT

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DIVISION A. Review and Approval Bodies

Sec. 10-770. Planning and Zoning Commission

a. Establishment and Membership

There is hereby created a Planning and Zoning Commission which must consist of seven members.

b. Powers and Duties

1. The Planning and Zoning Commission will act and function as the city municipal planning commission. The Commission will have the power and duty to make and adopt rules and regulations governing its procedure.
2. The Commission will make, adopt, and recommend to the City Council a comprehensive (master) plan for the physical development of the city, including any area outside of its boundaries and within five miles thereof which in the Commission's judgment may bear a relation to city planning, subject to state law limitations.
3. The Commission will also act and function as the city zoning commission, and will have all powers granted by state law.
4. The Commission is designated as the Airport Zoning Commission for all airport zoning purposes under Texas Local Government Code Chapter 241 or successor. The Commission shall be responsible for recommending airport zoning regulations, airport hazard zoning regulations, and airport compatible land use regulations, to the City Council. All proposed airport zoning regulations, airport hazard zoning regulations, and compatible land use regulations affecting the airport, shall be also be reviewed by the Airport Advisory Board, which shall provide its recommendations.
5. The Commission will review all proposed annexations and recommend action to the city council.

c. Comprehensive (Master) Plan

1. **Authority**

   The Planning and Zoning Commission may, from time to time, amend, extend, or add to the comprehensive (master) plan, and will have all of the powers and duties vested, created, and granted by state law.

2. **Scope**

   (a) The comprehensive plan, with accompanying maps, plats, charts, and descriptive matter must show the Commission's recommendation for city development as well as the extraterritorial jurisdiction.

   (b) The Planning and Zoning Commission may, from time to time, adopt and publish a part of the plan covering one or more major sections or city subdivisions or one or more of the aforesaid or other subject matter.

3. **Content**

   The comprehensive plan may include or depict, among other things:

(a) The general location, character, and extent of the streets, viaducts, bridges, waterways, boulevards, parkways, playgrounds, squares, parks, aviation fields and other public ways, grounds and open spaces:

(b) The general location of public buildings and other public property and general location and extent of public utilities and terminals, either publicly or privately owned and operated, water, lights, sanitation, transportation, communication, power and other purposes.

(c) The removal, relocation, widening, narrowing, vacation, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings or property, utilities or terminals;

(d) A zoning plan for the control of the height, area, bulk, location, and use of buildings and premises, subject to the limitations set forth in state law.

4. **Area Developemnt Plans**
Plans for specific areas of the City may be established to analyze the needs and opportunities for growth. The recommendations from the area development plans shall be in line with the principles established in the Comprehensive Plan. (Ord. No. 0-2013-16; 2/27/13)

d. Training

Within one year of assuming duties, and on an annual basis thereafter, Commission members must attend at least one training session or seminar that addresses zoning issues. (Ord. 0-97-62, 12/10/97) (Ord. 0-2003-38, 7/23/03) (Ord. 0-2010-20, 3/10/10) (Ord. No. 0-2013-41; 5/22/13)

Sec. 10-771. Zoning Board of Adjustment

a. Establishment, Membership, and Vacancies

There will be a zoning board of adjustment consisting of five members and two alternate members to be appointed by the City Council. An alternate member will serve in the absence of one or more of the regular members. All cases to be heard by the board will always be heard by a minimum of four members or members and alternates.

b. Meetings

The board will adopt rules in accordance with this division. Meetings must be held at the call of the chair and at such other times as it may determine. Such chair, or in the chair's absence the acting chair, may administer oaths and compel the attendance of witnesses. All board meetings must be open to the public. The board must keep minutes of its proceedings, showing all official actions. The minutes must be filed in the planning department.

c. Authority to File

Appeals to the board may be taken by any person aggrieved or affected by any decision of any administrative official. Such appeal must be taken within 30 days, by filing with the planning department and with the board a notice of appeal specifying the grounds thereof. The planning department will forward to the board all papers constituting the record upon which the action appealed from was taken. (Ord. No. 0-2011-45; 6/8/11)

d. Powers and Duties

1. The zoning board of adjustment is empowered to grant the following exceptions to the provisions of the unified development code:

(a) The reconstruction of a nonconforming building which has been damaged by fire, act of God, or the public enemy to the extent of more than 70 percent of double its assessed value as listed on the records of the city tax department. In granting such an exception, the board must find it necessary for the preservation and enjoyment of a substantial property right and not detrimental to the public welfare.

(b) The erection and use of a building or the use of premises in any location for a public service corporation for public utility purposes which the board deems reasonably necessary for the public convenience or welfare.

2. To authorize a variance from the terms of the unified development code that is not contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship, and so that the spirit of the zoning ordinance shall be observed and substantial justice done.

3. The Zoning Board of Adjustment is designated as the Airport Board of Adjustment for all purposes under Texas Local Government Code Chapter 241 or successor.

e. Public Hearings

1. In exercising the above-mentioned powers, the board may reverse, affirm, or modify the decision appealed.

2. The concurring vote of four members of the board (including alternates when seated) is necessary to reverse any decision of any administrative official, to decide in favor of the applicant, or to effect any variation in such ordinance.

f. Permits

Any special exception or variance authorized by the board will allow for the issuance of a building permit or certificate of occupancy within 90 days of the date of the favorable board action, unless the board grants a longer period.

g. Lapse of Permits; Permission to Reapply for a Permit

1. If a building permit or certificate of occupancy has not been issued within 90 days (or such extended period as the board may grant) the special exception or variance will be deemed waived and all rights there under terminated. Such termination and waiver will be without prejudice to a subsequent application for a special exception or appeal for a variance to the board in accordance with applicable rules and regulations.

2. No application for a special exception or appeal for a variance to the board may be allowed on the same piece of property for six months from the date of the board's ruling, except in cases where other property in the same zoning district has been altered or changed by a board ruling within the same six-month period.

h. Appeals

Any person(s), jointly or severally, aggrieved by any decision of the Board, or any taxpayer, or any officer, department, board or bureau of the City, may present to a court of record a petition, duly verified setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the Planning Department. (Note) (ORD. 0-97-62, 12/10/97) (Ord. No. 0-2013-41; 5/22/13)

Sec. 10-772. Tyler Historical Preservation Board

a. Establishment, Membership, and Vacancies

1. Regular, voting board members

There is hereby created in and for the City a board to be known as the "Tyler Historical Preservation Board," which shall be composed of nine (9) members who shall serve without compensation and who shall be appointed by the City Council. Members shall serve for terms as set forth in Section 2-1. Board membership shall include 1) an architect, planner, or design professional; 2) a historian, archeologist, or related profession; 3) a real estate professional; 4) an attorney; 5) an owner of historic landmark or property in historic district.

2. Non-voting members

In addition to the nine (9) regular voting Board members, the City Council shall also appoint up to a maximum of three (3) representatives, which shall include one representative from Historic Tyler, Inc., one representative from Heart of Tyler, and one representative from another local organization with a demonstrated interest in historic preservation to serve as non-voting members of the Board. Said non-voting members shall serve in an advisory capacity only to the regular Board, and shall serve for terms as set forth in Section 1-20. All non-voting members appointed pursuant to this Section shall be unpaid, and shall have a demonstrated interest, competence or knowledge in historic preservation within the City. (Ord. 0-2001-38, 8/22/01) (0-2005-61; 8/17/05) (Ord. No. 0-2007-72; 6/19/07) (Ord. No. 0-2009-99; 9/23/09) (Ord. No. 0-2014-8; 1/22/14)

b. The purposes of the Historical Preservation Board are:

1. To work with the federal and state governments, City Planning Department, the historical society and other boards or organizations to help coordinate restoration or preservation projects.

2. To educate the community about its rich historical legacy and to encourage historical preservation as inspiration for future generations.

3. To study and research the necessity for historical districts for the City.

4. To conduct comprehensive studies into the field of historical preservation in this community, including programs now being offered, what still needs to be done, and cooperative efforts among various groups which could be effected toward a common goal.

5. To provide for the community an overall view of historical preservation and provide data for individuals or organizations interested in historical preservation.

6. To designate historic landmarks which should be included in the Tyler Historic Landmark Register.

7. To thoroughly familiarize itself with buildings, structures, sites, districts, areas, places and lands within the City which may be eligible for designation as historical landmarks.

8. To establish criteria and make recommendations to the City Council to be used in determining whether certain buildings, districts, and areas should be designated as historical landmarks.

9. To establish guidelines and review requests for Certificates of Appropriateness for Rehabilitation and Certificates of Demolition for buildings, structures and sites designated as historical landmarks.

10. To formulate plans and programs for public and private action for encouraging and promoting the preservation of historical landmarks.

11. To suggest sources of funds for preservation and restoration activities and acquisitions, including federal, state, local, private and foundation sources.

12. To provide information and counseling to owners of historical landmarks.

13. To prepare annual reports to the Texas Historical Commission and City Council that summarize Board activity during the previous year.

14. To prepare design guidelines for review of historical landmarks and districts.

15. To propose to the City Council tax abatement programs for historical landmarks and districts.

16. To establish guidelines and to designate people, places and events to be included in the Half Mile of History cultural and historic landmark program. The Board's decision regarding inclusion on the Half Mile of History cultural and historic program may be appealed to the City Council pursuant to Chapter 1, Article IV. (Ord. No. 0-2011-45 6/8/11)

c. The powers and duties of the board are:

1. Act in an advisory capacity and make recommendations to the City Manager, the Planning and Zoning Commission and the City Council concerning establishment of any location, structure, building or area as an official historical site and shall make future recommendations regarding preservation and restoration of such areas or buildings, subsequent to their establishment as official historical sites or districts.

2. Conduct hearings and research for the purpose of determining the feasibility of recommending to the City Manager, the Planning and Zoning Commission and City Council locations, sites and structures to preserve and restore as official historic sites or districts. (Ord. 0-2003-38, 7/23/03)

3. Except as otherwise provided in this Division, the authority of the Board shall be limited to making recommendations, and it shall in no way have authority to designate or establish areas, buildings or structures as historical sites or districts.

4. The Planning Director shall designate in writing a local preservation officer who shall serve as a liaison for the City and Board to the Texas Historical Commission, and who shall assist the Board in formulating plans and programs for historical preservation. (Ord. No. 0-98-81, 10/7/98) (Ord. No. 0-2007-101, 8-22-07) (Ord. No. 0-2009-99; 9/23/09)

DIVISION B. Fees

Sec. 10-773. Application Filing Fees

Applications must be accompanied by the fee amount that has been established by the city council. Fees are not required with applications initiated by the City Council, Planning and Zoning Commission, or planning director. Application fees are refundable up to and including five working days after application filing, provided that the planning director may grant a partial refund for good cause shown by the applicant.

Sec. 10-774. Violations, Penalties, and Enforcement

It is the duty of the city to enforce this code. Appeals from the decision of the planning director may be made to the zoning board of adjustment. Reports of non-compliance with this code should be directed to the planning department. The planning department will accept complaints from the public. Upon receipt of a complaint, the zoning inspector will investigate and, if non-compliance exists, will inform the property owner of the violation, giving a reasonable amount of time to comply. Should the owner fail to comply within the time period, the owner will be subject to a fine as established by the city council and kept on file in the planning department.

Sec. 10-775. Notice

Notice of a violation of the requirements of this code must:

a. Be in writing;

b. Include a statement of the reason for its issue;

c. Allow a reasonable time for compliance;

d. Be served upon the owner, or agent responsible for property maintenance provided that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any method authorized or required by state law; and

e. Contain an outline of remedial action, which, if taken, will effect compliance with this chapter. At the end of such period as noted above, the zoning inspector shall re-inspect, and if such conditions or practices have not been corrected, further legal action by the city may be instituted. Any person violating any of the requirements of this chapter will be deemed guilty of a misdemeanor and, upon conviction, will be punished by a fine as set forth in Section 1-4. (Ord. No. 0-98-90, 11/18/98) (Ord. No. 0-2002-46, 10/09/02)

Sec. 10-776. Fees

Application, Permit, Test, or Deposit	Fee
Annexation (Voluntary)	$420.00 [a] [b] + [c]
Billboard Annual Registration	$200.00 per billboard initially and annually thereafter
Master Sign Plan	$80.00
Plats	
Minor Plat (four lots or less with no street or utility extensions)	$200.00 + $5 per lot + [c]
Major Plat	$300.00 + $5 per lot + [c]
Preliminary Plat (Residential or Commercial)	$300 + $5 per lot
Vacation (Plat Vacation or Vacating Plat)	$100.00 + [c]
Pre Plat Agreement	$200.00
Quality Control Testing (Ord. 0-2006-79, 9/13/2006)	1% (inside City limits) 3% (outside City limits)
Right-of-way Closure	$350.00 [a]
Sexually Oriented Business License	$600.00 Initially and annually thereafter
Street Name Change	$200.00 [a]
Special Use Permit	$370.00 [a] [b]
Temporary Sign Permit	$10.00
Temporary Use Permit	$35.00
Outdoor Transient Vendor Permit	$150.00 [d]
Variance	$300.00 [a] + [c]
Zoning Change / Beer and Wine Site Inspection Verification / Zoning Site Inspection Verification	$500.00 [a] [b]
Zoning Change Planned Development	$930.00 [a] [b]
Zoning Site Plan Amendment (Non-administrative)	$930.00 [a] [b]
Zoning Site Plan Amendment (Administrative)	$80.00
Zoning Verification Letter Request	$25.00

Notes:

a. Includes mandatory $30 publication and $20 mailed notification required for owners whose property is within 200 feet of the proposed action.

b. Includes $20 Zoning Sign Deposit (refundable upon sign's return)

c. Includes the City fee only. An additional recording fee in the amount published by the Smith County Clerk must also be paid.

d. The Outdoor Transient Vendor permit fee shall not be required for a Non-Profit.
Non Profit – An organization or entity formed for the purpose of serving a purpose of public or mutual benefit other than the pursuit or accumulation of profits, i.e., 501(c)(3)s, schools, religious organizations, governmental organizations. Proof of non profit status is required. All other entities/individuals will be charged the regular rate.
(Ord. No. 0-2009-19; 3/11/09) (Ord. No. 0-2009-88; 8/26/09) (Ord. No. O-2010-99; 09/22/10) (Ord. No. 0-2012-83; 10/12/12) (Ord. No. 0-2012-91; 11/13/12) (Ord. No. 0-2013-16; 2/27/13) (Ord. No. 0-2014-8; 1/22/14)

Sec. 10-777 – 779. Reserved

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DIVISION A. Designation of Landmarks and Districts

Sec. 10-780. Historic Landmarks

a. The City Council finds that the recognition and preservation of historic landmarks is in the public interest and serves to promote the welfare of the community. The purpose of sections 10-780 through 10-784 is to preserve the historic structures of the community through a voluntary program of owner participation, and to carry out the City's responsibilities as a Certified Local Government. (Ord. No. O-2010-119; 11/10/10)

b. A "historic landmark" is defined as any site or area of historic or cultural importance or significance as designated by the Historical Preservation Board or City Council. Historic landmarks shall include historic structures, sites, districts or areas:

1. Within which the buildings, structures, appurtenances and places exemplify the cultural, political, economic or social history of the nation, state, region or community.

2. That are identified with the lives of historic persons or with important historical events.

3. That embody the distinguishing characteristics of an architectural type or specimen as to color, proportion, form, details, materials and craftsmanship. (Ord. No. 0-98-81, 10/7/98) (Ord. No. 0-2009-99; 9/23/09)

Sec. 10-781. Authority

a. The Historical Preservation Board may recommend and the City Council may approve the expansion of an historic district or the application of such zoning district to a new area in accordance with this section.

b. The Historical Preservation Board may approve the designation of a landmark if the board finds that the proposed landmark merits such designation according to this Division. The Board shall have final authority to designate historic structures, sites or areas for inclusion on the landmark register, unless the Board's decision is appealed to the City Council pursuant to Chapter 1, Article IV., in which case the City Council shall have final authority. (Ord. No. 0-2009-99; 9/23/09)

Sec. 10-782. Designation of Historic Landmarks

a. The Historical Preservation Board must maintain a document designated as the "Tyler Historic Landmark Register."

b. A structure, site, or area may be nominated by the owner or by any interested third party, but may not be placed on the Tyler historic landmark register without the express consent of the property owner.

c. An application form will be required as prescribed by the board. The board will conduct public meetings to consider applications for inclusion of sites, structures, or areas on the Tyler historic landmark register. The board shall have final authority to

designate historic structures, sites, or areas for inclusion on the register, unless the board's decision is appealed to the City Council pursuant to Chapter 1, Article IV., in which case the City Council shall have final authority.

d. In considering a structure, site or area for designation in the Tyler historic landmark register, the board will consider the following:

1. Character, interest, or value as part of the development, heritage, or cultural characteristics of the city, State of Texas, or United States.
2. Distinguishing characteristics of an architectural type or specimen.
3. Elements of architectural design, detail, materials, or craftsmanship, which represent a significant architectural innovation.
4. Relationship to other distinctive buildings, sites, districts, or areas which are eligible for preservation according to a plan based on architectural, historic, or cultural motif.
5. Portrayal of the environment of a group of people in an area of history characterized by a distinctive architectural style.
6. Exemplification of the cultural, economic, social, ethnic, or historical heritage of the city, State of Texas, or United States.
7. Location as the site of a significant historic event.
8. Identification with a person(s) who significantly contributed to the culture and development of the city, State of Texas, or United States.
9. Value as an aspect of community sentiment or public pride.
10. Identification as the work of a designer, architect, or builder whose work has influenced city growth or development.
11. Unique location of singular physical characteristics representing an established and familiar visual feature of a neighborhood, community, or the city.
12. Archaeological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest.
13. Demonstrated ability of the property owner to maintain the structure, site, or area in a sanitary, aesthetic, or lawful manner. (Ord. No. 0-2005-61, 8/17/05)
14. The Planning Department will cause the designation of any structure, site, area, or district on the Tyler historic landmark register to be recorded in the Smith County deed records. (Ord. No. 0-98-81, 10/7/98) (Ord. No. 0-2009-99; 9/23/09)

e. In considering a sign for designation in the Tyler Historic Landmark Register, the board will consider the following:

1. The sign has been in continuous existence at its present location for not less than fifty years and the sign has not been significantly altered.
2. The sign is structurally safe or is capable of being made so without substantially altering its historic significance.
3. The continued existence of the sign is encouraged and is beneficial to the public good. (Ord. No. O-2010-119; 11/10/10)

Sec. 10-783. Removal of Landmark Status by City Council

f. Property Owner's Authority to Request Removal

Any person or entity, that owns a majority interest in a historic building, structure or site as designated on the Tyler historic landmark register may have such property stricken from the register by notifying the Board in writing.

g. City Council Authority to Initiate Removal of Landmark Status

If, after a hearing, the board determines that an owner or person with an interest in a historic building, structure or site designated on the Tyler historic landmark register has, through action or inaction, adversely affected the historic character of the property, the board will make a recommendation to the city council. Following a hearing, the city council may order such property removed from the register, and may also order the owner or person in interest to remove the register plaque from the property and return it to the planning department within a specified time. It is unlawful to fail to comply with any city council order requiring removal and return of the register plaque. (Ord. No. O-2010-119; 11/10/10)

Sec. 10-784. Review Criteria

Factors that the board and city council may consider include:

a. Significant alteration of architectural feature of building or structure;

b. Demolition of building or structure;

c. Allowing property to fall into state of disrepair; and

d. Such other factors as the board and city council may deem appropriate. (Ord. No. 0-98-81, 10/7/98) (Ord. No. 0-2005-70, 9/14/05)

DIVISION B. Certificate of Appropriateness

Sec. 10-785. Applicability

No person or entity may construct, reconstruct, alter, change, restore, remove or demolish any exterior architectural feature of a building or structure or relocate any building or structure designated on the Tyler historic landmark register, or within a historic district overlay unless a Certificate of Appropriateness or Certificate of Demolition has been issued pursuant to this Division. Any proposed construction, alteration, change, restoration, removal or demolition of a building or structure from property within a National Historic District and designated as High or Selected Medium Priority according to the Historic Research Survey, shall be presented to the Planning Department for a non-binding review, but shall not require a Certificate of Appropriateness or Certificate of Demolition. The Planning Department shall provide suggestions and/or recommendations to the Applicant regarding the proposed activities. The term "exterior architectural feature" shall include, but not limited to, the kind, color and basic texture of all exterior building materials and such features as windows, doors, lights, signs and other exterior features. At least quarterly, Planning Department Staff shall present a report to the Board listing all City-issued building permits for buildings or structures located within a National Historic District and designated High or Selected Medium Priority according to the Historic Research Survey. (Ord. No. 0-2009-99; 9/23/09) (Ord. No. 0-2011-45, 6/8/11) (Ord. No. 0-2013-77; 8/28/13)

Sec. 10-786. Authority to File

Applications for certificates of appropriateness will be made on a specified form to the board and must include two copies of all detailed plans, elevations, perspectives, specifications, or other suitable plans for the proposed work.

Sec. 10-787. Notice and Hearing by Historical Preservation Board

Within forty-five (45) days of the receipt of a completed application, the board must hold a public meeting, as scheduled by the Planning and Zoning Department. Property owners must be notified of the date, time and place of the public hearing. If the subject property was initially tagged as substandard and in violation of the Minimum Urban Standards, Chapter 7, Art. III., or successor, or a Certificate of Demolition is being sought, then property owners and known mortgagees and lien holders must be notified of the date, time and place of the public hearing by certified mail, return receipt requested, restricted signature, at least ten (10) days prior to the hearing. If the subject property was so tagged as substandard or a Certificate of Demolition is being sought, then the Planning and Zoning Department must also send a copy of the notice letter described herein to the Neighborhood Services Director. (Ord. No. 0-2009-99; 9/23/09)

Sec. 10-788. Review Process for Certificates of Appropriateness or Certificates of Demolition

Upon review of the application, the board must determine whether the proposed work will adversely affect any exterior architectural feature or adversely affect the historical character of the building, structure or site, whether any proposed rehabilitation of an historic building, structure or site is consistent with the guidelines in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and whether such work is appropriate and consistent with the spirit and intent of this article. If the proposed work is consistent with the Secretary of Interior Standards, a Certificate of Appropriateness may be administratively approved by the Historic Preservation Officer. As described above, the Historic Preservation Officer or the board shall have final authority to grant a Certificate of Appropriateness, except as follows:

1. If the board's decision regarding a Certificate of Appropriateness is appealed to the City Council pursuant to Chapter 1, Article IV., then the board must then forward its recommendations to the City Council, which will have final authority to grant a Certificate of Appropriateness. Property owners must be notified of the date, time and place of the public hearing.

2. If the subject property was initially tagged as substandard and in violation of the Minimum Urban Standards, Chapter 7, Art. III., or successor, or if a Certificate of Demolition is being sought, then the board must then forward its recommendations to the City Council, which will have final authority to grant a Certificate of Appropriateness or Certificate of Demolition. (Ord. No. 0-2009-99; 9/23/09) (Ord. No. 0-2011-45; 6/8/11)

Sec. 10-789. Certificate of Appropriateness Issuance

Following the board's or City Council's decision, as applicable, the Planning Department must forward to the property owner either a Certificate of Appropriateness, which will include a copy of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, or notice that the board or City Council has made a determination that the proposed work would adversely affect the historic character of the site or structure and a recommendation of an alternative course of action which would preserve the historic character of the structure. If no action has been taken by the board or City Council within 60 days of original receipt of the application, a Certificate of Appropriateness will be deemed issued. (Ord. No. 0-2009-99; 9/23/09)

Sec. 10-790. Building Permit Issuance

a. Permit applications which require Certificate of Appropriateness or Certificate of Demolition

Upon completion of the board or City Council hearing and recommendation to the property owner or within 60 days, whichever occurs first, a building permit will be issued in accordance with the application of the property owner, provided that such application complies with the building code and other ordinances.

b. Permit applications which do not require Certificate of Appropriateness or Certificate of Demolition

Permit applications which do not require a Certificate of Appropriateness or Certificate of Demolition shall be issued a building permit upon application review completion by the Planning Department and/or the Historical Preservation Board and recommendation to the property owner or within 10 business days, whichever occurs first, in accordance with the application of the property owner, provided that such application complies with the Building Code and other ordinances. (Ord. No. 0-98-81, 10/7/98) (Ord. No. 0-2009-99; 9/23/09) (Ord. No. 0-2013-77; 8/28/13)

Sec. 10-791. Temporary Emergency Repairs

If the chief building official determines that a building or structure designated on the Tyler historic landmark register poses an immediate threat to persons or property, the chief building official may order or conduct any temporary emergency repairs necessary to make the building or structure safe without the requirement of a certificate of appropriateness. The chief building official will send a written explanation of such temporary emergency repair order to the board. However, once such temporary emergency repairs have been completed, no further work may be done on the building or structure unless a certificate of appropriateness is obtained pursuant to this division. It is unlawful to fail to comply with a

temporary emergency repair order issued by the chief building official. (Ord. 0-99-52, 7/21/99) (Ord. No. 0-2005-70, 9/14/05)

Sec. 10-792. Alteration or Demolition of Historic Landmarks

a. No person or entity may construct, reconstruct, alter, change, restore, remove or demolish any exterior architectural feature of a building or structure or relocate any building or structure designated as historic landmarks, or structures within local or national districts, or structures 50 years or older where federal funding is involved unless a Certificate of Appropriateness for Rehabilitation or a Certificate of Demolition has been issued by the board or City Council, as applicable. The term "exterior architectural feature" shall include, but not be limited to, the kind, color and basic texture of all exterior building materials and such features as windows, doors, lights, signs and other exterior fixtures.

b. Application procedure: Applications for Certificates of Appropriateness and Certificates of Demolition and other required information shall be submitted to the Planning Department which will then submit the documents to the Chief Building Official for a structural and financial feasibility review prior to public hearing before the Historical Preservation Board, except as otherwise directed in this Section.

1. Applications for Certificates of Appropriateness for Rehabilitation shall be made on a specified form and shall include two (2) copies of detailed plans, elevations, perspectives, specifications or other suitable plans for the proposed work, including information regarding the financial feasibility of the plans and proof of financial resources to complete the work.
2. If the building or structure is placarded as substandard and a public nuisance as defined by the City of Tyler Minimum Urban Standards at City Code Chapter 7, Sec. 7-69 and 7-70 and the property owner desires to rehabilitate the property, the Application for Certificate of Appropriateness for Rehabilitation and attachments shall be submitted to the Neighborhood Services Director with the required Rehabilitation Plan of Action and within the time frame described in Sec. 7-71.
3. Applications for Certificates of Demolition shall be made on a specified form to the Board and shall include two (2) copies of an explanation of the deteriorated and/or dilapidated condition of the building , including visual exhibits such as photographs, and/or copies of the Inspection Report for Substandard Building prepared by City staff if the property has been placarded as substandard and a public nuisance as defined by the City of Tyler Minimum Urban Standards, in which case the Application documents shall be submitted to the Neighborhood Services Director.
4. Applications submitted to the Neighborhood Services Director shall be forwarded to the Planning Department which will forward to the Chief Building Official providing a sufficient time for review prior to the hearing scheduled before the Board.

c. Time and Notice of Board Hearing: Within forty-five (45) days of the receipt of a completed Application, the Board shall hold a public hearing, as scheduled by the Planning Department. Property owners and known mortgagees and lien holders shall be notified of the date, time and place of the public hearing. If the subject property was initially tagged as substandard and in violation of the Minimum Urban Standards, Chapter 7, Art. III., or if a Certificate of Demolition is being sought, then property owners and known mortgagees and lien holders shall be notified of the date, time and

place of the public hearing by certified mail, return receipt requested, restricted signature, at least ten (10) days prior to the hearing. If the subject property was so tagged as substandard or a Certificate of Demolition is being sought, then the Planning Department shall also send a copy of the notice letter described herein to the Neighborhood Services Director.

d. Procedure for Board Review and Public Hearing before City Council under certain circumstances:

1. Upon review of the Application for Certificate of Appropriateness for Rehabilitation or for Certificate of Demolition, and considering the Chief Building Official's recommendations, the Board shall determine:

   (a) Whether demolition is recommended, if applicable, or whether the proposed rehabilitation work will adversely affect any exterior architectural feature or adversely affect the historical character of the building, structure or site;

   (b) Whether any proposed work is consistent with the guidelines in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings;

   (c) Whether such work is appropriate and consistent with the spirit and intent of this chapter; and

   (d) Whether sufficient evidence of financial resources to complete the work has been presented.

   (e) Time for completion. As part of the review of an application for a Certificate of Appropriateness or for a Certificate of Demolition, the Board may recommend to the City Council a specific time period for completion of all work under the Certificate of Appropriateness or Certificate of Demolition. When considering the specific time for completion in each individual case, the Board and City Council may take into account the proposed scope of the work, the size and dimensions of the property, the cost of the work, and any other specific circumstances affecting the particular building, structure or property. If work under a Certificate of Appropriateness or Certificate of Demolition issued under this section has not been completed within the time period established by the City Council pursuant to this subsection, the person or entity must file an application for a new Certificate of Appropriateness or Certificate of Demolition pursuant to this section. It shall be unlawful for a person or entity to perform work governed by an expired Certificate of Appropriateness or Certificate of Demolition without obtaining a new Certificate of Appropriateness or Certificate of Demolition.

2. If the Board's decision on a Certificate of Appropriateness is appealed to the City Council pursuant to Chapter 1, Article IV., or if the Board conducts a hearing on a property that has been tagged as substandard under Chapter 7 or for which a Certificate of Demolition is being sought, then the Planning Department shall place the Board's recommendation on the next available City Council agenda. The Board's recommendations shall be forwarded to the City Council, which shall have final authority to grant a Certificate of Appropriateness for Rehabilitation or Certificate of Demolition, as applicable. If the City Council is considering an appeal of a Certificate of Appropriateness pursuant to Chapter 1, Article IV., then notice of the date, time and place of such hearing before the City Council shall be provided to the property owner.

If the City Council is conducting a hearing on a property that has been tagged as substandard under Chapter 7 or for which a Certificate of Demolition is being sought, notice of such hearing before the City Council will be provided to the property owner and known mortgagees and lien holders by certified mail, return receipt requested, restricted signature at least ten (10) days prior to the hearing. At either type of hearing, the City Council shall review the Board recommendation and make a final decision regarding the issuance of a Certificate under this chapter.

3. Following the board's or City Council's decision, as applicable, the Planning Department shall either hand-deliver or forward to the property owner within two (2) days of the hearing, the following:

(a) For situations not involving a substandard structure and not involving a request for Certificate of Demolition, in which only the board conducted a hearing:

(1) A Certificate of Appropriateness for Rehabilitation, which shall include a copy of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; or

(2) Notice that the board has made a determination that the proposed work would adversely affect the historic character of the site or structure and a recommendation of an alternative course of action which would preserve the historic character of the structure;

(b) For situations not involving a substandard structure and not involving a request for Certificate of Demolition, in which the board conducted a hearing, but the board's decision was appealed to the City Council pursuant to City Code Chapter 1, Article IV.:

(1) A Certificate of Appropriateness for Rehabilitation, which shall include a copy of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; or

(2) Notice that the City Council has made a determination that the proposed work would adversely affect the historic character of the site or structure and a recommendation of an alternative course of action which would preserve the historic character of the structure;

(c) For situations involving a substandard structure or request for Certificate of Demolition, in which the City Council conducted a hearing in addition to the board hearing:

(1) A Certificate of Appropriateness for Rehabilitation, which shall include a copy of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures; or

(2) Notice that the City Council has made a determination that the proposed work would adversely affect the historic character of the site or

structure and a recommendation of an alternative course of action which would preserve the historic character of the structure; or

(3) Certificate of Demolition which shall mandate that demolition and clearance shall be completed by a date certain.

(4) Appeal to District Court: An interested party may appeal the final decision of the City Council to the district court by filing a verified petition within thirty (30) days of the date the Certificate or other final notice is provided to the party pursuant to this Chapter. On expiration of the thirty (30) day appeal period, any City Council decision shall be final.

e. Issuance of Building permit: A building permit consistent with a Certificate issued under this chapter may be applied for and issued following the appropriate board or City Council hearing. (Ord. No. 0-98-81, 10/7/98)

f. Temporary Emergency Repair Orders. If the Chief Building Official, in consultation with the Neighborhood Services Director, if applicable, determines that a building or structure designated on the Tyler historic landmark register poses an immediate threat to persons or property, the Chief Building Official may order or conduct any temporary emergency repairs necessary to make the building or structure safe without the requirement of a Certificate of Appropriateness for Rehabilitation. The Chief Building Official shall send the Board a written Temporary Emergency Repair Order explaining the work done to remove the immediate threat. However, once such temporary emergency repairs have been completed, no further work may be done on the building or structure unless a Certificate of Appropriateness for Rehabilitation is obtained pursuant to this section. If the City incurs costs associated with abating the immediate threat and the City desires to assess costs against the owner, a certified statement of costs shall be prepared by the Chief Building Official, verified by the Chief Financial Officer, and forwarded to the property owner by certified mail, return receipt requested, with instructions regarding the owner's responsibility to pay those costs. The City may place a lien on the property for unpaid costs associated with this section by filing an affidavit of lien and the certified statement of charges with the ""Smith' "County" land records. It is unlawful to fail to comply with a Temporary Emergency Repair Order issued by the Chief Building Official. (Ord. 0-99-52, 7/21/99) (Ord. No. 0-2005-70, 9/14/05) (Ord. No. 0-2007-101, 8-22-07) (Ord. No. 0-2013-77, 8/28/13)

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DIVISION C. Tax Abatement

Sec. 10-793. Tax Abatement

In accordance with state law, the City Council finds that all designated landmarks structures are historically significant and entitled to tax relief in order to encourage historic preservation. Fifty percent (50%) of the assessed value of any building, structure or site listed on the Tyler historic landmark register and the land necessary for access to and from the building, structure, or site, up to a maximum assessed value amount of $ 2,000,000, must be exempt from annual City ad valorem taxation, provided that such building, structure or site is listed on the register on the first day of January of the applicable tax year. As long as the property remains on the Tyler historic landmark register, has not changed ownership, and otherwise remains in compliance with all applicable ordinances, the owner shall not be required to re-apply for exemption on an annual basis. (Ord. 0-98-81, 10/7/98); (Ord. 0-2005-61; 8/17/05) (Ord. No. 0-2012-83; 10/10/12)

Sec. 10-794. Tax Abatements for Historic Landmarks

a. The tax abatement provided for in this section is intended to encourage historic preservation within the City of Tyler. Any building or structure that has been designated as a historic landmark pursuant to the terms of this Article, and which is substantially rehabilitated as provided herein, may have abated one hundred percent (100%) of the amount of any increase in the assessed value for purposes of ad valorem taxes levied by the City of Tyler in excess of the assessed value of the property for a period of five (5) years following issuance of a Certificate of Appropriateness. Said tax abatement must only apply to the increase in the assessed value of the property over the assessed base value of the property, regardless of the actual value of any permits and improvements. In order to be eligible for tax abatement, said renovations must be at a minimum cost of thirty thousand dollars ($30,000.00) and must be completed within a period of two (2) years from the date of issuance of a Certificate of Appropriateness. The tax abatements would become applicable to the property in January of the first tax year following the date of issuance of a Certificate of Appropriateness. The tax abatements must continue in effect during the established five-year period as long as the property remains on the Tyler historic landmark register. The total amount of said improvements subject to tax abatement per year for the five-year period on a single piece of property must not exceed two million dollars ($2,000,000).

b. To be eligible for property tax abatement under this section, a property must meet the following requirements:

1. The building or structure must meet the requirements for, and have previously been designated as, a historic landmark pursuant to section 10-782.

2. The structure or building upon which the renovation is to occur must be at least fifty (50) years old or older;

3. The tax abatement under this section is available for buildings or structures on both residential and commercial property.

4. Any renovations or improvements must conform to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, a copy of which is available in the Planning Department.

c. Application process. Applications for tax abatement under this section are voluntary. Any owner seeking tax abatement under this section must file an application for a Certificate of Appropriateness in conformance with section 10-786. Said application must include a projection of the estimated construction time and predicted completion date of the historic repair or rehabilitation. The requirements of sections 10-786 and 10-783 must govern the application, granting and removal, and maintenance process for the Certificate of Appropriateness. However, the actual granting of the tax abatement under this section shall be subject to the discretion and approval of the City Council. After a public hearing, the City Council may by ordinance approve the abatement provided for in this section. If approved by City Council, the applicant for abatement shall cause a copy of the ordinance and application for exemption to the Smith County Appraisal District not later than January 1st of each subject tax year.

d. Time for completion; re-capture. If the improvements, renovation or restoration repair work on a particular piece of property are not completed within two (2) years from the date of issuance of the Certificate of Appropriateness, any and all tax abatements previously received on said property during the two-year period must be revoked, and the City may re-capture all tax abatements that the property owner received during said two-year period. In addition to the re-capture, the property owner shall not be eligible for the tax abatement for the remaining three (3) years.

e. Eligible costs. Eligible costs must include construction, reconstruction, alteration, change, restoration, removal or demolition of any exterior architectural feature of a building or structure on the Tyler historic landmark register. Materials and labor for repairing, replacing or adding any of the following shall be eligible, if expressly approved as part of the Certificate of Appropriateness:

1. Structural walls;

2. Exterior doors;

3. Windows;

4. Exterior brick veneers or treatments;

5. Roof and gutter where necessary for structural integrity;

6. Facade items;

7. Limited demolition, not more than fifteen percent (15%) of the original structure, and cleanup related to the eligible costs in this subsection;

8. Exterior paint (consistent with those colors available during the time period that the structure was built);

9. Foundations;

10. Structural subfloors;

11. Structural ceilings;

12. Termite damage and treatment;

13. Fixtures and decorative items attached to the main structure, or that contribute to the historic integrity of the property;

14. Fencing that contributes to the historic integrity of the property.

f. Ineligible costs. Ineligible costs shall include the following:

1. Overhead;

2. Taxes;

3. Supervisor payroll;

4. Repairs of construction equipment;

5. Tools;

6. Plumbing and electrical wiring;

7. Mechanical equipment; air conditioning systems;

8. Any other items not directly related to the exterior appearance or the structural integrity or viability of the structure, except that interior items for commercial properties shall be allowed.

g. Use in conjunction with other incentives. The tax abatement authorized by this

section may be used in conjunction with other types of abatements or incentives, either existing and that may be developed in the future, unless otherwise prohibited by statute or ordinance.

h. Sunset review. Before the fifth anniversary of the date of re-adoption of this section, the City Manager shall review the tax abatement program established herein. The City Manager shall review the effects of, and any benefits or problems associated with, this program. Following such review, the City Manager shall make a recommendation to the City Council regarding whether to continue, modify, or repeal this section. (Ord. No. 0-2005-61; 8/17/05) (Ord. No. 0-2008-8; 1/9/08) (Ord. No. 0-2012-83; 10/10/12)

Sec. 10-795 – 799. Reserved

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ARTICLE XII. ANNEXATION

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DIVISION A. Boundary Extension and Annexation

Sec. 10-800. Boundary Extension and Annexation

a. The city council may extend the city limits and annex additional territory lying adjacent to the city by passing an ordinance setting forth the metes and bounds of the area sought to be annexed, declaring the territory within the defined boundaries to be a part of the city, and ordering it subject to all of the rules and regulations applicable to the city in accordance with state law.

b. An applicant(s) seeking annexation pursuant to Section 43.028, Texas Local Government Code, or successor, must file a petition with the planning department containing the following information and conforming to the following requirements:

1. A metes and bounds description of the tract to be annexed.
2. A list of all qualified voters who reside on the tract.
3. The petition must be signed by each owner.
4. Each owner's signature must be acknowledged in the manner required for deeds.
5. The application must be accompanied with a plat of the tract to be annexed, drawn to scale, which must:
   (a) Identify the ownership of each parcel of land;
   (b) Show any public ways within or bounding the tract;
   (c) Show any easement within or bordering the tract;
   (d) Show the existing City limits boundaries.
6. Information required for original zoning.
7. The application must be accompanied with a filing fee in an amount established by the city council and kept on file in the planning department. (Ord. 0-97-2, 1/22/97)

Sec. 10-801. Annexation Goals and Policies

Texas cities derive their annexation authority from state law.

As a home rule city, Tyler has the right to annex voluntarily or involuntarily any area within its extraterritorial jurisdiction (ETJ) or any city-owned property, subject to State law requirements. The ETJ includes the unincorporated area within five miles of the city limits, excluding any area that is legally existing in the ETJ of another city. Within its ETJ, the city also has the right to approve the creation of other political jurisdictions, and enforce its subdivisions.

Annexation is one of the most important tools available to cities in Texas to determine their future. In recognition of that fact and based upon the authority outlined above, the city adopts the following annexation goals and policies. Because the parameters bearing on specific annexations and boundary adjustments vary so considerably, these goals and policies are intended as flexible guidelines to be followed rather than as absolute mandates. Also, the intent of all the policies together should be considered rather than one policy individually. (Ord. No. 0-2005-22, 3/23/05)

a. Goal I: Preserve the city's range of annexation options

The authority granted to Texas home rule cities to fix and extend their boundaries and to exchange areas with other municipalities is very broad. The city should exercise that authority when appropriate and vigorously oppose any effort to reduce it.

1. Policies

(a) The city may, at its discretion, annex any lands within its exclusive ETJ in accordance with state laws and the City Charter.

(b) The city should consider annexation for the purpose of enforcing health and safety regulations and improving the quality of life.

(c) The city should vigorously pursue violations of its ETJ to the fullest extent allowable by law.

b. Goal II: Promote orderly growth and provision of municipal services

Within unincorporated areas in Texas, there are very limited development controls. Annexation of areas facing development pressures can ensure proper land use relationships and high standards of construction through the Tyler Unified Development Code and building codes, thereby assuring adequate health and safety standards and averting costly future problems for the city.

When a major city remains viable, it can usually provide more services and a higher level of service than can a smaller community. This is particularly true in the Tyler metropolitan area where the city is so much larger than the other incorporated cities. Because of its size, the city expends considerable resources planning for development and major thoroughfares within its ETJ. Annexation allows the city to enjoy the benefits of that investment in planning.

1. Policies:

(a) The city should consider annexing areas facing the prospect of development as a means of effectively controlling the quality of growth through the extension of the city's zoning and other regulations.

(b) The city should annex city-owned property when appropriate as soon as possible after acquisition.

(c) Prospective annexation areas should be evaluated to determine their impact on existing services and city budget.

c. Goal III: Enhance the city's fiscal position

As the major city and cultural center of the region, the city provides and supports many services which are available to residents of unincorporated areas, as well as to those within the city limits. Annexation provides a means for the city to recoup partially the costs of these services.

Annexation also provides a means for the city to avoid a dwindling tax base. Unlike many states, Texas cities have considerable authority to annex adjacent unincorporated areas. There is a very good reason for this. In parts of the nation, where cities are unable to annex, there is a tendency for those who can afford to do so to escape city taxes and problems in favor of the suburbs. The result is that such cities are abandoned to their poorer citizens, with their needs growing while their resources diminish. While inner city housing ages and depreciates in value, new housing occurs primarily on the city fringe, primarily outside the city limits. Commercial and industrial centers then follow the population trend away from the center city. Without annexation, the city could be faced with decreasing rather than increasing resources.

By retaining control over its planning area, the city can plan for the most efficient design and use of its infrastructure, particularly its utilities and major thoroughfares. Annexation can also prevent or inhibit the

further fragmentation of government, thereby reducing the total cost of government for citizens in the region decreasing the difficulties of resolving multi-jurisdictional problems.

1. **Policies**

(a) The city should consider annexation to protect the city's fiscal viability by extending its tax base for ad valorem taxes, including both real and personal property, and sales taxes and to maintain the city's bond rating.

(b) The city should consider annexing nonresidential areas as a means of maximizing the city's investment return.

(c) Areas which are in need of municipal services, but would create a fiscal liability to the city, should be annexed in conjunction with other areas which would generate offsetting revenue surpluses.

(d) Cost-revenue analyses for prospective annexation areas should be estimated for at least 10 years after annexation. Identified capital costs should include estimated debt service as determined by the Finance Department.

(e) Annexation costs should be considered budgetary mandates.

(f) Areas to be annexed are eligible to receive city water and sewer services as provided in the Tyler Code.

(g) The city should consider annexation to extend its ETJ to provide development controls to areas it deems are in need of such controls.

(h) The city should oppose the creation of additional cities, special purpose districts, and water or wastewater utilities within its ETJ unless the city determines it is not responsible and cost effective to provide the necessary services.

(i) The city may annex areas to preclude the creation of other political jurisdictions.

(j) The city should consider the following criteria prior to releasing any portion of its corporate limits or ETJ to another city:

(1) There should be an exchange of areas of equivalent value with the other jurisdiction;

(2) The other city should have adequate land use controls (as determined by the city) to protect the subject area and provide assurances that these controls will remain in effect;

(3) The existing city limit or ETJ is not a logical planning boundary;

(4) Potentially significant negative fiscal impacts on the city's budget will not result if the area is released; and

(5) The area does not contain environmental resources in need of city protection.

d. Goal V: Maintain a Systematic Annexation Process

The process by which unincorporated areas are selected for annexation should be clearly understood and designed to predict when a particular area will be annexed with some degree of certainty. Such a process would assist in providing timely extensions of public infrastructure systems and in estimating city revenues. Property owners would also benefit by knowing when their properties will receive municipal services and when taxes will be assessed.

1. **Policies**

(a) Annexation and disannexation petitions should be considered on an individual basis and referred to the city attorney for a determination of sufficiency as to form and legality.

(b) In accordance with state law, the city will prepare an annexation plan identifying prospective annexation areas for the next three years. The plan will be amended as needed. (Ord. 0-97-2, 1/22/97); (Ord. No. 0-99-94, 12/15/99)

Sec. 10-802. City Limits in 1995

Section 41.003 of the Texas Local Government Code provides that an irrebuttable presumption attaches to the inclusion within the city of any area that has been functionally a part of the city for 20 years. City records indicate that the area designated in the Exhibit "A" which is attached to the ordinance adopting this section has been a part of the city for at least the preceding 20 years and the city has provided municipal services, including police protection, to the area and has treated the area as part of the city during the preceding 20 years. City records also indicate that there has not been a final judicial determination during the preceding 20 years that the area is outside of the boundaries of the city, and that there is no pending lawsuit that challenges the inclusion of the area as part of the city. Therefore, the City Council finds that the requirements of state law for inclusion of the area have been met and the inclusion of the area designated in Exhibit A is not contestable. (Ord. O-2007-73, 06-19-07) (Ord. No. 0-2010-37; 4/28/10) (Ord. No. 0-2011-11; 2/9/11) (0-2011-24, 4/27/11) (Ord. 0-2011-32, 5/11/11) (Ord. 0-2011-36, 5/25/11) (Ord. No. 0-2011-62, 8/24/11) (Ord. 0-2011-63, 8/24/11) (Ord. 0-2012-12, 2/22/12) (Ord. 0-2012-16, 3/28/12) (Ord. 0-2012-43, 5/23/12) (Ord. 0-2013-15, 2/27/13) (Ord. 0-2014-9, 1/22/14) (Ord. 0-2015-18; 1/28/15)(Ord. 0-2016-9, 1/27/16)

Sec. 10-803 – 899. Reserved

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ARTICLE XIII. DEFINITIONS

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DIVISION A. Definitions

Abandonment
To cease or discontinue a use or occupancy for six months or longer, but excluding temporary or short-term interruptions to a use or occupancy during periods of sale or transfer, remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

Abbreviated Drainage Plan
A layout of drainage facilities and other elements of a proposed development.

Abut
Sharing property line or common border or a portion of a property line or common border.

Access
A way or means of approach to provide physical entrance to a property.

Accessory Structure
A structure that: is:

1. clearly incidental and subordinate to and serves a principal building;
2. subordinate in area, extent, or purpose to the principal building;
3. contributes to the comfort, convenience or necessity of occupants of the principal building; and
4. located on the same lot as the principal building. Accessory buildings include any and all parking garages and in a residential district, garages for automobile storage, tool houses, greenhouses, home workshops, children's playhouses, storage houses or garden shelters.

Accessory Use
A use that is:

1. clearly incidental to and customarily found in connection with the principal use;
2. subordinate to and serves the principal use;
3. subordinate in area, extent, or purpose to the principal use served;
4. contributes to the comfort, convenience, or necessity of the occupants, business, or industry involved in the principal use; and
5. located on the same lot as the principal use.

Adaptive Reuse
The development of a new and different use for an older building or for a building originally designed for a special or specific purpose.

Adequate Public Facilities
Facilities determined to be capable of supporting and servicing the physical area and designated intensity of the proposed subdivision as determined by the City Council based upon specific levels of service.

Adjacent
Adjacent refers to lots which directly touch. Lots separated by a street do not apply. (Ord. No. 0-2011-45; 6/8/11)

Adjoining
Properties and/or structures, having direct contact by sharing a common border or wall with no other separation. Contiguous.

Adult Arcade

Any place to which the public is permitted or invited where coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

Adult Bookstore or Adult Video Store

A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or

2. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

Adult Cabaret

A nightclub, bar, restaurant or similar commercial establishment which regularly features:

1. Persons who appear in a state of nudity; or

2. Live performances which are characterized by exposure of "specified anatomical areas" or by "specified sexual activities"; or

3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult Motel

A hotel, motel or similar commercial establishment which:

1. Offers, as its principal business, accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

3. Allows a tenant or occupant of a sleeping room to sublease the room for a period of time that is less than ten (10) hours.

Adult Motion Picture Theater

A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult theater
A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

Affixed
In the context of the sign regulations, fastened, joined, or attached to in any manner, temporarily or permanently.

Agricultural Products Processing Plant
An industrial facility which involves the operations of processing, preparing or packaging agricultural products which are not grown on the site.

Air Gap
A complete physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel. (Ord. No. 0-2009-19; 3/11/09)

Airport
A transportation facility for the landing or take-off of aircraft, usually equipped with hangars, facilities for refueling and maintenance of aircraft, and various accommodations for passengers, the location and operation of which has been approved by the City as an aircraft landing facility, and subject to the Federal Aviation Administration's requirements for safety and the airport securing air space utilization from the FAA.

Air Rights
The ownership or control of all land, property, and that area of space at and above a horizontal plane over the ground surface of land used for railroad or right-of-way purposes. The horizontal plane must be at a height that is reasonably necessary or legally required for the full and free use of the ground surface.

Alcoholic, Narcotic or Psychiatric Patient Care Center
A health care facility, public or private, specializing in outpatient treatment for alcohol and drug abuse, or psychiatric problems.

Alley
A public or private service way which provides only a secondary means of public access to property abutting thereon and not intended for general traffic circulation.

Alteration
Any change, addition, or modification in the construction or occupancy of an existing structure.

Alteration, Structural
Any external or internal change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders, or in the dimensions or configuration of the roof or exterior walls.

Amended Plat
A revised plat correcting errors or making minor changes to the original recorded final plat.

Amusement Center - Commercial (Indoor)
A commercial facility offering entertainment to the public for a fee where all activity takes place indoors. Such facilities include video games, pin ball and like coin-operated games and equipment. An arcade.

Amusement Park - Commercial (Outdoor)
A commercial facility providing entertainment to the public for a fee where most or all of the activity takes place outdoors. Such facilities include, rides, games, concessions, exhibits and the like.

Annexation
The incorporation of land area into the city with a resulting change in the city limit boundaries.

Animal Exhibition
A collection of animals for display to the public. An animal exhibition does not include the sale, breeding or butchering of animals.

Animal Park
A public or private facility, providing containment and housing of live animals, displaying such in a park like setting, which attempts to duplicate a more natural environment than that offered by a conventional zoo. Such a facility seeks to maximize interaction between animals and humans. The facility may be open to the public, may charge admission or may be for the promotion of some other enterprise.

Animal Pound/Shelter
A facility, public or private, including outside runs, for the enclosure of stray or unlicensed pets.

Animation
The presentation of pictorials and graphics, displayed in a progression of frames which give the illusion of motion.

Antenna
Any system of wires, poles, rods, reflecting discs or similar devices used for the transmission or reception of electromagnetic waves, external to, or attached to, the exterior of any building, including the supporting structure; e.g. amateur radio antennas, television antennas and satellite receiving dishes.

Antenna Support Structure
Any structure, mast, pole, tripod, box frame, or otherwise tower utilized for transmission, retransmission, or reception of electromagnetic, radio, cellular, or microwave signals.

Antique Mall
A commercial establishment offering for lease individual spaces or stalls inside a building, where independent dealers may display their antiques for sale.

Antique Shop, Antique Sales (Indoor)
A commercial establishment displaying and offering for sale within a building articles such as glass, china, furniture or similar furnishings and decorations, which have value and significance as a result of age, design or sentiment. All display and storage of items is to be enclosed within a building.

Apartment
A room or suite of rooms in a multi-family dwelling or apartment house, arranged, designed, or occupied as a place of residence by a single-family, individual, or group of individuals and constituting a dwelling.

Apartment House
Any building or portion thereof, which is designed, built, rented, leased or let to be occupied as three or more dwelling units or apartments, or which is occupied as three or more dwelling units or apartments, or which is occupied as a home or place of residence by three or more families living in independent dwelling units. See Dwelling, Multi- Family.

Appeal
1.An appeal of the Planning Director's interpretation of this chapter; to be heard by the Board of Adjustment; or
2. A request for a review of the Floodplain Administrator's (Development Services Engineer) interpretation of the flood plain provisions or variance therefrom;
(Ord. No. 0-2006-98, 11/21/06)

Appliance (Household) Repair Shop
A commercial establishment providing repairs of household and home equipment, such as electrical appliances, lawnmowers, tools and similar items.

Applicant
The owner of land proposed to be subdivided or its representative who must have express written authority to act on behalf of the owner. Consent is required from the legal owner of the premises.

Archery Range
A recreational facility designed and constructed for the practice and teaching of archery, and operated by a public agency, quasi-public or private organization. No discharge of firearms permitted.

Area of shallow flooding
A designated AO, AH or VO Zone on the City's Flood Insurance Rate Map (FIRM) with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard
The land in the floodplain within the City subject to a one (1) percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zone A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

Art Gallery/Studio (Commercial)
A commercial establishment involved in the production, exhibition and sale of works of art, such as paintings and sculpture.

Art Gallery, Museum (Public)
A public facility for the display of objects of art or science which is sponsored by a public or quasi-public agency and which admission is open and available to the public.

Asphalt or Concrete Batching Plant (Permanent)
An industrial manufacturing facility for the storage and mixing of materials for concrete or for asphaltic surfacing, in which facilities are established on a permanent basis.

Asphalt or Concrete Batching Plant (Temporary)
An industrial facility for the storage and mixing of materials for concrete or for asphaltic surfacing, which is located on a temporary basis to service specific construction projects, and which is to be removed on completion of the project(s).

As Of Right
A use allowed in a particular zoning district without the issuance of a special use or temporary use permit.

Atmospheric Vacuum Breaker
An assembly containing an air inlet valve, a check seat, and an air inlet port. The flow of water into the body causes the air inlet valve to close the air inlet port. When the flow of water stops the air inlet valve falls and forms a check against back-siphonage. At the same time it opens the air inlet port allowing air to enter and satisfy the vacuum. Also known as an Atmospheric Vacuum Breaker Back-Siphonage Prevention Assembly. (Ord. No. 0-2009-19; 3/11/09)

Authorized Agent
An architect, attorney, builder, developer, realtor, lessee, or other person empowered to act on behalf of other persons. An authorized agent may represent the owner of real property before the planning and zoning commission, city council or the zoning board of adjustment. (O-2003-38, 7-23-03)

Automated Teller Machine (ATM)
A self-service, electronic device employed by a financial institution to dispense funds and accept deposits automatically. An ATM may be located at the office of the financial institution, in stores, shopping malls, office buildings, etc., or may be housed in a small kiosk.

Automatic Dimmer
A device that automatically decreases the brightness of the lighted message by 50% from the daytime brightness level.

Automobile
A four-wheeled self-propelled vehicle designed for passenger transportation.
Automobile Glass, Muffler or Seatcover Shop: A commercial establishment providing automotive services and specializing in the assembly, fitting and installation of glass, seatcovers or mufflers in automobiles as a primary activity.

Automobile/Motor Vehicle Repair, Minor
Minor repair or replacement of parts, tires, tubes, and batteries; diagnostic services; performance of minor motor services such as lubrication, oil, spark plug, and filter changing; tune-ups; emergency road service, replacement of starters, alternators, hoses, brake parts; automobile washing and polishing; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of vehicle air-conditioning systems, and other similar minor services for motor vehicles except heavy load vehicles. Such activities do not include any operation identified under "Automobile Repair, Major" or any other similar use. Minor automobile repairs are usually provided as part of a commercial enterprise.

Automobile Repair Garage
A commercial establishment providing major or minor automobile repair services to all motor vehicles except heavy load vehicles, which may include temporary storage of such vehicles.

Automobile/Motor Vehicle Repair, Major: General repair or reconditioning of engines, air- conditioning systems and transmissions for motor vehicles; wrecker service; collision services, including body, frame or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rust proofing; and all those activities listed under "Automobile Repair, Minor"; and other similar uses. Major automobile repairs are usually provided as part of a commercial enterprise.

Automobile Rental or Leasing Agency
A commercial establishment providing automobiles and light trucks for rent or lease, including the storage of such vehicles awaiting lease.

Automobile/Truck Auction
A commercial facility for the storage and sale of automobiles, trucks and other motor vehicles to the highest bidder.

Automobile/Truck Painting or Body Rebuilding Shop
A commercial establishment involved in restoring auto and truck bodies, including painting and refinishing.

Automobile/Truck or other Vehicle Dealership
A commercial establishment involved in the display, sale and servicing of motor and non-motorized vehicles, both new and used, including automobiles, trucks, motorcycles, recreational vehicles and travel trailers, etc.

Auto Parts and Accessories Store
A commercial establishment retailing automotive parts and accessories, with no on-premise installation or repairs performed.

Auto Parts and Accessories, Repair and Installation Store
A commercial establishment retailing automotive parts and accessories with on-premise installation and minor repairs being performed; e.g., a tire store.

Auto Parts Sales (Outdoor)
A commercial use of any land area for the display and sale of new or used parts for automobiles, trucks, vans, trailers, or recreational vehicles.

Awning
An architectural projection that provides weather protection, identity, or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid skeleton structure over which a rigid covering is attached. (Ord. No. 0-2009-70; 6/10/09)

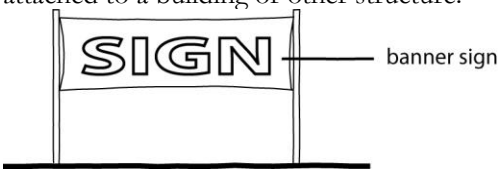
Backflow Prevention
The mechanical prevention of reverse flow, or back siphonage, of nonpotable water from an irrigation system into the potable water source. (Ord. No. 0-2009-19; 3/11/09)

Backflow Prevention Assembly
Any assembly used to prevent backflow into a potable water system. The type of assembly used is based on the existing or potential degree of health hazard and backflow condition. (Ord. No. 0-2009-19; 3/11/09)

Bakery or Confectionery Shop (Retail)
A commercial establishment involved in baking and retailing baked goods, or in preparing, baking and retailing candy or other sweets. All goods baked, cooked or prepared on the premises are to be sold at retail on the same premises.

Bank, Savings and Loan or Credit Union
A commercial or non-profit financial institution and its offices, whose primary purpose is the custody, loan, exchange or issue of money, the extension of credit, and the transmission of funds.

Banner
A soft, flexible sign, similar to a flag, made of cloth, plastic or other material, usually strung between two poles or attached to a building or other structure.



(Ord. No. O-2010-119; 11/10/10)

Barber or Beauty Shop (Commercial)
A commercial establishment, licensed by the state where haircutting, hairdressing, shaving, trimming beards, facials, manicures or related personal services are performed.

Barber or Beauty Shop (Residential)
An accessory residential use, operated as a commercial enterprise and licensed by the state where haircutting, hairdressing, shaving, trimming beards, facials, manicures or related personal services are performed. Such facilities are limited to one-chair, operated by an individual residing at the same location, and are permitted as a Special Use.

Barricade Area for Existing Trees
A protected area extending in a radius no less than the drip line from every protected tree that prevents intrusion by construction equipment, vehicles, and people.

Barrier
A device or treatment, which controls the management, circulation, separation, or direction of traffic. Such treatments include, but are not limited to, wheel stops, raised islands, dividers or barricades.

Base Flood
The flood having a one percent chance of being equaled or exceeded in any given year. The base flood shall be determined by using a fully developed watershed and the city's Drainage Design Manual criteria for a 100-year storm. Base Flood Elevation (BFE)The elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Basement
That portion of a building between the floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is more than the vertical distance from grade to ceiling. A basement will be counted as a story in computing building height if at least one-half of its height is above the average level of the adjoining ground prior to berming, using measurements taken at each corner of the building which meets the ground.

Bed and Breakfast (Tourist Home)
An owner-occupied dwelling unit, or portion thereof, where short-term overnight lodging, with or without meals, is provided for compensation.

Bench mark (BM)
A relatively permanent object, natural or artificial, bearing a marked point whose elevation above or below an adopted datum is known or assumed. Common examples are metal disks set in concrete and curbs.

Berm
An earthen mound designed to provide visual interest, screening and/or decrease noise.

Billboard
An off-premise sign used to direct attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located. Billboard face includes the part of the sign that contains the advertising or information contents and all of the interrelated parts and materials, such as beams, poles, braces, apron, catwalk, and stringers, that are used, designed to be used, or intended to be used to support or display a sign face. (Ord. No 0-2014-8; 1/22/14)

Block
An area enclosed by streets and occupied by or intended for buildings.

Boarding/Rooming House
A group residential facility that provides housing and meals for compensation and is available for long-term occupancy.

Board of Adjustment, Zoning (ZBA)
The zoning board of adjustment, reviews, and grants variances from the literal application of the requirements of this code. (See Variance.)

Book and Stationery Store
A commercial establishment which retails books, pamphlets, paper, pens, ink and associated items; not involving wholesale distribution.

Bottling Works
An industrial manufacturing facility where soft drinks or other beverages or liquids, are bottled or canned for wholesale distribution.

Bowling Alley
A recreational facility providing bowling lanes. Such facilities may include other games and may offer food and beverages, and are often operated as a commercial enterprise.

Buffer
Trees in a land area used to separate visibly and visually, one use from another or to shield or block noise, lights or other nuisances.

Buffer Area
A strip of land, identified on a site plan or by development code, established to separate physically and protect one type of land use from another land use that is incompatible.

Bufferyard
A strip of land, identified on a site plan or by development code, established to separate physically and protect one type of land use from another land use that is incompatible. Normally, the area is landscaped and kept in open space.

Bulletin Board
A sign which identifies an institution or organization on the premises of which it is located and which contains the name of the institution or organization, the names of individuals connected with it, and general announcements of events or activities occurring at the institution or similar messages.

Buildable Area
The space remaining for construction on a lot after the reserved area requirements (yards, setbacks, easements, etc.) have been met.

Building
A combination of materials to form a construction that is safe and stable, and designed to be built for the support, enclosure, shelter or protection of persons, animals, cattle or property of any kind including, but not limited to, permanent or continuous occupancy for assembly, business, education, industrial, institutional, mercantile, residential or storage purposes. The term building shall be construed to include the term "structure," and as if followed by the words, "or portion thereof." When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.

Building, Attached
A building which shares a continuous and permanent wall or roof with an adjacent building.

Building, Detached
A building having no wall, roof, floor, or other structural element in common with another building.

Building, Extension
An increase in the amount of the existing floor area within an existing building.

Building, Facade
The area of a single building elevation which encompasses all of such elevation from ground or grade level to the top, and from one side to the other side of the building. A typical building has four facades.

Building Material and Home Supply Store
A commercial establishment offering for sale, lumber, building supplies, tools, home improvement materials and related items, where the materials are stored within a building, or if stored outdoors, all supplies and commodities are stored behind a solid screening wall which is located on, or back of the required building line, and where the supplies and commodities are not stacked or arranged so as to extend above the top of the screening wall.

Building Material Salvage Yard
A commercial facility maintained, used, or operated for the storing, keeping, dismantling, salvaging, buying or selling of used building materials.

Building Setback Line
A line, established by this code, parallel or approximately parallel to the front lot line at a specific distance there from, marking the minimum distance from the front lot line that a building may be erected except or unless as specifically provided in this code.

Building, Principal
A building in which the main or principal use of the lot on which said building is situated is conducted. (See Principal Use.)

Building Official
A building inspector or administrative official responsible for issuing building permits and charged with the administration and enforcement of city construction codes.

Bulk Storage of Highly Flammable Materials
An industrial facility for the storage of chemicals, gasses or liquids which are explosive, or could be caused to ignite or explode.

Business
A commercial entity which occupies, uses, and enjoys real property for the conduct of a commercial activity, either through ownership or through a lease arrangement.

Business School
A private or commercial establishment involved in training students in clerical skills (correspondence, filing, shorthand, etc.) and other office procedures, including instruction in the use of business machines commonly found in a general office (typewriters, word processors, computers, calculators, etc.), but excluding instruction in the use of hand tools or other equipment not commonly utilized in an office.

Business Services
A variety of commercial establishments primarily engaged in providing services not elsewhere classified, to business enterprises on a fee contract basis, including but not limited to, advertising, computer programming and software services, and office equipment rental and leasing.

Bus Station or Terminal
A transportation facility on a common carrier line utilized for bus docking, freight storage, and passenger loading and unloading; not to be construed to include passenger shelters which may be located on a local bus route, i.e. a bus stop.

Bench Mark (BM)
A relatively permanent object, natural or artificial, bearing a marked point whose elevation above or below an adopted datum is known or assumed. Common examples are metal disks set in concrete and curbs.

Block
A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad right-of-way, shorelines of waterways, or boundary lines of municipalities.

Bond
Any form of a surety in an amount and form satisfactory to the city.

Cabinet and Woodwork Shop
A commercial establishment specializing in the repair or production of individual items of furniture and wooden home furnishings, on a custom basis. Such a shop shall not be construed to be a factory, planing mill or similar woodworking plant.

Cafe, Coffee Shop, Tea Room
A small commercial establishment, serving coffee, tea and other beverages to the public, with a limited food service menu. Not a restaurant.

Caliper
Diameter of a predominant tree trunk measured six inches above grade for trees four inches in diameter or less. For trees with a larger diameter, the caliper measurement shall be the diameter at breast height (d.b.h.), measured four and one half feet above grade.

Camera/Photography Store
A commercial establishment which retails photographic equipment and supplies, including cameras, film, photographic paper, auxiliary lenses, photo finishing material, projection equipment and other related items. Photograph developing and printing may be included.

Campground
A recreational area or tract of land on which accommodations for temporary overnight occupancy are located or may be placed, including tents and recreational equipment, and which is primarily used for recreational purposes and retains an open air or natural character. Such areas may be operated as a commercial enterprise.

Canopy
An architectural projection that provides weather protection, identity or decoration and is supported by the building to which it is attached and at the outer end by not less than one stanchion. A canopy is comprised of a rigid structure over which a rigid covering is attached. (Ord. No. 0-2009-70; 6/10/09)

Canopy Tree
Any self-supporting woody plant with one well-defined trunk and a distinct and definite formed crown, which attains a height of at least 30 feet.

Capital Improvements Program
The official proposed schedule of all future public projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project, as adopted by city council.

Carport
A structure open on a minimum of three sides designed or used to shelter not more than three vehicles, not to exceed twenty-four feet on its longest dimension.

Car Wash (Do-It-Yourself)
A commercial facility for washing, waxing and vacuuming passenger automobiles, light trucks and other vehicles through a self-service, stationary operation, operating either as a separate facility or in conjunction with another use. A simple roll-over operation may be included, as long as the vehicle remains stationary during the wash cycle.

Car Wash (Automated)
A commercial facility for washing and steam cleaning passenger automobiles, light trucks and other vehicles, which employs a production line method with a conveyor, blower and other mechanical devices, and which may employ some hand labor.

Catering Service
A commercial establishment that provides the preparation, delivery and service of food to be consumed off-premises at another location.

Cemetery, Mausoleum or Crematory
A facility or place, designed or designated for the interment of the deceased.

Certificate of Occupancy
Official certification that a premise conforms to provisions of the unified development code and all building codes and may be used or occupied. Such a certificate is granted for new construction, alteration, addition, or change of occupancy to existing structures. A building official must issue a CO in order for a building or structure to be lawfully occupied.

Character
An individual letter, number, or blank space that is formed on a sign lamp bank.

Chasing
A display mode on an electronic sign in which one graphic message immediately follows another.

Church (Temple or Synagogue)
A building or structure that serves regularly as a place of worship and religious training, including accessory housing facilities such as a rectory.

Church Activity/Recreation Center
An accessory facility designed and used for recreational activities sponsored by a church for use by the church's membership and invited guests. Such facilities may include a gymnasium, swimming pool, weight room, indoor track, bowling lanes and may include equipment and courts for outdoor recreation.

City Engineer (see also Development Services Engineer)
The official with responsibility to review and release plans for capital construction projects other than water and sewer improvements, or designee. (Ord. No. 0-2006-19, 2/8/06) (Ord. No. 0-2012-83; 10/10/12)

Classroom
A room used for instructional purposes. A classroom contains seating facilities or work stations for each student up to a maximum number of students. Classrooms include lecture halls, laboratories, data processing training rooms and the like. Classrooms do not include auditoriums, meeting rooms, student or teacher lounges, libraries, and the like.

Cleaning Plant (Commercial)
A commercial establishment involved in the dry cleaning and/or laundry of clothing and other fabric items.

Cleaning Shop or Laundry Pick-up Station
A small commercial establishment providing drop-off/pick-up service for the cleaning of garments at another location. May include touch- up pressing on the premises.

Clearing and Grading Permit
A document required and issued by the city for any earth change activity associated with development within the city.

Clearing of Land
A property owner, developer, or contractor shall be considered "clearing" land if performing one of the following actions: excavating, grading, regrading, land filling, berming, paving, diking, removing trees, clearing, grubbing, or other earth changes.

Cluster Development
A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space and preservation of environmentally sensitive areas.

Clinic, Out-patient (Medical, Dental or Optical)
A health care facility designed and used for diagnosis and treatment of human patients, including offices, laboratories and related facilities, but not including hospital beds for overnight care or treatment.

Clothing/Apparel (Custom Made)
A commercial establishment retailing clothing and other garments, individually made to customer order.

Clothing/Apparel Manufacturing Plant
An industrial facility involved in the production of clothing and apparel. Manufacturing operations involve cutting, sewing, forming and packing of garments and similar items, including millinery and clothing accessories. May include an outlet store.

Clothing Store
A commercial establishment retailing apparel and accessories.

Club
Buildings or facilities owned or operated by a corporation, association, or group of individuals for social, educational, or recreational purposes, but not primarily for profit or to render a service that is customarily conducted as a business.

Club, Private (Commercial
A commercial establishment which may provide entertainment and food service, licensed by the Texas Alcohol Control Board (TACB), where memberships are sold to the public for on-premise consumption of alcoholic beverages.

Collector - Street which serves the internal traffic movement within an area of the City, such as a subdivision or commercial area, and connects this area with the arterial street system.

College Dormitory
A college residence hall providing group living quarters for the student body, with or without dining facilities.

College, University or Seminary
An academic institution of higher learning, accredited or recognized by the state, offering a program(s) of academic study. A seminary is an institution for training candidates for the priesthood, ministry or rabbinate.

Commercial Use
An occupation, employment, or enterprise that is carried out for profit by the owner, lessee, or licensee.

Commercial Banner
A banner that contains speech that proposes an economic transaction. (Ord. No. 0-2010-20; 3/10/10)

Commercial Decoration
A decoration that contains speech that proposes an economic transaction. (Ord. No. 0-2010-20; 3/10/10)

Commercial Vehicle
Any motor vehicle or non-motorized vehicle (trailer), designed, intended, identified, or employed for the conduct of a commercial enterprise.

Commissary
A permitted fixed location food establishment where a mobile food unit or pushcart returns for servicing. This facility must meet the same requirements as a food service establishment. It must also have proper facilities to dispose of waste water and refill and flush potable and waste water tanks without risk of contamination. (Ord. No. 0-2014-113, 12/10/14)

Commission
The planning and zoning commission for the City of Tyler.

Common Usable Open Space
That portion of land or area of water, or combination of land and water, within the site designated for a planned development and designed and intended for the use and enjoyment of the residents and owners of the planned development.

Community Center
A place, structure, area, or other facility used to conduct or house cultural, athletic, social, entertainment and/or recreational programs, generally open to the public and designed to accommodate and serve significant segments of the community.

Community Health or Welfare Center
A community service facility where social, welfare, health or child care assistance is provided by a public, quasi-public, tax-exempt, or church agency.

Completion of Irrigation System Installation (Irrigation Systems)
When the landscape irrigation system has been installed, all minimum standards met, all tests performed, and the irrigator is satisfied that the system is operating correctly. (Ord. No. 0-2009-19; 3/11/09)

Comprehensive Plan
A plan for development of the city prepared and adopted by the council, and including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

Condominium
An estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property together with a separate interest in space in a residential building, such as an apartment. A

condominium may include, in addition, a separate interest in other portions of such real property. Condominiums are permitted wherever multifamily dwellings are allowed.

Congregate Housing
A residential facility for six or more persons that provide living and sleeping facilities, meal preparation, laundry services and room cleaning.

Construction
Any activity on the property following a building permit.

Construction Board of Adjustment and Appeals
The governing body appointed by the City Council in order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of the codes adopted and amended by Chapter 6 of the City of Tyler Code of Ordinances.

Construction Plan
The maps or drawings accompanying a plat and showing the specific location and design of public improvements to be installed in the subdivision or addition in accordance with the requirements of the commission as a condition of the approval of the plat.

Consulting (Irrigation Systems)
The act of providing advice, guidance, review or recommendations related to landscape irrigation systems. (Ord. No. 0-2009-19; 3/11/09)

Contiguous
Lots are contiguous when at least one boundary line of one lot touches a boundary line(s) of another lot.

Contractor's Shop and Storage Yard
A commercial facility utilized by general contractors, including buildings and open storage yards, for storage of supplies and operating equipment, but not constituting a junk or salvage yard.

Convalescent, Nursing or Rest Home
A group residential facility utilized for housing, boarding and nursing care, on a 24-hour basis, of three or more persons who, because of mental or physical incapacity, may be unable to provide for their own needs and safety without assistance.

Convenience Store
A small commercial establishment, offering for sale at retail, pre- packaged food products, household items and other goods commonly associated with a household, and having a gross floor area of less than 5,000 square feet. Such establishments may include gasoline sales but are limited as to the number of pumps and service islands.

Convent or Monastery
A group residential facility providing housing for a religious order or congregation for persons under religious vows.

Convention Center
A public facility or complex which provides cultural, recreational, athletic, convention or entertainment facilities owned and/or operated by a governmental agency, and which may house City offices and services.

Correctional/Detention Facility
A public facility, operated by County, State or Federal government, or by a commercial entity under contract to one of these governments, utilized for long-term incarceration of individuals convicted of crimes where these individuals are

housed until such time as they have completed their sentences. Such facilities include minimum and maximum security prisons for adults, and juvenile detention centers for minors. Permitted as a Special Use. See Special Use.

Council
The Tyler City Council.

Country Club (Private)
A recreational area including a club house and other facilities, restricted to use of a specific membership, which may include a golf course, tennis courts, swimming pool, dining room, social facilities and similar recreational and service facilities, with a minimum of ten (10) acres.

County
Smith County, Texas.

Covenant, Restrictive
A restriction on the use of land usually set forth in the deed which is binding upon subsequent owners of the property. These are private agreements among property owners and are not enforceable by the city. (Also referred to as a deed restriction.)

Crisis Center
A secure public or private facility established to offer assistance, temporary shelter and counseling to individuals who have suffered a crisis in their personal lives and which may be in danger of physical or psychological harm. Permitted as a Special Use.

Critical feature
Any 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)
The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the drip line.

Cross-Connection
An actual or potential connection between a potable water source and an irrigation system that may contain contaminates or pollutants or any source of water that has been treated to a lesser degree in the treatment process. (Ord. No. 0-2009-19; 3/11/09)

Cul-de-sac
A local street, one end of which is terminated and consists of an area that can accommodate vehicle turnaround.

Custom Sewing and Millinery Shop
A commercial establishment specializing in the custom making of apparel and millinery, not involving a large volume or mass production.

Cut/Fill
Areas where the natural ground level has been excavated or fill brought in.

Curb Line
A raised ledge adjacent to the paved portion of a roadway which delineates that portion of the roadway maintained for vehicular travel. In the absence of a raised curb, the edge of the paved portion of the roadway is considered to be the curb line.

Customer Service Area
An area set aside in any retail or commercial establishment where customers may receive service or may wait while service is being performed on automobiles, appliances, or other customer-owned products.

Dance Hall (Public or Private)
A facility utilized primarily for dancing, with live entertainment or amplified music provided. Such facilities may be operated as a commercial enterprise. Schools of dance are not included.

Datum
Any level surface to which elevations are referred (for example, mean sea level). Also called datum plane, although not actually a plane.

Day Camp
An open-air recreational area maintained under public or private auspices with facilities comparable with those found in City parks and playgrounds

Day Care Center (Children)
A child care facility, licensed by the state, under public or private auspices, which cares for six (6) or more children under sixteen (16) years of age who are apart from their own family or relatives during a part of the day. The term "day care center" shall not include overnight lodging, medical treatment, counseling or rehabilitative services and does not apply to any school.

Day Care Center (Adults)
An establishment which provides day care for adults who are apart from their own family or relatives during a part of the day. The term "day care center" shall not include overnight lodging, medical treatment, counseling or rehabilitative services.

Day Care Home (Adults)
A home-based operation, licensed by the State which provides day care for adults who are apart from their own family or relatives during a part of the day. The term "day care home" shall not include overnight lodging, medical treatment, counseling or rehabilitative services.

Day Care Home (Children)
A home-based operation, licensed by the State which provides day care for no more than six (6) children who are apart from their own family or relatives during a part of the day. The term "day care home" shall not include overnight lodging, medical treatment, counseling or rehabilitative services.

Deciduous
A plant with foliage that sheds annually.

Dedication Plat
A plat prepared for the purpose of dedicating land or easements for rights-of-way to the City.

Defective, unsafe or hazardous sidewalks
Sidewalk sections that are upheaved or depressed, thereby causing an abrupt change in grade of twenty (20) percent or more (two (2) inches vertical in ten (10) inches horizontal) or creates an unsafe condition as designated by the City.

Deed
A legal document conveying ownership of real property.

Density
The number of dwelling units per acre or gross floor area per acre of residential and nonresidential uses.

Design (Irrigation Systems)
The act of determining the various elements of a landscape irrigation system that will include, but not be limited to, elements such as collecting site specific information, defining the scope of the project, defining plant watering needs, selecting and laying out emission devices, locating system components, conducting hydraulics calculations, identifying any local regulatory requirements, or scheduling irrigation work at a site. Completion of the various components will result in an irrigation plan. (Ord. No. 0-2009-19; 3/11/09)

Design Criteria
Standards that set forth specific improvement requirements.

Design Pressure
The pressure that is required for an emission device to operate properly. Design pressure is calculated by adding the operating pressure necessary at an emission device to the total of all pressure losses accumulated from an emission device to the water source. (Ord. No. 0-2009-19; 3/11/09)

Detention
The temporary storage and controlled release of stormwater runoff.

Detention Facility
A facility that provides temporary storage of stormwater runoff and controlled release of this runoff.

Developer
A person, business, corporation, or association responsible for the development of a subdivision, addition, or other any other residential, commercial, industrial, or institutional properties. In most contexts the terms developer and property owner are used interchangeably in these regulations.

Development
The division of a parcel of land into two or more parcels; any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling, or any other activity which alters established drainage patterns or increases the amount of stormwater runoff, including but not limited to:

1. Commencement of drilling, excavating, or dredging;
2. Clearing or removal of natural or existing ground cover and/or trees for speculation or for site preparation for construction, immediate or future;
3. Deposit of refuse, solid or liquid waste or fill; and
4. Alteration or improvement of a bed, bank, or floodplain of a watercourse.

The following activities do not constitute development:

1. Lawn and yard care, gardening and tree care and maintenance including removal and/or replacement which does not alter established drainage paths;
2. Removal of trees or other vegetation damaged by natural forces;
3. Necessary clearing of vegetation for purposes of surveying or soils investigation;
4. Clearing or plowing of land for agricultural purposes.

5. Repairs to existing utilities.

Development Exaction
Any dedication of land or easements for construction of or contribution toward construction of a public improvement required as a condition of plat approval by the city under these regulations.

Development Permit
In the context of floodplain regulations in Article IX, Division C, a permit required by the city for any development within the areas of special flood hazard.

Development Services Engineer (see also City Engineer)
The official with responsibility to review and release plans for private development construction projects other than water and sewer improvements, or designee. (Ord. No. 0-2006-19; 2/8/06) (Ord. No. 0-2012-83; 10/10/12)

Development Sign (permanent)
A monument sign displaying the name of a particular residential, commercial, industrial development or complex located at the principal entrance or entrances to a development.

Diameter at Breast Height (DBH)
Diameter of a predominant tree trunk measured four and one half feet above grade for trees more than four inches in diameter.

Director
The director of planning for the City of Tyler or that person's designee.

Directional Sign
A sign or signs located near the entrance or exit to a property intended to guide pedestrian or vehicular traffic. (Ord. No. 0-2011-45; 6/8/11)

Display Mode
The method of presenting a message electronically.

District
A section of the city designated in the unified development code in which uniform requirements for the use of land and buildings and development standards are prescribed.

District Boundaries
A property line or other type of demarcation line that separates unlike zoning districts.

Double Check Valve
An assembly that is composed of two independently acting, approved check valves, including tightly closed resilient seated shutoff valves attached at each end of the assembly and fitted with properly located resilient seated test cocks. Also known as a Double Check Valve Backflow Prevention Assembly. (Ord. No. 0-2009-19; 3/11/09)

Drainage Design Guideline Manual
The current edition of a document(s) containing minimum acceptable methods and practices for planning, design, and/or construction of drainage improvements and sediment control.

Drainage Easement
A parcel of land or portion thereof dedicated for passage of stormwater either overland or underground. No fences, alterations, improvements, or structures which hinder or impede the flow of stormwater must be constructed within such parcels or portions of parcels of land. The city may remove any encroachments within drainage easements which, in the opinion of the administrator, constitute a hindrance or obstruction to maintenance or the flow of stormwater.

Drainage Facilities
All elements necessary to convey stormwater runoff from its initial contact with earth until it leaves the city's extraterritorial jurisdiction. The drainage facilities must consist of both public and private storm sewers (closed conduits), improved and unimproved channels, drainage easements, and all appurtenances to the foregoing, including inlets, manholes, junction boxes, headwalls, dissipaters, culverts, catch basins, swales, ditches, floodplains, bridges, flumes, gutters and detention and retention ponds.

Drainage Way
All land areas needed to allow passage of the base flood, including sufficient access above the Base Flood elevation along each side of and parallel to the natural or excavated channel.

Drip Line
The area beneath the canopy of a tree defined by a vertical line extending from the outermost edges of the tree branches to the ground.

Drive-Thru Facility (Window)
Any portion of a building or structure from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions, e.g., drive-thru bank teller, drive-thru food service.

Drive-Through Service
Facilities designed so that patrons customarily obtain services or goods, without the customer having to leave their car.

Driveway
Any area constructed within the public street right-of-way, connecting the public roadway with private property for the purpose of providing access to private property, for motor vehicles.

Driveway, Major
A driveway providing access to property used for any purpose other than one- or two- family residential dwellings.

Driveway, Minor
Any driveway providing access to property used for one- or two- family dwellings.

Drug Store
A commercial establishment specializing in retail sale and dispensing of drugs and medicine, and which may include the sale and display of other merchandise, such as cosmetics, notions and similar items, and may provide fountain service.

Dry Cleaning Plant
An industrial facility where fabrics are cleaned with substantially nonaqueous organic solvents.

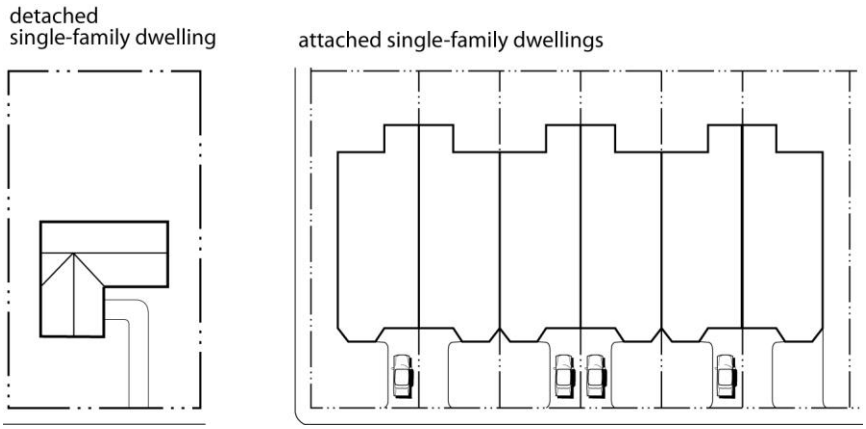
Duplex
A building designed for and/or occupied exclusively by two (2) families living independently of each other.

Dwelling or Dwelling Unit

Any room or group of rooms located within a structure forming a single habitable unit with facilities which are used and intended to be used for living, sleeping, cooking, eating, and sanitation by one family, but not including hotels, motels, or boarding homes.

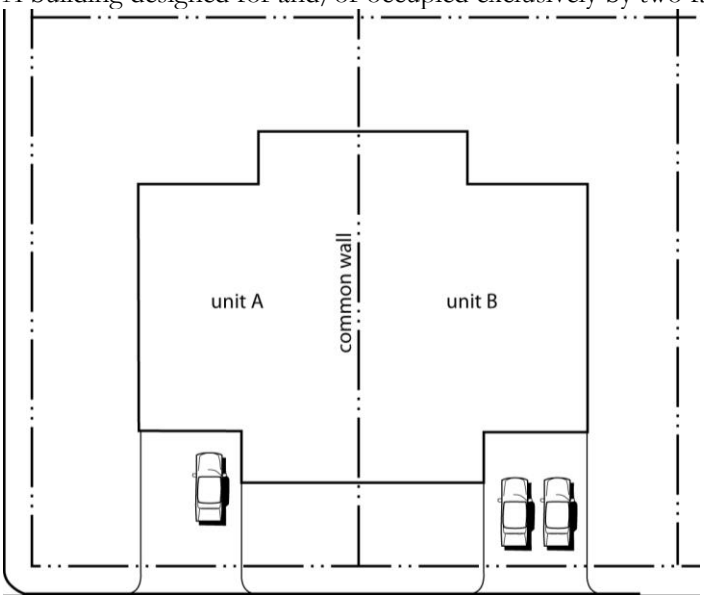
Dwelling, Single-Family

A building containing one dwelling unit designed for occupancy by not more than one family.



Dwelling, Duplex

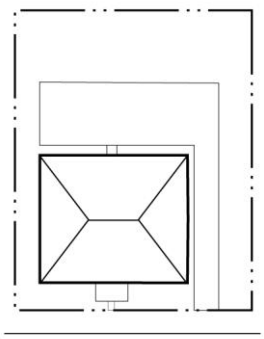
A building designed for and/or occupied exclusively by two families living independently of each other.



Dwelling, Multi-Family

A building designed for and occupied exclusively by three or more families living independently of each other. (A tri-plex, quad-plex, apartments, condominiums, etc.)

multi-family dwelling



Dwelling, Manufactured Housing/Mobile Home

A residential structure constructed on or after June 15, 1976 in compliance with the rules and definitions of the United States Housing and Urban Development Department with all the following characteristics:

1. designed for full-time occupancy and containing sleeping accommodations, flush toilet, tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems;
2. designed to be transported after fabrication on its own wheels or by other means;
3. designed to arrive at the site where it is to be occupied complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on and connection to foundation supports, connection to utilities and the like, and.
4. Bears a red tag.

Dwelling, Modular Home (Industrialized Housing)

A residential structure, constructed under the Texas Industrialized Housing and Building Act, is transportable in one or more modules or sections, that when assembled on site constitutes a dwelling unit, meets all local building codes and bears a blue tag.

Earth Change

Excavating, grading, clearing vegetation cover, paving, regrading, landfilling, berming, or diking of land within the city.

Easement

A right-of-way or parcel of land, specified or set aside for a specific use; normally for access, utilities, and other public or private usage, given by the owner of land to another party, and kept free from buildings or structures.

Electronic Sign

A sign using electrical impulses to display a message, picture, or design, whether stationary, moving or tracking in character.

Elevated building
A nonbasement building (i) built, in the case of a Flood Insurance Rate Map Zone AE, A, A99, AO, AH, and X, to have the top of the elevated floor, or in the case of a building in Zones VE or V, to have the bottom of the lowest horizontal structural member of the elevated floor elevated above ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones AE, A, A99, AO, AH, X, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones V1-30, VE or V, "elevated building," also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of the National Flood Insurance Program Regulations.

Elevation
The vertical distance from a datum, based on the NGVD, to a point or object. If the elevation of point A is 802.46 feet, point A is 802.46 feet above some datum.

Elevation Certificate
A form provided by the Federal Emergency Management Agency for certification of flood damage prevention measures.

Emergency Shelter (Permanent)
A permanent group residential facility providing temporary housing for one or more individuals who are otherwise homeless. Permitted as a Special Use.

Emergency Shelter (Temporary)
A temporary group residential facility, or temporary utilization of a permanent facility, for providing temporary housing for one or more individuals who are otherwise homeless as the result of a natural disaster (flood, tornado) or other sudden occurrence, e.g. fire. Permitted as a Temporary Use.

Emission Device
Any device that is contained within an irrigation system and that is used to apply water. Common emission devices in an irrigation system include, but are not limited to, spray and rotary sprinkler heads, and drip irrigation emitters. (Ord. No. 0-2009-19; 3/11/09)

Employed (Irrigation Systems)
Engaged or hired to provide consulting services or perform any activity relating to the sale, design, installation, maintenance, alteration, repair, or service to irrigation systems. A person is employed if that person is in an employer-employee relationship as defined by Internal Revenue Code, 26 United States Code Service, Sec.3212 based on the behavioral control, financial control, and the type of relationship involved in performing employment related tasks. (Ord. No. 0-2009-19; 3/11/09)

Erosion
Detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

Escort
A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to perform privately semi-nude modeling or a striptease for another person.

Escort agency
A person or business association, who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for fee, tip or other consideration.

Escrow
A deposit of cash with the city in accordance with city policies.

Establishment of a Sexually Oriented Business
1. The opening or commencement of any sexually oriented business as a new business;
2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
3. The addition of any sexually oriented business to any other existing sexually oriented business; or
4. The relocation of any sexually oriented business.

Exactions
Requirement of development to dedicate or pay for all or a portion of land costs of public facilities as a condition of development approval.

Exhibition Area
An area or space either outside or enclosed within a building, utilized for display of specific goods and distribution of information.

Existing construction
For the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM. "Existing construction" may also be referred to as "existing structures."

Existing Tree
Any self-supporting woody plant with one well-defined trunk which exists on the lot prior to development.

Existing Use
The use of a lot or structure at the time of the enactment of this code.

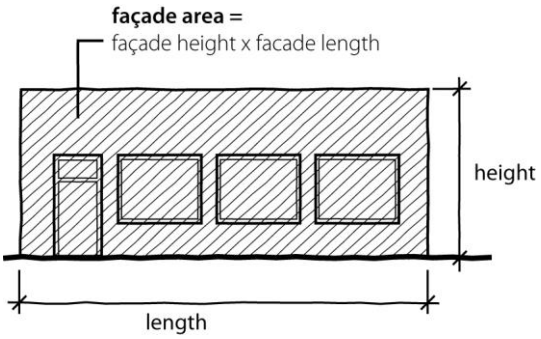
Extraterritorial Jurisdiction (ETJ)
The unincorporated area that is contiguous to the corporate boundaries of the city of Tyler and that is located within five miles of those boundaries.

Evergreen
A plant with foliage that remains green year-round.

Façade - See Building, Facade.

Facade Area

The area of a facade for the purposes of determining maximum allowable signs is calculated by the vertical height of the facade multiplied by the horizontal length of the facade.



(Ord. No. O-2010-119; 11/10/10)

Facade, Building

The exterior wall of a building or structure exposed to public view or that wall viewed by persons not within the building or structure. In no case shall a building be considered to have more than four (4) facades.

Facade Sign

A sign affixed to or painted on the wall of a building or structure so that the wall becomes the supporting structure for, or forms the background surface of the sign.

Fairgrounds

An area where outdoor fairs, circuses or exhibitions are held.

Farm or Farmland

A parcel of land used for growing or raising agricultural products, including related structures thereon. Such agricultural products include vegetables, fruits, trees and grain and the raising thereon of the usual farm poultry and livestock, such as horses, cattle and sheep and including necessary accessory uses for raising, treating and storing products raised on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.

Farmer's Market

A commercial or public facility providing a covered area for the retail sale of farm produce by individual vendors, for the primary purpose of selling fruits, vegetables, herbs, spices, edible seeds, nuts, live plants, flowers and honey. Sale of any type of meat, fish or poultry, eggs, refrigerated dairy products and home canned or packaged items is prohibited.

Family

Not more than six individuals occupying a dwelling unit and living as a single, nonprofit housekeeping unit.

Feed Lot

Any tract of land or structure, pen, or corral, wherein cattle, sheep, goats, swine and other domestic livestock are maintained in close quarters for the purpose of fattening such livestock for final shipment to market. Usually operated as a commercial enterprise.

Feed Store

A commercial establishment specializing in the sale of grain, prepared feed and forage for pets, livestock and fowl, but not involving the grinding, mixing or commercial compounding of such items.

Fence
A man-made barrier composed of any material or combination of materials, erected to enclose or screen areas of land.

Field Office
A building or structure, of either permanent or temporary construction, used as a job-site office for housing temporary supervisory or administrative functions related to the development, construction or sale of a real estate development or other project.

Final Plat
The map of a subdivision or addition to be recorded after approval by the Commission or Director and any accompanying material and additional requirements as described in these regulations.

Firearms Range
A recreational facility designed and constructed for the practice and teaching of marksmanship with handguns, rifles and shotguns, and operated by a public agency, quasi- public agency or private corporation approved by the City.

Flag Pole Sign
A piece of fabric or other flexible material attached to a ground-supported staff at one end used as symbol of a nation, state, political subdivision, organization, etc., and without any commercial message (Ord. 0-2010-20, 3/10/10)

Flashing
In the context of the sign regulations, flashing means an intermittent light display with a shorter display schedule than permitted in these regulations.

Flea Market
A commercial facility or open area in which individual stalls or sales areas are set aside and rented, or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique, and which may include the selling of goods at retail by businesses or individuals who are generally engaged in retail trade. Occasional garage or yard sales are not considered flea markets.

Flood or Flooding
A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland waters or unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain
An area of land subject to inundation by a 100-year frequency flood, as shown on the flood plain map of the city.

Flood frequency
The statistically determined rate at which a specific flood level or discharge may be equaled or exceeded.

Flood hazard boundary map (FHBM)
An official map of a community, issued by the Federal Emergency Management Agency, on which special flood hazard areas have been designated.

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

Floodplain Management Regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood -prone area
Any land area susceptible to being inundated by water from any source (see definition of flooding).

Flood-protection system
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 channelization, storm sewer systems, dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

Floodway
The channel of a stream, river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood (100 year) without cumulatively increasing the water surface elevation of the base flood more than one foot.

Floodway Easement
An easement within the flood plain as defined herein which includes a channel, plus any adjacent flood plain area that must be kept free of encroachment and obstruction in order that the one hundred year frequency flood may be conveyed without increasing the flood elevation at any point on the channel by more than one foot. For streams analyzed in detail in the Federal Flood Insurance Study, its floodways and subsequent letters of map amendment will be the criteria.

Floodway Fringe
The portion of the area of special flood hazard not occupied by the floodway.

Floor Area, Gross (GFA)
The sum of the areas of all floors of a building, including areas used for human occupancy in basements, attics and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics not used for human occupancy, malls or walkways, or any floor space in an accessory building or in the main building, intended and designed for the parking of motor vehicles in order to meet the parking requirements of this code, or any such floor space intended and designed for accessory heating and ventilating equipment. The horizontal area at each floor level devoted to stairwells and elevator shafts is included in this calculation

Floor Area Ratio (FAR)
The floor area of a building on a lot, divided by the lot area.

Florist Shop
A commercial establishment specializing in the retail sale of cut or uncut flowers, ornamental plants and accessory items.

Food Truck Park, Major
An area designed to accommodate five or more mobile food units and offering food and/or beverages for sale to the public as the primary use of the property; functioning as a single business. (Ord. No. 0-2014-113, 12/10/14)

Food Truck Park, Major
An area designed to accommodate two to four mobile food units and offering food and/or beverages for sale to the public as the primary use of the property; functioning as a single business. (Ord. No. 0-2014-113, 12/10/14)

Footage, Linear
Measurement of length in feet (12 inches).

Footage, Square
A measurement of an area in square feet (12 inches by 12 inches).

Foundry or Metal-Works Facility
An industrial facility for the melting, smelting, molding or otherwise processing or manufacturing of metallic minerals or metal stock.

Fraternity or Sorority House
A social club or association having meeting facilities for members and at least one dwelling unit occupied by a sponsor or supervisor. Fraternity or sorority houses may have dormitory facilities for members. The office or headquarters of a professional, business or other fraternal organization is considered an office for purpose(s) of this definition.

Freestanding (Pole or Ground) Sign
A sign that is affixed to the ground independent of any other structures.

Frontage
The distance along a property line which is also the right-of-way line of a dedicated street or approved private street or way. (Ord. No. 0-2014-97; 10/22/14)

Frontage Street
Any street to be constructed by the developer or any existing street where development will occur on both sides.

Fruit/Vegetable Market
A permanent commercial facility for displaying and offering for sale fruits, vegetables and other produce. Items may be displayed outdoors or in open-air structures, both permanent or portable.

Fruit/Vegetable Sales (Roadside)
The temporary display and sale of fruits, vegetables and other produce, and agricultural products along the roadside of any U.S., State or County road, providing that the entire operation is conducted within the public right-of-way of said road, involves no structures and does not constitute a hazard to traffic. Produce may be displayed on the ground or in the bed of a truck or trailer.

Fruit/Vegetable Stand
A seasonal or temporary commercial facility for the display and sale of fruits, vegetables and other produce involving no permanent structures. Items may be displayed outdoors, indoors, or under open-air, portable structures, tents, canopies, etc. Permitted as a Temporary Use.

Functional Classification
A hierarchical organization of streets and highways that facilitates the safe and efficient operation of vehicles along different types of facilities and based upon the degree of use by vehicles. The order of functional classification, from highest (heaviest amount of use) to lowest (lowest amount of use) is as follows: freeways or tollways, major arterials, collectors, and local streets (such as residential and cul-de-sacs). (Ord. No. 0-2006-11, 1/11/06)

Furniture, Home Furnishings and Appliance Store
A commercial establishment specializing in the display and retail sale of furniture, home furnishings and/or appliances such as radios, televisions, stereos, refrigerators, stoves and lawn furniture.

Furniture Repair and Upholstery Shop
A commercial establishment involved in repairing and re-upholstering furniture. The use of specialized equipment is included.

Garage, Parking (Private)
An accessory structure for private use of the owner or occupants of a principal building, situated on the same lot as the principal building, or nearby, utilized for the storage of motor vehicles with no facilities provided for mechanical service or repair of vehicles and operated as a commercial enterprise.

Garage, Parking (Public)
A structure designed and used for the temporary or long-term storage of motorized vehicles, operated as a commercial enterprise, with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles.

Garage, Repair
See Automobile Repair Garage.

Garage or Estate Sale
The temporary offering for sale, on a residential premises, of household furnishings, clothing, appliances and related items belonging to the resident of the premises.

General Commercial Services
A variety of commercial establishments, other than personal service shops, involved in the treatment and/or processing of products as a service on a for- profit basis.

General Manufacturing
A variety of industrial establishments involved in the manufacture of finished products and component products, or in the processing of materials or substances, including basic industrial processing.

Golf Course (Public)
A recreational facility providing a regulation size golf course, privately or publicly owned, open to the public for a fee.

Golf Driving Range
A recreational area set aside for practicing golf, operated as a private, public or commercial enterprise.

Golf, Miniature
A recreational facility providing a small scale, golf putting course operated as a commercial enterprise. Also referred to as amusement or putt-putt golf.

Grade
The average of the finished ground level at the center of all walls of a building. In the case of walls which are parallel to and within five feet of a side walk, the ground level will be measured at the sidewalk.

Grading permit
A document required and issued by the City for any earth change activity associated with development within the City.

Grain or Feed Processing Plant, and Grain Elevator
An industrial facility utilized for the storage, mixing or grinding of grains or other prepared foods to be used as feed for pets, livestock or fowl.

Grass
Any of numerous grass species that will attain a thick green cover of turf over the available soil area.

Greenbelt
An open space that may be of irregular form upon which existing vegetation is preserved or an area is reserved for the planting of living plant materials. No habitable structures are allowed within this open space. Bathrooms and other trail head facilities are allowed.

Greenhouse or Plant Nursery (Commercial)
A commercial establishment specializing in the growing, display and retail sales of plants, flowers, trees and other plant materials, including the sale of related garden supplies and materials.

Greenhouse or Plant Nursery (Private)
An accessory structure, limited in size, for the growing and display of plants, flowers, shrubs and other flora for the private enjoyment of the owner and guests.

Ground Cover
Any woody or herbaceous plant that effectively shades out sod and will not generally reach a height of over two feet.

Group Home for the Disabled
A group residential facility shared by disabled persons*, including resident staff, who live together as a single housekeeping unit, in a long-term, family-like environment in which staff persons provide care, education and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential.

* As used herein, the term "disabled" mean(s) having: 1) a physical or mental impairment that substantially limits one or more of such persons major life activities so that such persons are incapable of living independently; 2) a record of having such an impairment; or 3) being regarded as having such an impairment. However, "disabled" shall not include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term "group home for the disabled" shall not include alcohol or drug treatment center, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration. See Halfway House.

Gymnastic or Dance Studio
A recreational facility or portion of a building used as a place of practice by a gymnast or dancer, or for instructional classes in gymnastics or dance.

Halfway House
A licensed group residential facility for housing inmates on release from more restrictive custodial confinement, or for housing other individuals, initially placed in such a facility, in lieu of more restrictive custodial confinement, wherein supervision, rehabilitation and counseling are provided to aid residents in their return to society, thus enabling them to live independently. Halfway Houses are permitted as a Special Use.

Handicraft, Ceramic, Sculpture or Similar Art Workshop
A facility housing the workplace of an artist or craftsperson, engaged in the creation of individual objects such as leather goods, jewelry, ceramics, nonmetallic mineral products or carved three dimensional works of art, including the sale of such items at retail. Such a facility does not involve large volumes or mass-production, and is not to be construed as a factory.

Hard Scape Screening
Non-living screening materials such as walls, fences, and baffles.

Hardware Store
A commercial establishment specializing in the retail sale of cutlery, tools, utensils, screws, nails and similar hardware items, with no outdoor storage or display of merchandise.

Hauling and Storage Company Facility
A commercial facility for warehousing, transferring or holding goods and equipment.

Hazardous Substances
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.

Hazardous Waste Treatment/Disposal Facility
An industrial facility where hazardous waste is treated and/or disposed of.

Head-to-Head Spacing
The spacing of spray or rotary heads equal to the manufacturer's published radius of the head. (Ord. No. 0-2009-19; 3/11/09)

Health Club
A recreational facility designed and used by members for the promotion of health, recreational opportunities and exercise.

Health Club, Swimming Pool, Gym or Court Complex (Commercial)
A recreational complex, along with accessory facilities, which is not operated as part of a municipal, public or private club system, but where the facilities are available to the public for a fee. Membership not required.

Health Hazard (Irrigation Systems)
A cross-connection or potential cross-connection with an irrigation system that involves any substance that may, if introduced into the potable water supply, cause death or illness, spread disease, or have a high probability of causing such effects. (Ord. No. 0-2009-19; 3/11/09)

Heavy Load Vehicle
A self-propelled vehicle having a Manufacturer's Recommended Gross Vehicle Weight (GVW) of greater than 11,000 pounds, such as large recreational vehicles, tractor-trailers, buses, vans, or other similar vehicles. The term "truck" means "Heavy Load Vehicle" unless specifically stated otherwise.

Heavy Machinery Sales and Storage
A commercial establishment specializing in the display, sale, rental and storage of heavy machinery, either machines in general or as a functioning unit.

Height (of a building or other structure)
The vertical distance to the highest point of the roof for flat roofs; to the deck line for mansard roofs; or to the average height between eaves and the ridge for gable, hip, and gambrel roofs; measured from the curb level if the building is not more than 10 feet from the front lot line or from the grade in all other cases. The height of the following structures will be excluded from the definition: chimneys, cooling towers, elevator bulkheads, mechanical rooms, tanks, water towers, television receiving antennas, flag poles, church spires and parapet walls not exceeding three feet in height.

Heliport- Limited Use (Private)
A transportation facility with a designated landing area, not available for general use, but for the restricted use of certain aircraft, for the taking-off and landing of rotary-winged, vertical take-off aircraft, including all necessary

passenger and cargo facilities, fueling and service facilities. Such facility is not available for use by any helicopter without prior permission. Permitted as a Special Use. Approval for temporary (forty-eight (48) hours or less) heliports or helicopter landing sites may be issued by the Airport Manager.

Heliport - Unlimited Use (Public)

A transportation facility with a designated landing area, available for use by any rotary winged, vertical take-off aircraft, which in addition includes all necessary passenger and cargo facilities, facilities for maintenance and overhaul, fueling, service, storage, tie-down areas, hangars, and other necessary buildings and open spaces. Permitted as a Special Use. Approval for temporary (forty-eight (48) hours or less) heliports or helicopter landing sites may be issued by the Airport Manager.

Helistop - Limited Use (Private)

A designated area with restricted use, for the taking-off and landing of private helicopters, for the purpose of picking-up and discharging passengers or cargo. No fueling, refueling or service facilities permitted. Such facility is not available for use by any helicopter without prior permission. Approval for temporary (forty-eight (48) hours or less) heliports or helicopter landing sites may be issued by the Airport Manager.

Helistop - Unlimited Use (Public)

A designated area available for the taking-off and landing of any rotary winged, vertical take-off aircraft, for the purpose of picking-up or discharging of passengers or cargo. No fueling, refueling or service facilities permitted. Approval for temporary (forty-eight (48) hours or less) heliports or helicopter landing sites may be issued by the Airport Manager.

Highest Adjacent Grade

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure

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 Interior; or

4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

   (a) By an approved state program as determined by the Secretary of the Interior, or;

   (b) Directly by the Secretary of the Interior in states without approved programs.

Hobby Shop

A commercial establishment specializing in the retail sale of hobby supplies such as model kits, art equipment and craft materials.

Holiday Decoration
Non-commercial display celebrating any nationally recognized day on which ordinary business is suspended in commemoration of some event or in honor of some person. (Ord. No. 0-2010-20; 3/10/10)

Homeowners Association (HOA)
A formally constituted, non-profit association or corporation, comprised of the property owners and/or residents of a formally recognized residential area, which may take permanent responsibility for costs and upkeep of semi-private community facilities.

Home Occupation
An accessory use of a dwelling unit for gainful employment which is clearly incidental and subordinate to the use of the dwelling unit as a residence; does not alter or change the exterior character or appearance of the dwelling; is located in a residential zoning district; and, is created and operated as a sole proprietorship by a resident of the household with no more than one employee.

Home Occupation Sign
A sign located on a residential property in which a legal home occupation takes place.

Home for Senior Citizens
A group residential facility where senior citizens are provided housing and meals and which is operated similar to a lodging house or residential hotel.

Homeless Day Resource Facility
A facility that provides any of the following to homeless patrons: showers, laundry, mail, barber/beauty salon, computer/library reference center or counseling services. These facilities shall neither contain nor provide sleeping facilities or drug rehabilitation services. (Ord. No. 0-2013-16; 2/27/13).

Hospital
A health care institution providing health services primarily for in-patient human medical or surgical care, for the sick or injured, and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities and staff offices that are an integral part of the health care facility.

Hotel and Resort
A commercial facility offering accommodations for over-night lodging on a daily basis to public, and providing additional services, such as restaurants, meeting rooms and recreational facilities for the benefit of guests.

Household Pet
Animals that are customarily kept for personal use or enjoyment within the home. Household pets include but are not limited to domesticated dogs, cats, birds, fish, and/or rodents.

Hydraulics (Irrigation Systems)
The science of dynamic and static water; the mathematical computation of determining pressure losses and pressure requirements of an irrigation system. (Ord. No. 0-2009-19; 3/11/09)

Improvement Agreement
A contract entered into by the developer and the city by which the developer promises to complete the required public improvements within the subdivision or addition within a specified time period following final plat approval.

Incinerator
An industrial facility designed and used for the burning of trash and other waste material, permitted by the State.

Indiscriminate Clearing
Any clearing that occurs with no distinction made regarding whether any trees on the site could be preserved and incorporated into future development on the site, whether such clearing will alter the stormwater drainage patterns on the site in a way that could be detrimental to the city's goals for protecting private property from flood damage and runoff, or whether such clearing would be counter to the Tyler 1st Comprehensive Plan policies and objectives for planting and protecting trees throughout the city.

Industrial Cleaning Plant
An industrial facility for the cleaning of commercial or industrial bulk items.

Industrial Park
A development of industrial sites, whether located inside or outside the city, which if developed within the city, would be required by the unified development code to be located in an M-1 Light Industrial District or M-2 Heavy General Industrial District.

Industrial Use Not listed (Enclosed)
Any completely enclosed industrial, manufacturing, processing, or assembly operation, which is not specifically listed in this Ordinance.

Industry, Heavy
A variety of industrial establishments engaged in the basic processing and manufacturing of materials or products, predominately from extracted or raw materials, or involved in the storage of or processing of flammable or explosive materials, or involved in the storage or a manufacturing process that potentially involves hazardous or commonly recognized offensive conditions.

Industry, Light
A variety of industrial establishments engaged in manufacturing finished prodeucts or parts, predominantly from previously prepared materials; including the secondary processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Installer (Irrigation Systems)
A person who actually connects an irrigation system to a private or public raw or potable water supply system or any water supply, who is licensed according to Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations). (Ord. No. 0-2009-19; 3/11/09)

Irrigation Inspector
A person who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor and is required to be licensed under Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations). (Ord. No. 0-2009-19; 3/11/09)

Irrigation Plan
A scaled drawing of a landscape irrigation system which lists required information, the scope of the project, and represents the changes made in the installation of the irrigation system. (Ord. No. 0-2009-19; 3/11/09)

Irrigation Services
Selling, designing, installing, maintaining, altering, repairing, servicing, permitting, providing consulting services regarding, or connecting an irrigation system to a water supply. (Ord. No. 0-2009-19; 3/11/09)

Irrigation System
An assembly of component parts that is permanently installed for the controlled distribution and conservation of water to irrigate any type of landscape vegetation in any location, and/or to reduce dust or control erosion. This term

does not include a system that is used on or by an agricultural operation as defined by Texas Agricultural Code, Sec. 251.002. (Ord. No. 0-2009-19; 3/11/09)

Irrigation Technician
A person who works under the supervision of a licensed irrigator to install, maintain, alter, repair, service or supervise installation of an irrigation system, including the connection of such system in or to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations). (Ord. No. 0-2009-19; 3/11/09)

Irrigation Zone
A subdivision of an irrigation system with a matched precipitation rate based on plant material type (such as turf, shrubs, or trees), microclimate factors (such as sun/shade ratio), topographic features (such as slope) and soil conditions (such as sand, loam, clay, or combination) or for hydrological control. (Ord. No. 0-2009-19; 3/11/09)

Irrigator
A person who sells, designs, offers consultations regarding, installs, maintains, alters, repairs, services or supervises the installation of an irrigation system, including the connection of such system to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30. (Ord. No. 0-2009-19; 3/11/09)

Irrigator-in-Charge
The irrigator responsible for all irrigation work performed by an exempt business owner, including, but not limited to obtaining permits, developing design plans, supervising the work of other irrigators or irrigation technicians, and installing, selling, maintaining, altering, repairing, or servicing a landscape irrigation system. (Ord. No. 0-2009-19; 3/11/09)

Jail
A public facility, operated by local government, utilized for the temporary incarceration of individuals either immediately after their arrest or while awaiting trial.

Jeweler's Shop
A facility housing the workplace of a jeweler engaged in crafting custom made jewelry items which are made to the customer's order.

Jewelry Store
A commercial establishment specializing in the display and retail sale of gems, watches, rings, bracelets, necklaces and similar items.

Junkyard
See Salvage yard.

Kennel (Commercial):
A commercial facility for the temporary housing of dogs, cats or other household pets, and where grooming, breeding, boarding, trimming, or selling of animals is conducted as a business.

Kennel (Private)
An accessory structure designed or arranged for the care of dogs and cats belonging to the operator of the principal use, and located on the same lot as the principal use, kept for the purpose of show, hunting or as pets.

Key, Locksmith Shop
A commercial facility housing the workplace of a locksmith engaged in the sale of locks and duplication of keys.

Kiosk
A small, free-standing, one-story structure having a maximum floor area of 350 square feet and used for commercial purposes or the posting of temporary information and/or posters, notices and announcements. If a kiosk is to be occupied, a minimum gross floor area of 25 square feet is required.

Laboratory, Manufacturing
An industrial operation involving the compounding of products such as perfumes, pharmaceuticals, and development and assembly of instruments and similar items in a controlled, laboratory environment.

Laboratory, Medical
A commercial or private facility for performing scientific tests and analysis for medical evaluation of humans.

Laboratory, Testing and Research
A commercial or institutional facility for performing scientific tests, analysis or experimental studies.

Landfill
A closely supervised, industrial operation in which refuse and earth or other suitable cover material, are deposited in alternate layers of specified depth, in accordance with a definite plan, on a specified portion of open land, with each layer being compacted by force applied by mechanical equipment. Not a dump.

Landscaped Area
An area within the boundary of a property which is devoted to and consists of plant material, trees, water forms, planters, brick, stone, aggregate and other features used primarily for landscaping purposes, but not including the use of smooth concrete or asphalt.

Landscape Irrigation
The science of applying the necessary amount of water to promote or sustain healthy growth of plant material or turf. (Ord. No. 0-2009-19; 3/11/09)

Landscape Plan
The Landscape Site Plan or landscape plan information required to be submitted and approved in accordance with Article VI., Division A. of this code. (Ord. 0-2010-20, 3/10/10)

Landscaping
Changing, rearranging, or adding to the original vegetation or scenery of a piece of land. It may include reshaping the land by moving the earth, as well as preserving the original vegetation or adding vegetation.

Laundry or Cleaning Facility (Self-Service)
A commercial establishment offering coin operated clothes washers and driers, operated by the customer as a self-service laundry. A washateria.

Large Shade Tree
A dicot or conifer tree, usually with one vertical stem or main trunk which naturally develops a more or less distinct and elevated crown and attains a height of more than 50 feet at maturity, as shown in the Approved Tree List in subsection f. (Ord. No. 0-2009-32; 3/25/09)

Levee
A man-made structure, usually an eastern 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
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.

Library, Museum, Public Arts Complex or Similar Public Use
A facility housing books and other printed materials, paintings and sculpture, antiquities, objects of art and science, and other items of interest to the public, where such items are displayed and may be loaned, and which is sponsored by a public or quasi-public agency, in which the institution is open and available to the public.

License (Irrigation Systems)
This definition shall apply to Sections 10-309 – 10-319 only. An occupational license that is issued by the Texas Commission on Environmental Quality under Title 30, Texas Administrative Code, Chapter 30 to an individual that authorizes the individual to engage in an activity that is covered by Title 30, Texas Administrative Code, Chapter 30. (Ord. No. 0-2009-19; 3/11/09)

Licensee
For the purposes of the sexually oriented business regulations of Article III., Division C. a licensee a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license. (Ord. 0-2010-20, 3/10/10)

Light Fabrication and Assembly Process
A variety of industrial activities, involving the manufacture and assembly of previously prepared materials such as food, drugs, cosmetics, cellophane, canvas, cloth, felt, fur, glass, leather, paint, paper, plastic, wood and metal; and not involving an excessive generation of noise, odor, vibration, dust or hazards.

Livestock
Live, domesticated animals including horses, cattle, sheep, pigs, etc., commonly found on a farm or ranch.

Livestock Auction
A commercial facility utilized for the sale of livestock at auction, including barns, pens and sheds for the temporary holding of animals awaiting sale.

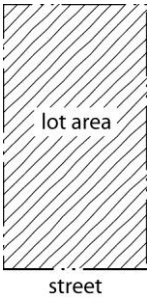
Loading Area (Off-Street)
An unobstructed, hard-surfaced area, no part of which is located in any street or public right-of-way, the principal use of which is for the parking, loading, or unloading of automobiles, buses, trucks, and/or trailers.

Local Street
A street whose sole function is to provide access to abutting properties and to other streets from individual properties, and to provide right-of-way beneath it for sewer, water and storm drainage pipes.

Lodge or Fraternal Organization
A private, non-profit organization whose primary purpose is to promote the fellowship of its members, which may conduct business associated with philanthropy or civic awareness.

Lot
A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed, or built upon as a unit, whether immediate or future and having frontage on a dedicated public or private street.

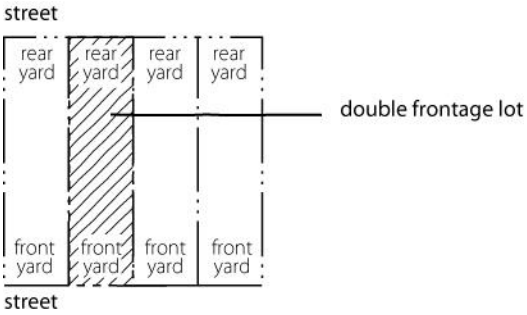
Lot Area
The total horizontal area included within the lot lines of the lot.



Lot, Corner (1)
A lot or parcel of land abutting two or more streets at their intersection.

Lot, Corner (2)
A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

Lot, Double Frontage
A lot having frontage on two streets.



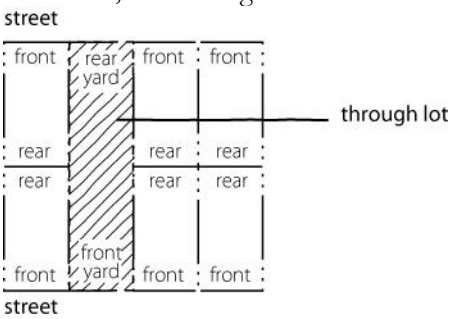
Lot, Flag or Panhandle
A lot having access to a street by means of a parcel of land having a depth greater than its frontage, and having a width less than the minimum required lot width, but not less than twelve feet.

Lot, Open Space
A lot that may provide space only for greenbelts, landscape, and recreational uses. Lot must have frontage. Lot must be designated as unbuildable and dedicated as "open space" on the plat. Documented maintenance agreement by a Homeowners Association (HOA) is required. (Ord. No. 0-2014-97; 10/22/14)

Lot, Platted
A platted parcel of land intended to be separately owned, developed, and otherwise used as a unit.

Lot, Through

A lot in which the front and rear yards each abut on a street. Also, a lot other than a corner lot abutting more than one street, and having access to more than one street.



Lot, Reverse Corner

A corner lot which reverses the depth from the normal pattern of interior lots on a street. The front of the lot also changes from one street to the other.

Lot, Substandard

A lot or parcel of land that has less than the required minimum area or width as established by the district in which it is located.

Lot, Tax

A parcel of land assigned a number and so identified on the records of the Smith County Appraisal District (SCAD) for purposes of taxation.

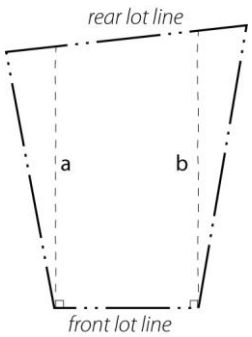
Lot Coverage

The area of a lot covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.

Lot Depth

The mean horizontal length of two lines drawn perpendicular* to the front lot line of a lot, each line passing through one of the two closest points of intersection of either the rear boundary of the zoning envelope (as defined herein) with the two side boundaries, or the front boundary of the zoning envelope with the two side boundaries.

*The measurement lines shall be made perpendicular to the rear lot line if the rear lot line is more perpendicular to the side lot line(s) than the front lot line. Required lot depth shall not include easement areas extending across the rear of the lot. For flag lots, measurement lines shall be drawn from the front lot line (or its extension) which is closest to the zoning envelope; built lot depth may be measured generally parallel to the street when lot width is measured perpendicular to the street in accordance with the definitions of lot width and depth.



lot depth = (a+b)/2

(Ord. No. O-2010-119; 11/10/10)

Lot Improvement
Any building, structure, place, work of art, or other object situated on a lot.

Lot Lines
The lines delineating the boundary of a lot as defined herein.

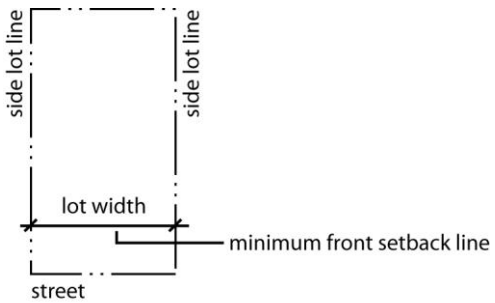
Lot Line, Front
The property boundary line that runs common with, and adjacent to, any street frontage or right-of-way separating such lot from such street or right-of-way. In the case of a corner lot, the narrowest width of the lot is deemed to be the front lot line. Where two lot lines abutting streets are of equal length, the owner will have a choice in designating which will be the lot frontage.

Lot Line, Rear
That property boundary line which is generally parallel to and most distant from the front lot line of the lot. For triangular lots, the point opposite the front lot line will be considered the rear lot line and have a value of zero.

Lot Line, Side
Any boundary line of a lot which is not a front lot line or a rear lot line.

Lot of Record
A parcel of land having its existence, location, dimensions and ownership legally recorded or registered, by deed or plat, with the Smith County Clerk.

Lot Width
The width of a lot as measured at the minimum front setback line, parallel to the front property line.



Lowest floor
The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Article.

Lumber Sales Yard
A primarily outdoor, commercial facility, operated by a business involved in the storage and sale of cut lumber and associated building materials

Machine or Welding Shop
A commercial facility in which metallic materials are processed by machining, cutting, grinding or welding.

Machinery Sales and Service Shop
A commercial facility utilized for repairing equipment, selling and servicing machinery.

Major Arterial
A road intended to move traffic to and from major attractions such as shopping centers, colleges, major industrial employers, and similar traffic generators within the governmental unit. (Ord. No. 0-2006-11, 1/11/06)

Mainline
A pipe within an irrigation system that delivers water from the water source to the individual zone valves. (Ord. No. 0-2009-19; 3/11/09)

Maintenance Checklist (Irrigation Systems)
A document made available to the irrigation system's owner or owner's representative that contains information regarding the operation and maintenance of the irrigation system, including, but not limited to: checking and repairing the irrigation system, setting the automatic controller, checking the rain or moisture sensor, cleaning filters, pruning grass and plants away from irrigation emitters, using and operating the irrigation system, the precipitation rates of each irrigation zone within the system, any water conservation measures currently in effect from the water purveyor, the name of the water purveyor, a suggested seasonal or monthly watering schedule based on current evapotranspiration data for the geographic region, and the minimum water requirements for the plant material in each zone based on the soil type and plant material where the system is installed. (Ord. No. 0-2009-19; 3/11/09)

Major Maintenance, Alteration, Repair, or Service
Any activity that involves opening to the atmosphere the irrigation main line at any point prior to the discharge side of any irrigation zone control valve. This includes, but is not limited to, repairing or connecting into a main supply pipe, replacing a zone control valve, or repairing a zone control valve in a manner that opens the system to the atmosphere. (Ord. No. 0-2009-19; 3/11/09)

Major Plat
All plats not classified as minor plats, including but not limited to subdivisions of more than four (4) lots, or any plat requiring creation of any new street or extension of City facilities.

Major Utility
Public or private infrastructure serving the general community and possibly having on site personnel, consisting of the following: artesian well, cell antenna, cell tower, electrical distribution or substation, filter bed, stealth cell antenna, television and radio broadcasting transmitters, waste treatment plant, water towers, tanks or standpipes, and the like.

Manufactured Housing (mobile homes)
A manufactured home (formerly known as a mobile home) is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section. Manufactured homes are built in the controlled environment of a manufacturing plant and are transported in one or more sections on a permanent chassis.

Manufactured Housing (Mobile Home) Park
A parcel of land under single ownership, operated as a commercial enterprise, which has been planned and improved for the parking of manufactured housing or mobile homes, for the purpose of occupying such as single-family residences. Such parks provide water, sewer, electric utilities and access ways, and may provide playgrounds and public use areas. A "trailer park".

Manufactured Housing (Mobile Home) Sales and Service Facility
A commercial facility utilized for display, sale and service of manufactured housing, mobile homes, travel trailers and motor homes.

Manufactured Housing (Mobile Home) Subdivision
A residential area designed and platted for the permanent placement of manufactured housing or mobile homes in a predetermined arrangement, with each mobile home being placed on a separate, platted lot. Not a trailer park. Medical Appliance, Fitting and Sales Store: A commercial establishment specializing in the fitting and sale of artificial limbs and other special purpose devices related to medical treatment.

Marquee
A permanent roofed structure attached to and supported entirely by a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Master Valve
A remote control valve located after the backflow prevention device that controls the flow of water to the irrigation system mainline. (Ord. No. 0-2009-19; 3/11/09)

Matched Precipitation Rate
The condition in which all sprinkler heads within an irrigation zone apply water at the same rate. (Ord. No. 0-2009-19; 3/11/09)

Maximum Seating Capacity
The capacity of a room in terms of the number of persons that may be seated in chairs or at work stations in that room, when the chairs or work stations are placed according to Building and Fire Codes or according to acceptable architectural practice. Most often the term is used in reference to classrooms, auditoriums and sanctuaries, and means the number of intended seats in the room according to the design of the room regardless of whether the seats are permanent or temporary.

Mean Sea level (MSL)
The National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

Medical or Dental Office
A facility providing office space for physician(s), dentist(s), and related practitioner(s).

Medium Tree
A dicot or conifer tree, usually with one vertical stem or main trunk which naturally develops a more or less distinct and elevated crown and attains a height of more than 25 feet, but less than 50 feet, at maturity, as shown in the Approved Tree List in subsection f. (Ord. No. 0-2009-32; 3/25/09)

Menu Board
An on-premise sign located adjacent to a drive-through service aisle displaying items for sale and prices.

Metes and Bounds
A description of real property by which property is not described by reference to "lot" or "block," shown on a map, but is defined by starting at a known point and describing, in sequence, the lines forming the boundaries of the property.

Metropolitan Planning Organization (MPO)
Organization responsible for the development of transportation planning, and the development of transportation plans, transportation improvement programs, and the unified planning work program.

Minimum Finished Floor Elevation
The mean sea level elevation above which the lowest occupied floor slab, not including garages, of any building must be built.

Minor Arterial
A road intended to collect and distribute traffic in a manner similar to a major arterial, except these roads service minor traffic generators such as commercial areas, hospitals, churches, and offices are designed to carry traffic from collector streets to the system of major arterials. (Ord. No. 0-2006-11, 1/11/06)

Minor Plat
A subdivision resulting in four or fewer lots and not requiring the creation of any new street or extension of municipal facilities.

Minor Utility
Public or private infrastructure serving a limited area with no on site personnel, consisting of the following: storm water detention and retention, telephone exchanges, water and wastewater pump stations, and the like.

Mobile Food Unit
A vehicle establishment that is designed to be readily moveable and from which food is sold or served. The term includes, but is not limited to, a commercially manufactured vehicle. Commercially-manufactured vehicle means a vehicle that was originally manufactured for the use as a mobile food preparation vehicle. (Ord. No. 0-2014-113, 12/10/14)

Mobile Home
A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective February 19, 1975. (See Manufactured Housing.)

Model Home
A single-family, duplex or townhouse residential structure, temporarily used for display, sales or as an office, pending completion of the construction of new residential structures within the subdivision or development in which the model residential structure is located.

Monument or Ground Sign
A freestanding sign, of which the foundation and its supports are at least 80 percent as wide as the sign copy area and where the sign copy area is attached to a base and located close to the ground.

Mortuary or Funeral Home
A commercial facility in which deceased humans are prepared for burial and kept until interment, and in which funeral services may be conducted.

Motel (see also Hotel)
A commercial facility, building or group of detached or connected buildings, designed or used primarily for providing over-night lodging for automobile travelers and having a parking space adjacent or nearby each guest room. Such operations may include a restaurant and recreational facilities for the benefit of guests. An automobile court or a tourist court with more than one unit, or a motor lodge, is considered a motel; a bed and breakfast or tourist home, is not.

Motor Freight Terminal
A transportation facility operated by a truck line for freight loading, unloading and temporary storage.

Motor Vehicle
Any vehicle designed to carry one or more persons which is propelled or drawn by mechanical power, such as automobiles, trucks, motorcycles, and buses.

Municipal Facility
A capital improvement owned and maintained by the city.

Municipal/Public Domain Property
Examples of this would include City Hall, public parks, Corps of Engineers property, State of Texas R. O. W., library, fire stations, water tower sites, or similar properties.

National Geodetic Vertical Datum (NGVD)
The nationwide reference surface for elevations throughout the United States made available by the National Geodetic Survey with the establishment of thousands of bench marks throughout the continent. The NGVD of 1929 is the reference datum for the City of Tyler.

Natural
The state of cover and topography of land before any manmade changes, or in areas where there have already been manmade modifications, the state of the area and topography of land at the effective date this code. (February 26, 1999).

New Construction
Construction for which a valid building or development permit has been issued after the effective date of this code (February 26, 1999).

New Installation (Irrigation Systems)
An irrigation system installed at a location where one did not previously exist. (Ord. No. 0-2009-19; 3/11/09)

Nightclub
A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing is permitted; includes cabaret and disco.

Non-Commercial Banner
A banner that does not contain speech that proposes an economic transaction. (Ord. No. 0-2010-20; 3/10/10)

Non-Commercial Decoration
A decoration that does not contain speech that proposes an economic transaction. Does not include Holiday Decoration as defined in this chapter. (Ord. No. 0-2010-20; 3/10/10)

Nonconforming Building or Structure
Any building or structure, lawfully existing on the effective date of this code, or amendment thereto, or which was subsequently annexed to the city, which does not comply with all of the regulations of this code governing parking or bulk and area requirements for the district in which such building or structure is located.

Nonconforming Development
A development which was lawful prior to the adoption of this code but which fails by reason of such adoption to comply with this code.

Nonconforming Use
A use of building, structure or land lawfully utilized at the time of the effective date of this ordinance, or amendment thereto, or which was subsequently annexed to the city, which does not conform to the use regulations for the district in which it is situated.

Nonprofit Organization
A non-commercial entity which occupies, uses and enjoys real property for the conduct of a non-commercial activity, either through ownership or through a lease agreement.

Non-Canopy Tree
Any self-supporting woody plant with one or more trunks, which attains a height of at least 15 feet.

Non-Health Hazard (Irrigation Systems)
A cross-connection or potential cross-connection from a landscape irrigation system that involves any substance that generally would not be a health hazard but would constitute a nuisance or be aesthetically objectionable if introduced into the potable water supply. (Ord. No. 0-2009-19; 3/11/09)

Non-Potable Water
Water that is not suitable for human consumption. Non-potable water sources include, but are not limited to, irrigation systems, lakes, ponds, streams, gray water that is discharged from washing machines, dishwashers or other appliances, water vapor condensate from cooling towers, reclaimed water, and harvested rainwater. (Ord. No. 0-2009-19; 3/11/09)

Nude model studio means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

Nudity; State of Nudity
The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast; or
a state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals or areola of the female breast.

Occupancy
The use or intended use of land, building, or structures by proprietors, residents, or tenants.

Office
A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

Office Park
A large tract of land, often developed as a campus, that has been planned, developed and is operated as an integrated facility for a number of separate office buildings and supporting ancillary uses, with special attention given to circulation, parking, utilities, aesthetics, and compatibility.

Office-Showroom/Warehouse
A commercial facility with a minimum of seventy-five percent (75%) of its total gross floor area devoted to storage and warehousing, but not accessible to the public. The remaining floor area may include retail and wholesale sales areas, sales offices and display areas for products sold and distributed from the storage and warehousing areas.

Off-Site Improvement
Any public improvement located outside the physical boundaries of the subdivision or addition to be platted.

Off-Street Parking, Required for Primary Use
Off-street parking spaces provided in order to satisfy the minimum off-street parking requirements specified in this code.

Oil and Gas Field Equipment, Sales and Rental Yard
A commercial facility and open area, utilized for the display and storage of large oil field equipment and the offering of such equipment for sale or rent.

Oil and Gas Treatment and Processing Plant
An industrial facility designed to separate and recover hydrocarbons (e.g. butane, ethane, propane) and/or remove impurities (e.g., hydrogen sulfide) from petroleum and/or natural gas.

Open Space
Area included in any side, rear or front yard, or any unoccupied space on a lot that is open and unobstructed to the sky except as provided by this code.

Open Space, Common
Open space within or related to a development, not in individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development.

Open Storage
The keeping, outside a building, of any goods, material, merchandise, or equipment on a lot or tract for more than 24 hours.

Optical Shop
A facility housing the workplace of an optician engaged in the fitting and sale of glasses, contact lenses and related optical apparatus for correcting vision.

Ornamental Tree
A tree planted primarily for its decorative value or for screening purposes; tends to be smaller at maturity than a canopy tree.

Orphanage
A group residential facility operated by a public agency or private institution, for long-term housing and care of orphans or homeless children.

Outdoor Storage
The keeping in an unenclosed area, of any goods, junk, material, merchandise or vehicles in the same place for more than 24 hours.

Outdoor Vending Machine
Any self-contained machine and/or storage container located outside or in a non-enclosed space that dispenses or provides storage of a product or service. Newspaper racks, phones, and fixed automatic teller machines are not considered or regulated as vending machines as part of these guidelines. (Ord. No. 0-2011-8; 1/26/11)

Paint and Wallpaper Store
A commercial establishment specializing in the retail sale of paint, painting equipment and wallpaper.

Paint Shop
A commercial facility where painting services are performed.

Palmstrist, Astrologer, Fortune Teller
Individual(s) practicing the reading of palms, cards or other medium, astrology or similar practice, whereby the future of another individual is interpreted or predicted for a fee. Such practice is considered a commercial activity.

Parcel
A continuous quantity of land in the possession of, owned by, or recorded as the property of, the same person(s).

Park or Playground (Public)
A recreational facility containing a park or playground, owned and operated by a public agency such as the City of Tyler, Smith County or the Tyler Independent School District.

Park or Playground (Private)
A recreational facility containing a park or playground, developed and sponsored by a quasi-public group or private agency, for the benefit of specific groups, such as "Little League" baseball, or for the public in general.

Parking Lot
An off-street, ground level area not within a building or structure where motor vehicles may be stored for the purposes of temporary, daily, overnight, or long-term off-street parking.

Parking, Shared
The development and use of parking areas on two or more separate properties for joint use by the businesses, organizations or other entities located on those properties by means of a written agreement.

Parking Space
An all-weather surfaced area, enclosed or unenclosed, no part of which is located in any street or public right-of-way, exclusive of driveways permanently reserved for the temporary storage of one vehicle and connected to a street or alley by a surfaced driveway which affords ingress and egress for vehicles (minimum 9'x18').

Parkway
The area lying between the right-of-way line of any public street (which is not an alley) and the curb line of the street; or if there is no curb line, the shoulder of the street; or if there is no shoulder or curb, the edge of the pavement of such street.

Pass-Through Contract (Irrigation Systems)
A written contract between a contractor or builder and a licensed irrigator or exempt business owner to perform part or all of the irrigation services relating to an irrigation system. (Ord. No. 0-2009-19; 3/11/09)

Pavement Width
The portion of a street available for vehicular traffic. Where curbs exist, it is the distance between the face of curbs

Pawn Brokerage Shop (Indoor)
A commercial establishment involved in loaning money on the security of personal property, with all display and storage of items indoors. Unclaimed property may be sold on premises.

Pawn Brokerage Shop/Lot
A commercial establishment involved in loaning money on the security of personal property, with outdoor display and storage of items. Unclaimed property may be sold on the premises.

Perimeter Street
Any existing or planned street which abuts the subdivision or addition to be platted.

Permeable Surface
A pavement system that allows water to seep through the surface, permitting natural filtration. (Ord. No. O-2010-119; 11/10/10)

Person
An individual, proprietorship, partnership, corporation, association or other legal entity.

Pet Shop
A completely indoor, commercial establishment specializing in the display and retail sale of small animals, such as dogs, cats, parakeets, goldfish, tropical fish or canaries, as pets, without involving commercial boarding or medical treatment of any animal, fish or bird.

Petroleum Refinery
An industrial facility utilized for the bulk storage and refining of crude petroleum and for production of refined petroleum products.

Pharmacy (Apothecary)
A commercial facility housing the workplace of a pharmacist engaged in preparation, preservation, compounding and dispensing of drugs and medicines. Not a drug store.

Photocopy/FAX Service
A commercial establishment that specializes in reproducing drawings, plans, maps, or other copy by means of photocopying and may offer FAX services.

Photography Studio
A facility housing the workplace of a professional photographer engaged in taking and processing photographs; not a bulk processing plant.

Piano, Music Lessons at Home
Individual instruction in piano or other musical instrument, taught by a resident of the household.

Planning and Zoning Commission
The city planning and zoning commission, which conducts public hearings concerning petitions for rezoning, special use permits, annexations, subdivision plats, and thoroughfare closures. The planning and zoning commission also

conducts public hearings on proposed annexation and other matters pertaining to the physical development of the city. (O-2003-38, 7-23-03) (Ord. 0-2010-20, 3/10/10)

Planning Director
The head of the planning department, responsible for administering the planning activities of the city, and for the interpretation and enforcement of this development code.

Plant Materials
Living trees, shrubs, vines, grass, ground covers and flowering annuals, biennials and perennials.

Plat
A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the city subdivision standards and subject to approval by the planning and zoning commission or planning director and filed in the plat records of Smith County. (O-2003-38, 7-23-03)

Plat, Amended
A revised plat in which errors have been corrected or minor changes have been made to the original recorded final plat.

Plat, Dedication
A plat prepared for the purpose of dedicating land or easements for rights-of-way to the city.

Plat, Final
A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision code of the city and subject to approval by the commission or director and filed in the plat records of Smith County.

Plat, Major
All plats not classified as minor plats, including but not limited to subdivisions of more than four lots, or any plat requiring creation of any new street or extension of municipal facilities.

Plat, Minor
A subdivision resulting in four or fewer lots and not requiring the creation of any new street or extension of municipal facilities.

Plat, Preliminary
The preliminary drawing(s), described in these regulations, indicating the proposed manner or layout of the subdivision or addition to be submitted to the commission for approval.

Plat, Sketch
A sketch preparatory to the preliminary plat (or final plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the Commission as to the form of the plat and the objectives of these regulations.

Platting
The act of preparing for approval and processing, pursuant to these regulations, the plan or map for the subdivision or addition to be filed for record in the county where such subdivision or addition is located; includes development plat unless otherwise noted.

Plumbing, Electrical, Air-Conditioning and Heating Shop
A commercial establishment providing supplies, repairs, installation and sales of plumbing, electrical, air-conditioning and/or heating equipment.

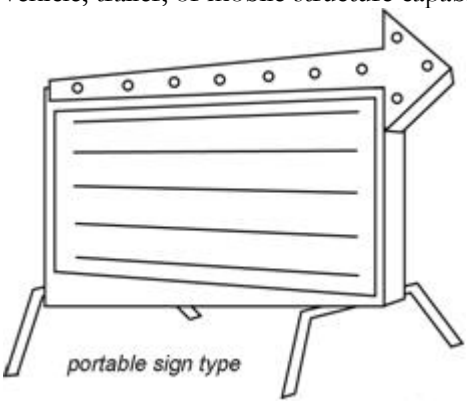
Political Sign
A temporary sign displayed in connection with a local, state, or national election or referendum.

Pool Hall
A commercial establishment providing customers with billiard tables, either for a fee or as a free service, where customers are allowed to play pool and other billiard games.

Portable Building or Unit
A transportable building that does not have an integral, permanent foundation and that is not a residential structure.

Portable Building Sales
A commercial establishment which displays and sells structures which are capable of being carried and transported to another location, not including mobile homes.

Portable Sign
A sign which is not permanently affixed to a building or to the ground and is capable of being moved or removed, and is primarily used for the purpose of advertising. This shall include, but not limited to, any sign mounted on a vehicle, trailer, or mobile structure capable of being moved.



(Ord. No. O-2010-119; 11/10/10)

Potable Water
Water that is suitable for human consumption. (Ord. No. 0-2009-19; 3/11/09)

Pre-Development Clearing of Land
The removal of trees, foliage, earth, sand, or other natural or manmade materials on land before the issuance of a building permit.

Premises
A lot, together with all buildings and structures.

Pressure Vacuum Breaker
An assembly containing an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. Also known as a Pressure Vacuum Breaker Back-siphonage Prevention Assembly. (Ord. No. 0-2009-19; 3/11/09)

Primary Arterial
A road intended to move traffic to and from major attractions such as shopping centers, colleges, major industrial employers, and similar traffic generators within the governmental unit.

Principal Use
A use that fulfills the primary function of an establishment, institution, household, or other entity. (See Accessory Use.)

Print Shop, Major
A commercial establishment specializing in long-run operations using a variety of printing presses. Long-run operations involve book publishing, blue prints, die cutting, printing of catalogue sheets, newspapers, engraving, four-color printing, lithography and thermography.

Print Shop, Minor
A commercial establishment specializing in short-run operations that provides duplicating services using photocopy, blueprint, and offset printing equipment, including collating of booklets and reports. Short-run operations refer to services that include, for example, the copying of newsletters, flyers and resumes. Placement of orders for printing conducted off-premises is permitted.

Prison
See Correctional Facility.

Private Club
Premises occupied by an association of persons who have been granted a private club registration permit under the State Alcoholic Beverage Code, enabling said club to have alcoholic beverages stored, possessed and mixed on the club premises, or served for on- premises consumption to club members and their families and guests.

Private Recreational Club
Premises used as a private club by persons who are voluntarily associated in either an incorporated or unincorporated relationship, for the purposes of engaging in recreational activities including golf, tennis, swimming, boating, racquetball, bowling and similar activities, but not including coin-operated billiard tables, pinball machines, electronic machines, and other table games customarily played indoors. As used in this definition, the term "premises" mean(s) all contiguous lots and land owned by the association. A private recreational club may provide food service. Where alcoholic beverages are served or provided, the gross income of the association from membership fees, service charges for the use of recreational facilities, and food sales, by excluding income from pool tables, pinball machines and similar devices, shall constitute at least fifty (50%) percent of the gross income of the association, exclusive of State sales tax and exclusive of State gross receipt tax on the sale of alcoholic beverages.

Private Restaurant Club
A building or portion of a building operated as a private club where the primary business is the on-premise sale of prepared food, with adequate kitchen facilities for the preparation of such food. The adequacy of said kitchen facilities to be based upon the seating capacity of the restaurant and type of menu offered; and where at least fifty (50%) percent of the gross income of the organization, exclusive of State sales tax and exclusive of State gross receipts tax on the sale of alcoholic beverages, shall be derived from the sale of prepared food; and where any outside entrances, outside separate identification, outside signs or other separate advertising for lounge or bar areas shall be permitted only as an accessory or secondary feature of the restaurant. Live entertainment permitted.

Private Streets & Alleys
A private vehicular access way shared by and serving two or more lots, which is not dedicated to the public and is not publicly maintained. Private streets and alleys may be established only under the terms of this ordinance. The term private street shall be inclusive of alleys.

Private Way
An officially approved, privately maintained access constructed in accordance with the currently adopted version of the International Fire Code, open to irrevocable access, serving two or more lots as their primary means of access. (Ord. No. 0-2014-97; 10/22/14)

Projecting Sign
See Sign, Projecting.

Property
The real property included within the boundaries of any lot approved and recorded in the plat records of Smith County, or an unplatted tract or parcel of land as described and recorded in the Real Property Records of Smith County, Texas.

Protected Tree
A tree that has a barrier constructed in such a way that the tree is protected from damage due to construction or from normal vehicular movement.

Protective Fencing
Chain link fence, orange vinyl construction fencing or other similar fencing with a minimum height of four feet.

Property Owner
Any person, firm, corporation, or any other legal entity having legal title to or sufficient proprietary interest in the land comprising the subdivision or addition, or any representative or agent thereto, who has express written authority to act on behalf of such owner.

Property Line
The line dividing two adjacent properties, or a property and a public alley.

Property Ownership
Ownership of real property within the boundaries of Smith County as listed on the tax rolls of the Smith County Appraisal District (SCAD), or by valid deed of ownership.

Public Building
Any building (except a building used primarily for general office purposes) which is owned, leased, primarily used, and/or primarily occupied, by any division or agency of the State, Federal, County or City government, or by any public or quasi-public agency or utility.

Public Facilities
Any buildings or facilities which are owned, leased, primarily used and/or primarily operated by the city including, but not limited to, transportation services, utility services, transmission lines, metering facilities, and recreation facilities/services.

Public Improvement
Any drainage way, roadway, parkway, sidewalk, utility, pedestrian way, off-street parking area, lot improvement, open space, or other facility for which the city or other governmental entity will ultimately assume responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

Public Office of Local, State or Federal Agency
A governmental facility such as office buildings, courts, law enforcement headquarters, which are required by branches of local, state or federal agencies for service to an area.

Public Shop or Yard, of Local, State or Federal Agency
A facility such as a maintenance yard and shops, required by branches of local, state, or federal agencies for service to an area; e.g., State or County Highway Department Yard, City Service Center, Experiment Station, etc.

Race Track (Automobile/Motorcycle)
A facility for motorized races, including closed course, straightaway or acceleration runs.

Race Track (Horse, Dog)
A facility for conducting animal races, and which may include paramutual wagering, licensed by the State.

Radio, Television or Microwave Communications Operations (Amateur)
The transmission, retransmission or reception of radio, electromagnetic or microwave signals for private or personal use and not for operating a business or for financial gain.

Radio, Television or Microwave Communications Operations (Commercial)
The transmission, retransmission or reception of radio, electromagnetic or microwave signals primarily for the purpose of operating a business or for some other financial gain.

Radio, Televisions or Microwave Broadcasting Tower
A structure supporting an antenna for transmitting or receiving any portion of the radio spectrum, but excluding non-commercial antenna installations for home reception of radio or television broadcasts.

Railroad Freight Terminal and Yard
A transportation facility on a railroad line for loading and unloading of freight, and maintenance of locomotives, cars and other rolling stock.

Railroad Passenger Station
A transportation facility on a railroad line for loading and discharging of passengers.

Railroad Team Track, Freight Depot or Docks
A transportation facility utilized by a railroad for loading and unloading of freight trains.

Railroad Track and Right-of-way
The right-of-way and track used by a railroad, but not including railroad stations, sidings, team tracks, loading facilities, dock yards or maintenance areas.

Reader Board
An on-premise sign designed to give information such as a list of items and services available, their price, or any other related commercial messages. These signs are characterized by the ease in which the message may be changed.

Reclaimed Water
Domestic or municipal wastewater which has been treated to a quality suitable for beneficial use, such as landscape irrigation. (Ord. No. 0-2009-19; 3/11/09)

Records of Landscape Irrigation Activities
The irrigation plans, contracts, warranty information, invoices, copies of permits, and other documents that relate to the installation, maintenance, alteration, repair, or service of a landscape irrigation system. (Ord. No. 0-2009-19; 3/11/09)

Recreation Center
A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities.

Recreational Vehicle
Any camper, travel trailer or other trailer (including boats, autos, or any other item stored thereon), designed to be towed on public streets which exceeds twenty-two feet (22') in length; or any motor home, coach bus or other self propelled vehicle which exceeds twenty-two (22') feet in length.

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 a s permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recreational Vehicle (R.V.) Dealership
A commercial establishment involved in the display, sales and service of new or used recreational vehicles, R.V.'s, including campers, motor homes and travel trailers.

Recreational Vehicle (R.V.) Park
Any premises designed primarily for transient occupancy on which one or more motor homes, travel trailers or campers are parked or situated, and used for the purpose of supplying to the public a parking space for one or more such vehicles, for not more than fourteen (14) consecutive days.

Recreational (or Special) Vehicle
A large recreational or special vehicle is any camper, travel trailer or other trailer (including boats, autos, or any other item stored thereon), designed to be towed on public streets and which exceeds 22 feet in length; or any motor home, coach, bus or other self-propelled vehicle which exceeds 22 feet in length; or a truck- tractor (without trailer). Truck-tractor means every motor vehicle designed and used primarily for drawing other vehicles and not so as to carry a load other than a part of the weight and load so drawn. The definition of large recreational or special vehicle shall not include any other commercial or heavy vehicles otherwise prohibited in residential areas by Chapter 10 or 17. (Ord. 0-2000-52, 7/26/00)

Rectory or Parsonage
A residential facility designated by a church to be used by the clergy of that church as a place of residence. Such facilities are often located on or adjacent to the primary church property, but such proximity is not required. A rectory or parsonage may include counseling rooms and private meeting rooms, but these uses are secondary to the primary use of the facility as a residence.

Recycling Center (Limited)
A private or commercial facility that is not a salvage yard and in which recoverable resources, such as newspapers, glassware, and metal cans, are collected, stored, flattened, crushed, or bundled, essentially by hand, all within a completely enclosed building.

Recycling Collection Point
A collection facility for small volumes of refuse material, such as bottles and newspapers, collected either in a portable container or small structure. Processing of such items is not permitted at such facilities, only collection, reduction and packaging.

Recycling/Reprocessing Center (All Materials)
A commercial facility that is not a salvage yard, in which recoverable resources, such as newspapers, magazines, books, other paper products, metal and glass containers, are recycled, reprocessed and treated to return such materials to a condition in which the materials may again be used.

Reduced Pressure Principle Backflow Prevention Assembly
An assembly containing two independently acting approved check valves together with a hydraulically operating mechanically independent pressure differential relief valve located between the two check valves and below the first check valve. (Ord. No. 0-2009-19; 3/11/09)

Rehabilitation Care Facility
A residential facility which provides housing and care to not more than six (6) persons, regardless of legal relationship, who have demonstrated a tendency towards alcoholism, drug abuse, or mental illness, living together with not more than two (2) supervisory personnel, as a single housekeeping unit.

Rehabilitation Care Institution
A group residential facility which provides housing and care for seven (7) or more persons, regardless of legal relationship, who have demonstrated a tendency toward alcoholism, drug abuse, or mental illness, living together with supervisory personnel.

Remainder
The residual land left after platting of a portion of a tract. Platting of a residual may in some instances be required under the provisions of this code.

Removal
Uprooting, severing the main trunk of a tree, or any act, which causes or may reasonably be expected to cause a tree to die, including without limitation damage inflicted upon the root system by machinery, storage of materials, or soil compaction.

Replatting
Any change in a map of an approved or recorded plat, except as permitted as an amended plat, that affects any street layout on the map or area reserved or dedicated thereon for public use or any lot line, or that affects any map or plan legally recorded prior to adoption of any regulations controlling subdivisions or additions. Replatting includes the combination of lots into a single lot for purposes of development.

Reprographic Service Shop
A commercial establishment providing quick reproduction service for written material, documents, reports, correspondence, drawings and plans, and providing supplies related to the production of such original material. See Photocopy/FAX Service.

Rescue Mission
A group residential facility, usually operated by a non-profit, charitable, or religious organization, which provides temporary boarding and/or lodging and ancillary services on the premises to primarily indigent, needy, homeless or transient persons.

Research Institute and Laboratory
A building(s) in which are located facilities for scientific research, investigation, testing, or experimentation, but not including facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Residence Hotel
An extended stay lodging facility consisting of efficiency units or suites, each with a complete kitchen suitable for long- term occupancy. Customary hotel services such as linen, maid service, telephone and upkeep of furniture are usually provided. Meeting rooms, club house and recreational facilities intended for the use of residents and guests are permitted. This definition shall not include other dwelling units as defined by this Ordinance.

Restaurant or Cafeteria
A commercial establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in non-disposable containers, and where the customer consumes these foods while seated at tables or counters located within the building.

Restaurant or Eating Place with Drive-thru Service
A commercial establishment serving food to the public, having a designated dining area, as well as a drive-thru, food service window.

Restaurant or Eating Place with Drive-in Service
A commercial establishment that offers quick food service, which is accomplished by means of a limited menu, where food is served for consumption on the premises, to customers seated in a motor vehicle, and which may or may not, have an on-premise dining room or service counter. A "Drive-in".

Restaurant or Eating Place, Fast-Food
A commercial establishment that offers quick food service, which is accomplished by means of a limited menu of items (hamburgers, chicken, etc.), already prepared and held for service, or prepared, fried, or griddled quickly, or heated in a device such as a microwave oven. Orders are not generally taken at the customer's table, and food is generally served in disposable wrapping or containers.

Resubdivision
The replatting or change to an approved or recorded subdivision plat that affects any street layout or area reserved thereon for public use or any lot line, or that affects a map or plan legally recorded prior to adoption of any regulations controlling subdivisions.

Residence
Same as a dwelling; also, when used with district, an area of residential regulations.

Residential district
A single-family, duplex, townhouse, multiple-family or manufactured home zoning district as defined in the Zoning Ordinance.

Residential use
A single-family, duplex, multiple family, or manufactured home park, manufactured home subdivision and campground use as defined in the Zoning Ordinance.

Retail Services, Incidental
The rendering of retailing or services incidental to the primary use. In an Office district, such uses might include a barber or beauty shop, smoke shop, candy counter, restaurant, pharmacy or other incidental activity secondary to the primary office occupancy. Such uses shall have no separate outside entrance and no outside signage.

Retail Sales (Store or Shop)
A variety of commercial establishments engaged in the selling of goods and merchandise to the public for personal or household consumption and rendering services incidental to the sale of such goods.

Retention
The permanent storage and controlled release of stormwater runoff.

Retention Facility
Means a facility that provides permanent facilities for storage of stormwater runoff.

Retirement Center (Congregate Housing)
A multi-family residential facility, building(s) containing semi-independent dwelling units, similar to apartments, where the occupants of the dwellings are primarily persons 60 years of age or older. Residents are provided special support services such as meal preparation, central dining and limited medical care. Such facilities may also provide other services such as transportation and counseling.

Retirement Center (Independent Housing)
A multi-family residential facility, building or group of buildings containing individual self-contained dwelling units where the occupancy of the dwellings is primarily persons 60 years of age or older, or couples where either the husband or wife is 60 years of age or older. No medical care or convalescent facilities are provided. Senior apartments.

Review and accept
A phrase that indicates that the City considers the submitted item is in compliance with this ordinance.

Revival, Outdoor/Tent
An outdoor religious service of limited duration, perhaps conducted under a tent or other similar portable covering. Outdoor events of this type are permitted as a Temporary Use. See Temporary Use.

Start of construction for other than new construction or substantial improvements under the Federal Coastal Barrier Resources Act (Public Law 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 one hundred eighty (180) days of the permit date. The actual start means either first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Right-of-Way
A strip or parcel of land occupied or intended to be occupied by a street, alley, or utility. Other facilities and utilities that may require or be placed within the right-of-way include sidewalks, railroad crossings, electrical, communication, oil or gas, water or sanitary or storm sewer facilities, or for any other special use. The use of right-of-way will also include parkways and medians outside of pavement. The use of the term "right-of-way" for land platting purposes will mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.

Right-of-Way, Private
An area of land deeded, reserved by plat, or otherwise designated to be occupied by a street, railroad, electric transmission line, oil or gas pipeline or other private use.

Right-of-Way, Public
An area of land deeded, reserved by plat, or otherwise accepted and maintained by the city, county, or the state for public use, including streets, water mains, sanitary or storm sewer mains.

Right-of-Way Line
The line dividing a property and the public right-of-way set aside for street purposes.

Room
A building or portion of a building which is arranged, occupied, or intended to be occupied as living or sleeping quarters, but not including toilet or cooking facilities.

Rowhouse
A series of dwelling units, attached in a row, separated by vertical fire walls, in which each residence is owned individually. This term is synonymous with townhouse.

Sales, Outdoor, (Permanent)
Open-air sales lot, intended for the continuous, year round display of merchandise outdoors.

Sales, Outdoor, (Temporary)
Open-air sales lot, established for temporary periods for the sale of seasonal commodities such as Christmas trees, lawn and garden supplies, etc. Temporary outdoor sales are permitted through issuance of a Temporary Use Permit (TUP) for a specific period of time, or in some cases, through issuance of a Special Use Permit (SUP) authorizing extended outdoor display. See Temporary Use, Special Use.

Salvage Yard
Any establishment maintained, used or operated for storing, keeping, dismantling, salvaging, buying or selling of: 1) scraps or discarded pieces of metal, paper, rags, tires, bottles and other materials; 2) inoperable, wrecked, scrapped, ruined or discarded automobiles or other motor vehicles, automobile parts, machinery or appliances. If junked or wrecked automobiles remain outside a building for more than thirty (30) days as inoperable, partially dismantled, wrecked, or junked automobiles, the area shall be deemed for the purpose of this ordinance, a salvage yard.

Sanatoriums, Medical
A health care facility providing health services for treatment of the chronically ill. A hospital devoted to specialized treatment.

Sand, Gravel, Stone or Earth Sale and Storage Facility
An outdoor facility for storing and marketing sand, gravel, stone or other earthen substances.

Sand, Gravel, Stone or Mineral Extraction Facility
A site where stone, sand, gravel or minerals are mined or extracted.

Sandwich Board Sign
A ground sign constructed in such a manner as to form an "A" or a tent-like shape, hinged or not hinged at the top; each angular face held at an appropriate distance by a supporting member. This sign type is only allowed in DBAC. (Ord. No. O-2010-119; 11/10/10)

Sanitary Landfill (Public or Private)
See Landfill.

Satellite Dish Antenna
A device incorporating a reflective surface that is solid, open mesh, or bar configured, and is usually in the shape of a shallow dish, cone, or horn. Such device(s) are used to transmit and/or receive radio or electromagnetic waves

between terrestrially and/or orbitally based sources (satellites). This definition includes, but is not limited to, what are commonly referred to as satellite earth stations, TVRO's (television reception only satellite dish antennas), and satellite microwave antennas.

Saved Tree
An existing tree, which is maintained in a living and growing condition.

Saw Mill
An industrial facility having power driven machinery for sawing logs and usually accessory facilities for drying and storage of wood materials and by-products.

Schedule
The timed interval that messages are displayed on an electronic message sign.

School
A public, private or parochial educational facility, that provides a curriculum of elementary and/or secondary academic instruction, including kindergartens, elementary schools, junior high/middle schools and high schools.

School, Business or Professional
A school, commercial or non-profit, organized to offer instruction and training in a service or art, such as secretarial school, barber college, beauty school or commercial art school, but not including trade schools.

Screening
A method of visual shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, hedges, berms, or densely planted vegetation.

Seating Capacity
The actual seating capacity of an area based upon the number of seats or one seat per 18 inches of bench or pew length. For other areas where seats are not fixed, the seating capacity will be determined by the building code

Secondary Arterial
A road intended to collect and distribute traffic in a manner similar to a primary arterial, except these roads service minor traffic generators such as commercial areas, hospitals, churches, and offices and are designed to carry traffic from collector streets to the system of primary arterials.

Secondhand Store (Used Furniture or Rummage)
A commercial establishment involved with the sale of secondhand or used furniture and other household items, in which there is no outside display or storage of items.

Section Signs
A sign or outline lighting system, shipped as sub-assemblies, which require field-installed wiring between the sub-assemblies to complete the overall sign. The sub-assemblies are either physically joined together to form a single sign unit are installed as separate remote parts of an overall sign. (Ord. No. O-2010-119; 11/10/10)

Security
A letter of credit or cash escrow provided by the applicant to secure its promises in the improvement agreement.

Security Facility
A structure and the equipment required in order to ensure the security of an establishment. Such facilities may include fences, lights, towers, guard houses, cameras and other surveillance equipment. Mobile home for housing security personnel permitted as a Special Use.

Sedimentation
The deposition of detached soil particles or rock fragments after being transported from their site of origin by runoff water.

Sedimentation facilities
Shall mean facilities for collection of detached soil particles or rock fragments in a designated area including, but not limited to, land terraces, hay bales, and vegetative ground cover.

Self-Service Storage Facility
A building(s) in a controlled access and fenced compound, that offers to the public various sizes of individual, compartmentalized and controlled access stalls or lockers for the storage of goods or wares. See Mini-Storage Warehouses.

Semi-nude
A state of dress in which clothing covers no more than the genitals, pubic region or areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Service (Retail)
A variety of commercial establishments engaged in the sale and/or servicing of goods, where a minimum of eighty percent (80%) of the gross floor area is devoted to service, repair or fabrication of such goods, and the service area is not accessible to the public. Vehicle services, automotive uses and rental stores are specifically excluded from this definition.

Service Station
Any premises where gasoline and other motor fuels are sold and dispensed, and light vehicle maintenance services, such as engine tune-ups, lubrication, minor repairs, flats fixed and carburetor cleaning, are performed. Service stations do not include premises where heavy vehicle maintenance such as engine overhauls, automobile painting, and body/fender work are performed.

Setback (1)
A line, established by this code, parallel or approximately parallel to the front lot line at a specific distance there from, marking the minimum distance from the front lot line that a building may be erected, except or unless as specifically provided in this code.

Setback (2)
The distance between a building and the property line nearest to the building.

Sexual Encounter Center
A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration;

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

2. Activities between male and female persons and/or persons of the same sex when one or more of the employees of the establishment is in a state of nudity or semi-nude.

Sexually Oriented Business
An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center

Shoe Repair Shop
A commercial establishment specializing in repair or reconditioning of footwear, handbags and other leather articles such as shoes, boots, sandals, wallets, purses and other similar products.

Shopping Center
A group of primarily retail and service commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on- site, provision for goods delivery separated from customer access, provision of aesthetically appropriate design and protection from the elements.

Shop, Specialty Retail
A commercial establishment displaying and offering for retail sale, indoors, exclusive items and/or a limited variety of merchandise; e.g., a dress shop, toy-hobby shop.

Shop, Work/Repair
A commercial facility housing the workplace of a craftsperson or other individual involved in the practice of a trade; e.g., television repair shop, watch repair shop.

Shrub
A woody perennial plant distinguished from a perennial herb by its persistent, woody stem and from a tree by a mature height of less than 15 feet and having no distinctive elevated crown of foliage.

Sidewalk (1)
The paved portion of the public right-of-way between the curb lines of a street, or the lateral lines of a roadway, and the adjacent or abutting property lines intended for the use of pedestrians.

Sidewalk (2)
A paved or brick walk, separated from a street, and intended for the movement of pedestrian traffic and built to City of Tyler specifications.

Sidewalk
That paved portion of the public right-of-way between the curb lines of a street, or the lateral lines of a roadway, and the adjacent or abutting property lines intended for the use of pedestrians

Sidewalk, Defective, Unsafe or Hazardous
Any sidewalk sections that are upheaved or depressed, thereby causing an abrupt change in grade or any condition designated by the city to constitute a risk to the public health and safety.

Sign
Any object, device, display or structure, or part thereof, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. Signs include, but are not limited to: banners, billboards, bulletin boards, directional signs, monuments, home occupation signs, menu boards, reader boards, and tenant directories as by their common interpretations

Sign (see also Billboard)
A structure or device designed or intended to convey information to the public in written or pictorial form. Any outdoor display, device, figure, painting, drawing, message, plaque, poster, billboard or other object, whether permanently erected or portable, which is designed or intended to be used to advertise or inform and which is designed to be primarily viewed from any place on a public way.
For the definition of specific types of signage and the definitions of sign terms, refer to the sign regulations in of this code.

Sign Area
The area of a facade for freestanding letters or cut out letters displayed as a sign is the area enclosed within the smallest regular geometric figure (e.g., square, rectangle) needed to encompass completely all letters, insignia, or symbols of the sign, including horizontal spacing between letters, insignia, or symbols. For facade signs other than those composed of freestanding letters, words, insignia, or symbols that have a background and\or are framed in any manner, the area of the sign is the total area within the outer edge of the frame (border) of the sign.

Sign, Directional
Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as "one way", "entrance" and "exit".

Sign Face
The area of display surface used for the message.

Sign, Fixed
Any sign attached to a building or structure.

Sign Height
The height of a sign is the vertical distance from the average ground level abutting a building or structure to the highest permanent part of the sign.

Sign, Projecting
A sign attached to and projecting out from a building face or wall, generally at right angles to the building.

Sign, V-type
A structure of two signs in the shape of the letter "V" when viewed from above and with their faces oriented in opposite directions. Each face constitutes a separate sign.

Single-Family Residence, Attached
A dwelling that is part of a structure containing two or more dwellings, each designed and constructed for occupancy by one family, with each dwelling attached by a common wall to another in which each dwelling is located on a separate platted lot (unless the dwelling is part of a Planned Development District approved without separate platted lots).

Single-Family Residence, Detached
A dwelling designed and constructed for occupancy by one family and located on a lot or separate building tract and having no physical connection to a building located on any other separate lot or tract.

Site Development Plan
A plan, prepared to scale, showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.

Site Plan Review
The process whereby the city staff review the site plans and maps of a developer to assure that they meet the purposes and standards of the zoning code, subdivision code, and other city requirements.

Sketch Plat
A sketch preparatory to the preliminary plat (or final plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the Commission as to the form of the plat and the objectives of these regulations.

Small Tree
A self-supporting wood perennial plant which normally attains an overall height less than 25 feet at maturity, as shown in the Approved Tree list in subsection f. (Ord. No. 0-2009-32, 3/25/09)

Snipe Sign
An off-premise sign that is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or other objects. (Ord. No. 0-2010-20; 3/10/10) (Ord. No. O-2010-119; 11/10/10)

Spell on Display Mode
The display mode where each word is spelled out until the entire message appears.

Special Flood Hazard Area (SFHA)
The land in the floodplain within the city 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 Insurance Rate Map (FIRM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zone A, AE, AH, AO, A99, VE or V.

Special License Plate
A symbol, tab, or other device issued by the Texas Department of Transportation or successor agency to a permanently disabled person under state law and designed for a vehicle transporting a permanently disabled person.

Special Promotional Device/Activity
A balloon, banner, mechanical apparatus, lights, etc. displayed or exhibited, or activity performed for promoting an establishment or entity. Permitted as a Temporary Use. See Temporary Use.

Special Use
A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to the duration, number, area, location, and relation to the surrounding area, would not be detrimental to the public health, safety, or welfare. A conditional use.

Special Use Permit (SUP)
A permit authorized by the city council permitting a special use at a specific location, for a specified period of time, unless otherwise noted.

Specified Anatomical Areas
Human genitals, pubic region, buttocks, anus, or female breast.

Specified Sexual Activities
Means and includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

2. Sex acts, actual or simulated, including intercourse, oral copulation or sodomy;

3. Masturbation, actual or simulated; or

4. Excretory functions as part of or in connection with any of the activities set forth above.

Spell on Display Mode
The display mode where each word is spelled out until the entire message appears.

Stable, Riding Club
A public or private facility, including buildings and land, intended to accommodate equestrian events, where horses are kept for hire, sale, boarding, riding or show.

Stable, Private
An accessory structure in which horses are kept for private use and not for remuneration, hire, or sale.

Stack (Queuing) Space
A paved drive leading off a public street, to a point(s) where service is provided while the individual is seated in a motor vehicle, e.g., drive-thru bank teller window or carry-out food service window; or for the purpose of loading and unloading passengers from vehicles.

Stadium (Public)
A recreational facility providing an athletic field and spectator seating for viewing athletic or other events, owned and operated by a public agency for the benefit of the public, including, but not limited to, a baseball field, football field, rodeo arena, or multi- purpose stadium.

State Highway:
Any street maintained by the Texas Department of Transportation pursuant to agreement with the City of Tyler. The term also includes city streets that intersect state highways and includes features that support traffic flow of the state highway. The length of city street included under this definition shall be measured from the curb line of the state highway to the furthermost end of turn lanes, acceleration lanes, declaration lanes, and related improvements that are in place solely to support traffic ingress and egress onto the state highway. This length shall include, as a minimum, the street surfacing maintained by the Texas Department of Transportation. (Ord. No. 0-2006-70; 8/9/06)

Static Water Pressure
The pressure of water when it is not moving. (Ord. No. 0-2009-19; 3/11/09)

Storm Drainage Design Standards
The current edition of a document(s) containing minimum acceptable methods and practices for planning, design and/or construction of drainage improvements and sediment control.

Streamers
Long, narrow flags, pennants or ribbons, frayed or unfrayed, designed to direct or attract attention to an object, person, institution, organization, business, product, service, event, or location.

Studio of the Arts (Instructional)
A public or commercial facility offering a place for instruction, coaching or counseling of personal skills involved in the arts; e.g., painting, sculpture, drama, dance, music, public speaking or similar skills.

Studio of the Arts (Private)
A private facility housing the workplace of an artist engaged in painting, sculpture or other individual artistic endeavor.

Studio (Broadcasting or Recording)
A public or commercial facility for broadcasting live or pre-recorded programs by radio or television, or recording of such programs, records, tapes, compact discs, video tapes or other recorded media. Such a facility may house activities and equipment necessary for recording and programming, broadcasting and receiving, radio and television signals. Such facility shall not engage in mass production.

Store
A facility housing a commercial establishment displaying and offering for sale, indoors, a wide variety of merchandise, e.g., grocery store, department store, discount store.

Storm Drainage Design Standards
The current edition of a document(s) containing minimum acceptable methods and practices for planning, design, and/or construction of drainage improvements and sediment control.

Storm Water Retention Basin and Pumping Station
A reservoir, lake, pond or area designated for temporary storage of surface water during periods of heavy run-off, together with any pumping facilities, tanks, gates or similar control structures related to drainage operations.

Story
That portion of a building enclosed between the upper surface of a floor and the upper surface of the floor or roof next above. For computing building height pursuant to this code, the average height for a story will be defined as 12 feet 6 inches.

Story, Half
A space under a sloping roof which has the line of intersection of the roof decking and wall face, not more than four feet above the top floor level, and in which space not more than two-thirds of the floor area is finished-off for use. A half-story containing independent apartment or living quarters will be counted as a full story.

Streamers
A long, narrow flag, pennant or ribbon, frayed or unfrayed, designed to direct or attract attention to an object, person, institution, organization, business, product, service, event, or location.

Street
Any thoroughfare or public way, other than an alley, more than 25 feet in roadway width, which has been dedicated to the public for public use.

Street Line
A boundary line between a lot, tract or parcel of land and a contiguous street right-of-way. A street line is the same as a front property line or right-of-way line.

Street, Collector
Street which serves the internal traffic movement within an area of the city, such as a subdivision or commercial area, and connects this area with the arterial street system.

Street, Local
A street whose sole function is to provide access to abutting properties and to other streets from individual properties, and to provide right-of-way beneath it for sewer, water, and storm drainage pipes.

Street, Major Arterial
A road intended to move traffic to and from major traffic generators such as shopping centers, colleges, major industrial employers, and similar traffic generators within the governmental unit. (Ord. No. 0-2006-11, 1/11/06)

Street, Minor Arterial
A road intended to move traffic to and from minor traffic generators such as commercial areas, hospitals, churches, and offices and to carry traffic from collector streets to the system of major arterials. (Ord. No. 0-2006-11, 1/11/06)

Street, Primary Arterial
A road intended to move traffic to and from major attractions such as shopping centers, colleges, major industrial employers, and similar traffic generators within the governmental unit.

Street, Private
A private vehicular access way shared by and serving two or more lots, which is not dedicated to the public and is not publicly maintained. Private streets and alleys may be established only under the terms of this code. The term private street will be inclusive of alleys.

Street, Perimeter
Any existing or planned street which abuts the subdivision or addition to be platted.

Street, Road (Public)
A public thoroughfare, including all the property reserved or dedicated for vehicular traffic, which affords the principal means of access to abutting property.

Street, Road (Private)
A way open to vehicular ingress and egress not maintained by public established as a separate tract for the benefit of certain, adjacent properties. This definition does not apply to driveways.

Street, Substandard
An existing street or highway that does not meet the minimum specifications in the City of Tyler Subdivision Design Guidelines, or a State Highway or FM Highway that does not meet the minimum Standard Specifications of the Texas Department of Transportation and is not constructed to the ultimate extent for the type of roadway it is designated for in the major thoroughfare plan. A standard street is a street or highway that meets or exceeds said standard specifications and major thoroughfare plan.

Street Use License
Permission granted by code for the private use of the public right-of- way.

Street Yard
The area of a lot which lies between the street right-of-way line and the front, side and/or rear wall building line. See Illustrations 1 thru 6 in Section 10-89.

Structure (1)
A combination of material to form a construction that is safe and stable, including among others; buildings, stadiums, reviewing stands, platforms, staging, observation sheds, shelters, fences and display signs.

Structure (2)
A walled and roofed building, including a gas or liquid storage tank that is principally above ground.

Subdivider
Any person having an interest in land who:

1. causes it, directly or indirectly, to be divided into a subdivision or platted as an addition
2. directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel site, unit, or plat in a subdivision or addition,
3. engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or addition or any interest, lot, parcel site, unit or plat in a subdivision or addition, or

4. is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

Subdivision

The division of any tract or parcel of land into two or more lots for the purpose, whether immediate or future, of offer, sale or for the purpose of development. Subdivision includes the division or development of residentially and non-residentially zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat or other recorded instrument. Subdivision also includes Resubdivision. Subdivision also refers to the land to be so divided, as the context may indicate. Certain types of subdivisions do not require City approval under the terms of Section 10-32.

Substandard Street

An existing street or highway that does not meet the minimum specifications in the City of Tyler Subdivision Design Guidelines, or if a State Highway or FM Highway does not meet the minimum Standard Specifications of the Texas Department of Transportation and is not constructed to the ultimate extent for the type of roadway it is designated for in the major thoroughfare plan. A standard street is a street or highway that meets or exceeds said standard specifications and major thoroughfare plan.

Substantial Enlargement of a Sexually Oriented Business

The increase in floor area occupied by the business by more than 25% as the floor area exists at the date of passage of this ordinance.

Substantial improvement

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

1. before the improvement or repair is started or,

2. if the structure has been damaged and is being restored, before the damage occurred.

For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include 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 or local inventory of historic places.

Substantial Enlargement of a Sexually Oriented Business

The increase in floor area occupied by the business by more than twenty-five percent (25%) as the floor area exists at the date of passage of this ordinance.

Sun (Glare) Screen

A perforated metal sheet used over the face of the electronics to reduce glare and to extend bulb life by reducing the exposure to rain.

Super Graphic Sign
A large attached premise or off-premise sign on a mesh or fabric surface.

Supervision (Irrigation Systems)
The on-the-job oversight and direction by a licensed irrigator who is fulfilling his or her professional responsibility to the client and/or employer in compliance with local or state requirements. Also a licensed installer working under the direction of a licensed irrigator or beginning January 1, 2009, an irrigation technician who is working under the direction of a licensed irrigator to install, maintain, alter, repair or service an irrigation system. (Ord. No. 0-2009-19; 3/11/09)

Swimming Lessons (Classes) at Home
Group instruction in swimming and water safety, taught by a resident of the household.

Swimming Pool Sales and Supply Store
A commercial establishment specializing in the display and retail sales of swimming pools, related supplies and service. Such sales may involve outdoor display of model pools and pool accessories.

Swimming and Court Complex (Public)
A recreational facility, open to the public, that provides only such facilities as necessary for swimming, tennis and racquetball.

Swim, Tennis or Racquetball Club
A recreational facility similar in operation to that of a country club, but providing only such facilities as necessary for swimming, tennis and racquetball, to a specific private membership and invited guests.

Tailor/Seamstrist Shop
A commercial facility which houses the workplace of a tailor or seamstrist engaged in fabrication, alteration, repair, of men's and women's clothing and apparel. Not a clothing factory.

Tanning Salon
An indoor commercial facility where individuals may receive a tan by means of artificial light.

Tanning, Slaughtering or Rendering of Animals
An industrial facility in which the tanning, rendering, slaughtering or butchering of animals is conducted. Such activities are to be conducted entirely within an enclosed structure. Holding pens for live animals awaiting slaughter, may be open-air if the pens observe all setback requirements.

Taxidermy Shop
A commercial facility housing the workplace of a taxidermist engaged in the preparation, stuffing and mounting of the skins of primarily game animals, birds or fish.

Temporary Improvement
Improvements built and maintained by an owner during construction of the development of the subdivision or addition and prior to release of the performance bond or improvements required for the short term use of the property.

Temporary Sign
A sign displayed for limited and specific period of time and for those limited purposes set forth in this code.

Temporary Use
A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period. A prospective use, intended for limited duration, which may be located in a zoning district not permitting such a use as of right, but does not constitute continuity of a nonconforming use or building.

Temporary Use Permit (TUP)
A permit issued by the Planning Director permitting a temporary use at a specific location for a specified period of time.

Tenant Directory
An on-premise sign which lists the names of individual businesses in a multi-tenant commercial shopping center or office park.

Tent Sale
An outdoor sale of merchandise, either new or used, conducted for a specific period of time, on a temporary basis. Items for sale may be displayed under a tent or the tent may be used as a promotion. Outdoor activities such as a tent sale require a Temporary Use Permit (TUP). See Temporary Use.

Texas Department of Transportation Access Management Manual: The Access Management Manual adopted by the Texas Department of Transportation, including any amendments thereto, and any additional or successor rules, regulations or standards adopted by the Texas Department of Transportation governing driveway access to state highways. (Ord. No. 0-2006-70; 8/9/06)

Theatre, Movie or Cinema
A private or commercial indoor facility providing patrons seating for the purpose of viewing a motion picture.

Theatre, Drive-In Movie
A commercial outdoor facility developed and arranged so that patrons may view a motion picture on a large outdoor screen while seated in their automobiles.

Theatre or Playhouse (Indoor)
A private or commercial indoor facility, with a stage for the presentation of live theatrical performances or concerts to the public.

Theater (Outdoor)
An open-air facility, with a stage for the presentation of live theatrical performances or concerts outdoors, with or without seating provided for the audience. An amphitheater.

Thoroughfare
Any public street, alley, or other public right-of-way that has been accepted and appropriated by the city by use, entry, or improvement.

Tire Dealership (No Open Storage)
A retail establishment engaged in the sale and installation of tires for motor vehicles not involving the open storage of tires or other merchandise.

Tire Dealership (With Open Storage)
A retail establishment engaged in the sale and installation of tires for motor vehicles, with the open storage of new and used tires permitted.

Tire Retreading and Capping
The process by which tires are treated with a new tread.

Tobacco Store
A commercial establishment specializing in the retail sale of tobacco, cigarettes, cigars and associated items, including the small scale blending of tobaccos.

Tower, Broadcast or Reception
A structure situated on a non-residential site that is intended for transmitting or receiving television, radio, or telephone communications, excluding those used exclusively for dispatch communications. See also Antenna.

Tower, Observation
A tall structure designed to support a platform whereby individuals may stand in order to gain a view of the area below or of other areas in the distance.

Townhouse
A single family, residential structure, constructed in a row of at least two such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from the common property line of any other unit by one or more common fire walls. A row house.

Tract (1)
An area, parcel, site, piece of land or property which is the subject of a zoning or development application.

Tract (2)
A lot, plot, or portion of a subdivision, addition, or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or possession or for building development. The term "tract" is used interchangeably with the term "lot," particularly in the context of subdivision, where a "tract" is subdivided into several lots, parcels, sites, units, plots, condominiums, tracts, or interests.

Trailer or Mobile Home Display and Sales Lot
The offering for sale of trailers or mobile homes, including display and storage, on a parcel of land, but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

Transfer of Ownership or Control of a Sexually Oriented Business
1) The sale, lease or sublease of the business; 2) the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or 3) the establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Travel Bureau
An agency engaged in selling or arranging transportation, trips or tours for individuals or groups.

Travel Trailer
A mobile vehicle designed and used as a temporary place of dwelling and of such size and design as to be subject to licensing for towing on the highway by a passenger motor vehicle or other prime mover and not requiring a special permit for moving on the highways as contrasted to a mobile home.

Tree
Any self-supporting woody perennial plant which will attain a trunk diameter of three inches or more when measured at a point four 4.5 feet above ground level and normally an overall height of at least 12 feet at maturity, usually with one main stem or trunk and many branches. It may appear to have several stems or trunks as in several varieties of oaks.

Truck Terminal
A transportation facility used as a relay station for the transfer of a shipment, from one vehicle to another, or from one party to another. Such terminals do not include the permanent or long-term storage of goods for uses at other locations. The terminal facility may include storage areas for trucks and trailers, and buildings and areas for the servicing and repair of trucks and trailers associated with the terminal.

Truck and Trailer Rental
A commercial establishment involved in renting and leasing trucks and trailers, including the display and storage of such vehicles awaiting rental. Servicing of rental vehicles permitted.

Truck or Tractor Sales and Service Dealership
A commercial establishment specializing in the display and sale of trucks, tractors, buses or similar motorized vehicles, including the servicing of such vehicles.

Undisturbed Area
The area of a lot, which maintains the original natural vegetation including trees, shrubs, grasses, groundcover, and plant materials as approved by the planning director.

Unlawful diversion
Diversion or impounding the natural flow of surface water in a manner that damages the property of another by the overflow of the water diverted or impounded. An unlawful diversion is prohibited by the Texas Water Code.

Unprotected Tree
A tree that has no specially constructed protection barriers to prevent damage due to construction or normal vehicular movement.

Use
A purpose or activity, in which land, structures, or buildings are designed, arranged or intended, or for which land or buildings are occupied or maintained.

Used Car Dealership
A commercial establishment specializing in the sale of used cars and other motor vehicles, with such vehicles usually displayed only on a sales lot. Commonly, an accessory use of a new car or truck dealership.

Utilities Engineer
The official with responsibility to review and release plans for water and sewer improvement.

Utility Distribution or Transmission Lines
Facilities which serve to distribute and transmit electrical power, gas and water, including but not limited to, electrical transmission lines, gas transmission lines and metering stations.

Utility Shop, Storage Yard or Building (Private)
A facility of private utility companies, such as gas or electric companies, for the outdoor storage of poles, pipes and equipment, and building for maintenance and administration.

Utility Substation
A station which is subsidiary to a central station and at which a utility from the central station is converted or passed on to another area.

Utility Trailer/Truck Rental
The parking and rental of small utility trailers and/or trucks for individual rental. Commonly, an accessory use at a gasoline service station.

V-type or V-shaped Sign
A structure of two signs in the shape of the letter "V" when viewed from above and with their faces oriented in opposite directions. Each face constitutes a separate sign.

Variance
A grant of relief by the Construction Board of Adjustment and Appeals from the requirements of this ordinance when specific enforcement would result in unnecessary hardship as described in Section 10-101. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance.

Variance (1)
A relaxation of a dimensional regulation of this chapter, granted by the Zoning Board of Adjustment, whereby reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary or exceptional situation, condition or circumstance of a particular property, the literal enforcement of this chapter would result in an unnecessary hardship.

Vegetated Area
Ground area of a site that is covered by plants, including trees, undergrowth, and grasses.

Vegetation
Any type or kind of growing plant material, projects, or designee.

Vehicle
A large recreational or special vehicle is any camper, travel trailer or other trailer (including boats, autos, or any other item stored thereon), designed to be towed on public streets and which exceeds twenty-two feet (22') in length; or any motor home, coach, bus or other self-propelled vehicle which exceeds twenty-two feet (22') in length; or a truck-tractor (without trailer). Truck-tractor means every motor vehicle designed and used primarily for drawing other vehicles and not so as to carry a load other than a part of the weight and load so drawn. The definition of large recreational or special vehicle shall not include any other commercial or heavy vehicles otherwise prohibited in residential areas by Chapter 10 or 17.

Veterinary Clinic (No outdoor pens)
A medical facility for the diagnosis and treatment of pets and other animals, including but not limited to dogs, cats, birds and other household pets, where all treatment and other care are provided indoors. No outdoor boarding or runs.

Veterinary Clinic (With outdoor pens)
A medical facility for the diagnosis and treatment of pets and other animals, including but not limited to dogs, cats, birds, cattle and horses. Outdoor boarding and runs may be provided.

Viewing Time
The length of time a message is visible, determined by the height of the characters, the approximate distance the viewer is from the sign and the legal vehicular speed limit.

Violation
The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

Vocational Technical or Trade School
A commercial school involved in training students in vocational-technical skills (e.g.,auto mechanics, barbering, food service, electrical, plumbing, welding, etc.) and other trade studies, including instruction in the use of a variety of machines and equipment (e.g.,lathes, drill presses, electronics, etc.).

Wall Building Line
A line extending along the facade of the building(s), parallel to the property line(s) abutting a street right-of-way line. Such line shall be used to determine the overall area, depth, and shape of the street yard.

Warehouse
A building used primarily for the storage of goods and materials.
Warehouse, Mini-Storage: A commercial complex of small storage units which are rented or leased, and which are arranged to be individually accessible to the lessee or renter.

Warehouse, Storage and Distribution
A commercial facility designed and used for the storage and/or wholesale sale and distribution of manufactured products, supplies, and equipment, but excluding bulk storage of materials that are inflammable or explosive, or that create hazardous or commonly recognized offensive conditions.

Water Conservation
The design, installation, service, and operation of an irrigation system in a manner that prevents the waste of water, promotes the most efficient use of water, and applies the least amount of water that is required to maintain healthy individual plant material or turf, reduce dust, and control erosion. (Ord. No. 0-2009-19; 3/11/09)

Watercourse
Any depression, ditch, swale, channel, storm sewer or culvert serving to give direction to a current of stormwater.

Water Surface Elevation
The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. (Ord. No. 0-98-91, 11/18/98)

Water or Waste Water Treatment Plant
A facility for the systematic collection and treatment and dispersal of water and waste water; usually operated as a public utility.

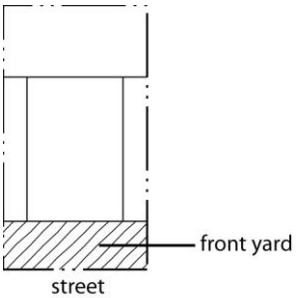
Weeds or Grasses
Weeds and/or grasses or other uncultivated plants on any premises or right-of-way, which grow in such rank profusion as to harbor reptiles or rodents, or create a fire hazard; and weeds and/or grasses, excluding ornamental grasses, or other uncultivated plants on any premises which are permitted to, or do attain a height greater than 18 inches. (Ord. No. 0-98-90, 11/18/98) (Ord. No. 0-2002-46, 10/09/02)

Wood Products Manufacturing Plant
An industrial manufacturing facility where large volumes of raw wood or lumber are cut, trimmed, planed or otherwise finished into wood products.

Yard
An open space other than a court, on the lot of which a building is situated and which is not obstructed from a point twelve inches above the general ground level of the graded lot to the sky, except as provided by this code.

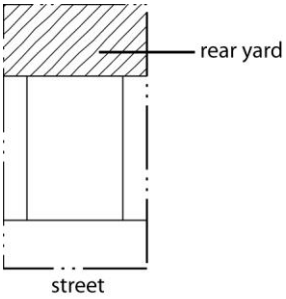
Yard, Front

The required area of open space, as determined by the minimum front yard setback, between any building or structure, extending across the full width of the lot, the depth of which will be the least distance between the front lot line and the nearest point of the exterior face of any building or structure.



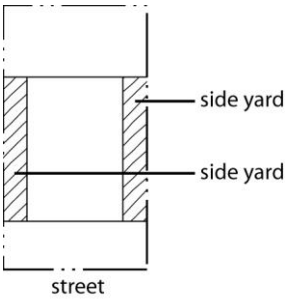
Yard, Rear

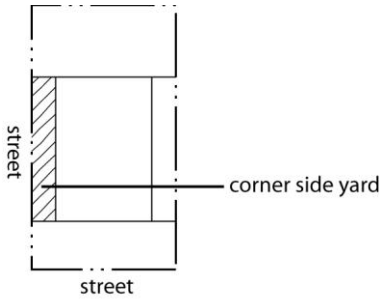
The required area of open space, as determined by the minimum rear yard setback, between any building or structure and the rear lot line, extending across the full width of the lot, the depth of which will be the least distance between the rear lot line and the nearest point of the exterior face of the main building or structure.



Yard, Side

The required area of open space, as determined by the minimum side yard setback, between any building or structure and a side lot line, extending from the front yard to the rear yard, the width of which will be the least distance between the side lot line and the nearest point of the exterior face of any building or structure.





Zero Lot Line

The arrangement resulting from placing a building or structure on a lot line.

Zone Flow
A measurement, in gallons per minute or gallons per hour, of the actual flow of water through a zone valve, calculated by individually opening each zone valve and obtaining a valid reading after the pressure has stabilized. For design purposes, the zone flow is the total flow of all nozzles in the zone at a specific pressure. (Ord. No. 0-2009-19; 3/11/09)

Zone Valve
An automatic valve that controls a single zone of a landscape irrigation system. (Ord. No. 0-2009-19; 3/11/09)

Zoning District Map
The official code which delineates the boundaries of the zoning districts.

Zoning Envelope
The three-dimensional space within which a structure is permitted to be built on a lot and which is defined by the maximum height restrictions and the minimum yard setback requirements. (See Buildable Area).

Zoo
A recreational facility housing and displaying live animals, reptiles and birds, open to the public and operated for a fee or for the promotion of some other enterprise. (ORD. 0-97-62, 12/10/97)

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DIVISION B. Word Usage and Interpretations

Sec. 10-900. Word Usage

a. Meanings and Intent

The language of the development ordinance must be read literally. Regulations are no more or less strict than stated. Words and terms expressly defined in Division XIII or other sections of this ordinance have the specific meanings assigned, unless the context expressly indicates another meaning. Words that are not expressly defined in this ordinance have the meaning given in the latest edition of Merriam-Webster's Unabridged Dictionary.

b. Tenses

1. Words used in the singular include the plural. The reverse is also true.

2. Words used in the present tense include the future tense. The reverse is also true.

c. Word Use

When referring to this code, the following rules of interpretation must be applied, except when the context clearly requires otherwise:

1. The words "must," "will," "shall" and "may not" are mandatory.
2. The word "may" is permissive, and "should" is advisory, not mandatory or required.
3. When used with numbers, "up to X," "not more than X" and "a maximum of X" all include "X."

d. Interpretations

1. In the case of any difference of meaning or implication between the text of this code and any chart, graph, illustration or table, the text will control.

2. The words "building" and "structure" must be construed as though followed by the words, "or a portion thereof."

3. The word "lot" includes the words, "parcel," "plot," or "tract" but does not include leased lands.

4. The word "occupied" must be construed as though followed by the words, "or intended, arranged or designed to be occupied."

5. Terms not herein defined will have the meaning assigned to them in the building code. Terms not defined herein or in the building code, will have the meaning customarily assigned to such terms.

6. All public officials, boards, departments, and agencies to which reference is made are those of the city unless otherwise indicated.

7. The word "bylaw" includes any law, rule, or comparable instrument governing the internal affairs of an organization.

e. Conjunctions

Unless the context otherwise clearly indicates, conjunctions have the following meanings:

1. "And" indicates that all connected items or provisions apply; and

2. "Or" indicates that the connected items or provisions may apply singularly or in combination.

f. Fractions
The following rules apply to fractional number unless otherwise expressly stated.

g. Minimum Requirements
When a regulation is expressed in terms of a minimum requirement, any fractional result of 0.5 or more must be rounded up to the next consecutive whole number. For example, if a minimum requirement calling for one tree to be provided for every 30 linear feet of frontage is applied to a 50-foot dimension, the resulting fraction of 1.67 is rounded up to 2 required trees.

h. Maximum Limits
When a regulation is expressed in terms of maximum limits, any fractional result will be rounded down to the next lower whole number. For example, if a maximum limit of one dwelling unit for every 5,000 square feet is applied to a 12,500 square foot lot, the resulting fraction of 2.5 is rounded down to 2 (allowed dwelling units).

i. Headings and Illustrations
Headings and illustrations are provided for convenience and reference only and do not define or limit the scope of any provision of this development ordinance. In case of any difference of meaning or implication between the text of this development ordinance and any heading, drawing, table, figure, or illustration, the text controls.

j. References to other Regulations
All references in the development ordinance to other city, county, state, or federal regulations are for informational purposes only, and do not constitute a complete list of such regulations. These references do not imply any responsibility by the city for enforcement of county, state, or federal regulations.

k. Current Versions and Citations
All references to other city, county, state, or federal regulations in the development ordinance refer to the most current version and citation for those regulations, unless expressly indicated otherwise. When the referenced regulations have been repealed and not replaced by other regulations, development ordinance requirements for compliance are no longer in effect.

l. Lists and Examples
Unless otherwise expressly indicated, lists of items or examples that use "including," "such as," or similar terms are intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.

m. Delegation of Authority
Whenever a provision appears requiring the head of a department or another officer or employee of the city to perform an act or duty, that provision will be construed as authorizing the department head or officer to delegate that responsibility to others over whom they have authority. Delegation of authority is not allowed when the provisions of this development ordinance expressly prohibit such a delegation.

n. Public Officials and Agencies
All employees, public officials, bodies and agencies to which references are made are those of the City of Tyler unless otherwise expressly stated.