

TITLE I: GENERAL PROVISIONS

Chapter

- 1. THE CODE**
- 2. GENERAL OFFENSES**

City of Hays - General Provisions

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CHAPTER 1. THE CODE

Section

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SUBCHAPTER A. GENERAL PROVISIONS

§ 1.001 Title of Code

The ordinances in this and the following chapters constitute and are designated the “Code of Ordinances of the City of Hays, Texas,” and may be so cited. However, this Code may also be cited as the “Hays Code of Ordinances,” or the “Hays Code,” or the “Hays Municipal Code.”

State Law Reference - Authority of city to codify ordinances, Texas Local Government Code, Chapter 53.

§ 1.002 Application to Future Ordinances

All provisions of this chapter shall apply to ordinances amending or supplementing this Code unless such ordinances specifically provide otherwise.

§ 1.003 Certain Ordinances That the Code Does Not Affect

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following:

- (1) Any ordinance promising or guaranteeing the payment of money for or on behalf of the City or authorizing the issuance of any bonds of the City or any evidence of the City’s indebtedness;

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- (2) Any appropriation ordinance or ordinance providing for an annual budget or prescribing salaries for City officers and employees;
- (3) Any ordinance annexing territory to the City or discontinuing territory as a part of the City;
- (4) Any ordinance granting any franchise, permit, or other right;
- (5) Any ordinance approving, prescribing, or otherwise relating to rates that a private or public utility company may charge;
- (6) Any ordinance approving, authorizing, or otherwise relating to any contract or agreement;
- (7) Any ordinance accepting, dedicating, vacating, or otherwise relating to any easement;
- (8) Any ordinance establishing or amending the zoning designation of any specific parcel of land;

All of the above ordinances are recognized as continuing in full force and effect.

§ 1.004 Savings Provisions

(a) Does Not Affect Certain Matters. Except as provided by subsection (b), the reenactment, revision, amendment, or repeal of any provision of this Code or any provision of any ordinance does not affect:

- (1) the prior operation of the provision or any prior action taken under it;
- (2) any validation, cure, right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred under it;
- (3) any violation of the provision or any penalty, forfeiture, or punishment incurred under the provision before its amendment or repeal; or
- (4) any investigation, proceeding, or remedy concerning any privilege, obligation, liability, penalty, forfeiture, or punishment; and the investigation, proceeding, or remedy may be instituted, continued, or enforcement, and the penalty, forfeiture, or punishment imposed, as if the provision had not been repealed or amended.

(b) Effect on Imposition of Penalties. If the penalty, forfeiture, or punishment for any offense is reduced by a reenactment, revision, or amendment of a provision, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to the provision as amended.

§ 1.005 Amendments or Additions to Code

(a) Numbering. All ordinances that the City Council passes subsequent to the adoption of this Code that amend, repeal, or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code.

(b) Exclusion of Repealed Provisions. When subsequent ordinances repeal any chapter, section, subsection, or any portion of this Code, the City may exclude the repealed portions from the Code by the omission from reprinted pages.

(c) Prima Facie Evidence. Ordinances adopted subsequent to the adoption of this Code, as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of those subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code by the City Council.

(d) Method of Amendment. When the City Council amends any of the provisions of this Code, it shall do so by specific reference to the section number of this Code in the following language:

“That Chapter __, Section __, of the Hays Code of Ordinances is amended to read as follows:”

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and then set out the section, as amended, in full.

(e) Method of Adoption of New Section. When the City Council adds a new section to the Code, it shall do so using the following language:

“That Chapter __ of the Hays Code of Ordinances is amended by adding a new Section __, which section shall read as follows:”

and then set out the new section in full.

(f) Method of Repeal. When the City Council repeals a section from the Code, it shall do so using the following language:

“That Chapter __, Section __, of the Hays Code of Ordinances is repealed.”

(g) Validity. However, if any subsequent ordinance that amends this Code fails to do so in the manner provided for in this section, that ordinance shall not be invalid as a result of such failure.

§ 1.006 **Supplementation of the Code**

(a) Supplements. The City Council may authorize the preparation and printing of supplements to this Code.

(b) Contents of Supplement. A supplement to the Code shall include all ordinances that the City Council adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be prepared so that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(c) Allowed Changes by Codifier. When preparing a supplement to this Code, the codifier (meaning the person, agency, or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, to facilitate the development of a unified code. The codifier shall not make any change in the meaning or effect of ordinances included in the supplement.

§ 1.007 **Altering or Tampering with Code**

It shall be an offense for any person to change or amend, by addition or deletion, any part or portion of this Code, or to insert or delete pages or portions of this Code, or to alter or to tamper with this Code in any manner whatsoever that will cause a law of the City to be misrepresented.

SUBCHAPTER B. **CONSTRUCTION AND DEFINITIONS**

§ 1.020 **Construction Using State Law**

Unless otherwise expressed or by law or implication required, the same rules of construction, definition, and application shall govern the construction of this Code as those governing the construction of state law.

State Law Reference - Texas Government Code, Chapter 311.

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§ 1.021 Rules of Construction and Definitions

(a) Rules Not Exclusive. The rules provided in this subchapter are not exclusive but are meant to describe and clarify common situations to guide the preparation and construction of this Code.

(b) Common and Technical Usage of Words. Unless specifically defined in this Code:

(1) the words and phrases in this Code shall be read in context and constructed according to the rules of grammar and common usage; and

(2) the words and phrases in this Code that have acquired a technical or particular meaning, whether by Council definition or otherwise, shall be construed accordingly.

(c) General Definitions. When used with this code the following definitions apply unless the context clearly dictates otherwise:

“*City*” means the City of Hays, Texas.

“*City Limits*” means within the corporate boundaries of the City.

“*Code*” or “*this Code*” means the Code of Ordinances of the City of Hays as designated in § 1.001 above.

“*Consulting and Professional Fees*” means any and all experts that the City deems necessary to carry out the City’s functions in considering an application for a permit, variance, or any other request for approval by an applicant. Such experts may include without limitation: engineers, attorneys, accountants or auditors, sanitarians, hydrologists, and arborists to collect data, examine plans and specifications, present evidence, and advise and represent the City with respect to the application. The applicant shall pay the City the reasonable cost of such services, along with all other reasonable costs attributable to processing the application.

“*Containers or Solid Waste Containers*” means City approved metal, heavy-duty paper, or plastic receptacles used for the disposal and storage of solid waste.

“*County*” or “*the County*” or “*this County*” means Hays County, Texas.

“*Extraterritorial Jurisdiction*” is the City’s jurisdiction over areas not within the City as authorized by Chapter 42 of the Texas Local Government Code.

“*Filing Fees*” means any filing fees, including postage, that the City incurs in processing any applications or requests for City services or actions, including without limitation: filing subdivision plats, filing tax abatement information with appropriate authorities, etc.

“*Fireworks*” means any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and includes, but is not be limited to, blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which any such explosives are used, unmanned balloons which require fire underneath to propel the same, firecrackers, lady fingers, torpedoes, skyrockets, Roman candles, dayglo bombs, sparklers, or other devices containing any such explosive substance.

“*Garbage*” means all decayable waste from public and private establishments including, but not limited to, vegetable and animal matter, fish offal, and animal and fish carcasses. The term does not include sewage, body waste, and industrial by-products.

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“*In the City*” means all territory over which the City now has, or shall hereafter obtain, jurisdiction for the exercise of its police, regulatory, and other powers.

“*May*” is a permissive term.

“*Person*” includes any person, firm, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, association of persons, owner, agent, receiver, and any other legal entity.

“*Personal Property*” means every type of property, except real property as defined in this chapter.

“*Private Property*” means real and personal property owned by persons, including but not limited to, structures, yards, grounds, driveways, entranceways, passageways, parking areas, working areas, storage areas, vacant lots, and recreation facilities.

“*Property*” means real and personal property.

“*Public Property*” means property of any federal, state, or local government or agency including, without limitation, structures, streets, street medians, roads, road medians, catch basins, sidewalks, strips between streets and sidewalks, lanes, alleys, public rights-of-way, public parking lots, school grounds, municipal vacant lots, and municipal waterways.

“*Real Property*” means land, tenements, and hereditaments.

“*Refuse*” means garbage, rubbish, and other decayable and non-decayable waste including, but not limited to, vegetable matter and animal and fish carcasses. The term does not include sewage from a public or private establishment or residence. The term does include refuse such as boulders, rocks, trees, bushes, limbs, and grass, resulting from lot clearing or other such activity.

“*Rubbish*” means all non-decayable wastes, except ashes from a public or private establishment or residence.

“*Trash*” means rubbish such as feathers, coffee grounds, ashes, tin cans, paper, boxes, glass, grass, shrubs, yard cleanings, yard clippings, leaves, tree trimmings, and similar matter.

“*State*” or “*this State*” means the State of Texas.

“*Street*” or “*Roadway*” shall include any highway, alley, street, avenue, or public place or square, bridge, viaduct, underpass, overpass, tunnel, or causeway in the City, dedicated or devoted to public use.

“*Week*” means seven consecutive days.

“*Written*” or “*In Writing*” means any representation of words, letters, or figures, whether by printing or otherwise.

“*Year*” means a calendar year, unless otherwise expressed.

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(d) Rules of Construction. In the construction of this Code and of all ordinances and resolutions passed by the City Council, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council:

“Acts by Assistant” - When a statute or ordinance requires an act to be done that, by law, an agent or deputy may do as the principal, such requirement shall be satisfied by the performance of the act by an authorized agent or deputy.

“Chapter” - Whenever the words “this ordinance,” “title,” “chapter,” “section,” “subsection,” “provision,” or “paragraph” are used, they shall pertain to the chapter, subchapter, or section of this Code of Ordinances in which they are found unless they are used specifically and clearly in reference to a separate chapter, subchapter, or section.

“City Council” - Whenever the words “City Council,” “the Council,” or “governing body” are used, they shall mean the City Council of Hays, Texas.

“Includes” and *“including”* are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded.

“Month” - The word “month” shall mean a calendar month, unless otherwise expressed.

“Official Time” - The official time, as established by applicable state and federal law, shall be the official time for the transaction of all municipal business.

“Owner” - The word “owner,” applied to a building or land shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole, or of a part of such building or land.

“Public Place” - Whenever the word “public place” is used, unless otherwise specifically defined, it shall mean any public road, street, alley, park, building, or other property of the City or any other places to which people commonly resort for the purpose of business, recreation or amusement.

“Reasonable Time” - In all cases where an ordinance or provision of this Code requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time that is necessary for a prompt performance of the act or the giving of the notice. (Also see “Official Time” in this section.)

“Rule” includes regulation.

“Signed” includes any symbol executed or adopted by a person with present intention to authenticate a writing.

(e) Tense, Number, and Gender.

- (1) Words in the present tense include the future tense.
- (2) The singular includes the plural and the plural includes the singular.
- (3) Words of one gender include the other genders.

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(f) References. In this Code:

(1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of the Code;

(2) a reference to a subtitle, subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit without further identification is a reference to a unit of the next larger unit of the Code in which the reference appears;

(3) historical references to passed ordinances, state law references, cross-references, and authority references are not part of this Code;

(4) historical references at the end of sections are:

(A) references to the ordinance that is the substantive basis of the section if the Council adopted the ordinance prior to the original adoption of this Code; or

(B) references to the ordinance that the Council adopted amending this Code; and

(5) sections without historical references are substantive ordinances that the Council adopted when it originally adopted this Code;

(g) Computation of Time.

(1) In computing a period of days, the first day is excluded and the last day is included.

(2) If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

(3) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

(h) Reference to a Series. If a provision refers to a series of numbers or letters, the first and last numbers or letters are included.

(i) Intention in Enactment of the Code and Ordinances. In enacting this Code and any ordinance, it is presumed that:

(1) compliance with the constitutions of this State and United States is intended;

(2) the entire Code or ordinance is intended to be effective;

(3) a just and reasonable result is intended;

(4) a result feasible of execution is intended; and

(5) public interest is favored over any private interest.

(j) Headings. The heading of title, chapter, subchapter, section, or other provision does not limit or expand the meaning of this Code or any ordinance.

(k) References. Unless expressly provided otherwise, a reference to any portion of a statute, provision, or rule applies to all reenactments, revisions, or amendments of the statute, provision of this Code, or rule.

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SUBCHAPTER C. SEVERABILITY

§ 1.030 Severability

It is the intention of the City Council that the chapters, subchapters, sections, subsections, paragraphs, sentences, clauses, phrases, and provisions of this Code are severable and, if any phrase, clause, sentence, paragraph, or section of this Code shall be held to be, invalid or unenforceable for any reason by the valid judgment or decree of any court of competent jurisdiction, that holding shall not affect any other provision of this Code, since the City Council would have enacted these other provisions without the incorporation in this Code of any invalid or unenforceable chapter, subchapter, section, subsection, paragraph, sentences, clauses, phrases, or other provisions.

§ 1.031 Severability of Ordinances

(a) Prevailing Severability Provision. If any ordinance contains a provision for severability, that provision prevails in interpreting that ordinance.

(b) Prevailing Nonseverability Provision. If any ordinance contains a provision for nonseverability, that provision prevails in interpreting that ordinance.

(c) Severability. If any provision of an ordinance that does not contain a provision for severability or nonseverability, or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this end the provisions of the ordinance are severable.

SUBCHAPTER D. INCORPORATION OF STATE LAW

§ 1.040 Incorporation of Local Government Code

The provisions of the Texas Local Government Code, insofar as its provisions are applicable to this City, are adopted and incorporated by reference as if fully set forth in this Code.

CHAPTER 2. GENERAL OFFENSES

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- 2.002 Maximum Fines or Penalties
- 2.003 Offenses; Cumulative Penalties
- 2.004 Complaints

Subchapter B.

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- 2.010 Damaging Public Property Prohibited
- 2.011 Entering into and Ascending City Waterworks Facilities
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Subchapter C.

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Subchapter D.

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- 2.052 Curfew for Minors
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- 2.054 Defenses
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SUBCHAPTER A. GENERAL PROVISIONS

§ 2.001 Misdemeanors under State Law Adopted

All misdemeanors named in the Texas Penal Code for which the Municipal Court has jurisdiction are declared to be offenses against the City, and the fines, penalties, and other punishments shall be the same as prescribed in the Penal Code.

State Law Reference - Authority to punish for violation of a statute, Texas Government Code § 29.003

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§ 2.002 Maximum Fines or Penalties

(a) Maximum. The maximum amount of fines or penalties for violations of this Code, ordinances, or rules or police regulations of the City shall be the maximum amount as allowed for such fines or penalties by the Texas Legislature as stated in Appendix 3 - "Municipal Enforcement Authority" to this Code.
(Ord. 104, passed 9-1-81)

(b) Appendix. The City Secretary is authorized to replace and update Appendix 3 - "Municipal Enforcement Authority" to this Code upon the advice of the City Attorney.
Cross-Reference - Appendix 3 - Municipal Enforcement Authority

§ 2.003 Offenses; Cumulative Remedies

(a) Misdemeanors; Separate Offense. Any person who violates any provision of any Chapter of this Code shall be guilty of a misdemeanor and be subject to a fine that is appropriate for the type of rule, ordinance, or police regulation that the person violated. Each day that a violation continues shall be a separate offense.

(b) Cumulative Remedies. The remedies that the various provisions of the Chapters in this Code provide are cumulative, and prosecution or conviction under this provision shall never be a bar to any other remedy or relief for a violation of this Code.

§ 2.004 Complaints

Persons observing what they believe to be a violation or potential violation of this Code may file a complaint with the City by providing a written statement of all observed facts and any other information that maybe relevant to the Clerk of the Municipal Court.
(Ord. 111, passed 9-3-91)

SUBCHAPTER B. PUBLIC PROPERTY - DAMAGE AND TRESPASS

§ 2.010 Damaging Public Property Prohibited

It shall be unlawful for any person to intentionally, knowingly, or recklessly damage, destroy, injure, molest or tamper with any public building, structure, fence, pole, pipe, line, street, sign or other public property, whether real or personal.

§ 2.011 Entering into and Ascending City Waterworks Facilities

It shall be unlawful for any person to enter into or ascend upon any of the waterworks facilities of the City except with permission of the Director of Public Works or his or her agent.

§ 2.012 Destroying or Defacing Street Signs

It shall be unlawful for any person to destroy or deface any street sign in the City.

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SUBCHAPTER C. THEFT FROM CITY

§ 2.020 Theft of City Services and Property

It shall be unlawful for any person to:

(1) intentionally or knowingly avoid payment for any service or use of any property or facility of the City, whether real or personal, that he or she knows is provided or used only in return for compensation;

(2) intentionally or knowingly secure performance of the service or use the property or facility to which he or she is not entitled either by deception, threat, false token, impersonation, or fraud. Such services, property, or facilities shall include utilities, ballfields, parks, and other recreational facilities, trash collection services, or any other service or property owned, operated, or provided by the City.

(3) have or exercise control over the disposition of City services, property, or facilities of another to which he or she is not entitled unless authorized by the City and that person. For these purposes, intent to avoid paying is presumed if the actor absconded without paying for the services or knowingly uses or is in possession of such property or facility he or she is not authorized to use or receive.

State Law Reference - Theft of services, Texas Penal Code, § 31.04.

SUBCHAPTER D. WEAPONS

§ 2.030 Discharging Firearms Prohibited

(a) Definitions. When used in this section, the following definitions shall apply unless the context clearly indicates otherwise:

“*Firearm*” means any device capable of discharging a projectile through a barrel using the energy generated by an explosive charge or burning substance or any device readily convertible to such use or any device capable of discharging a projectile through a barrel using the energy generated by compressed air, including without limitation, an air gun, BB gun, or toy gun.

“*Peace Officer*” means a person designated as a peace officer or a special investigator by the Texas Code of Criminal Procedure, Articles 2.12 and 2.122.

“*Shooting Facility*” means an area, either enclosed or out-of-doors, at which firearms are discharged at targets and that is designed so that projectiles fired from firearms at targets are prevented by means of barriers from going beyond the boundaries of the facility.

(b) Discharging Firearms Prohibited. It shall be unlawful for any person to discharge a firearm within the city limits.

(Ord. 104, passed 9-1-81)

(c) Defenses. The following are defenses to prosecution under this section:

(1) The person discharging the firearm was a peace officer acting in the performance of his or her official duties;

(2) The person discharging the firearm was lawfully defending a person or property;

(3) The person discharging the firearm discharged it in an established shooting facility; or

(4) The firearm that the person discharged was a toy gun not capable of discharging a projectile a distance in excess of fifty (50) feet.

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State Law Reference - Weapons regulations are found in Texas Penal Code, Chapter 46.

SUBCHAPTER E. MISCELLANEOUS PROVISIONS

§ 2.040 Open Wells

It shall be unlawful for any person to permit any well, cistern, or other excavation to be or remain open or uncovered to the danger of others, on any premises owned, controlled, or occupied by him or her.

SUBCHAPTER F. MINOR CURFEW

§ 2.050 Short Title

This Subchapter may be cited as the City of Hays Minor Curfew Regulations.

§ 2.051 Definitions

When used in this Subchapter, the following definitions shall apply unless the context clearly indicates otherwise:

“Establishment” means any privately-owned place of business operated for a profit to which the public is invited, including any place of amusement or entertainment.

“Minor” means an unmarried person 16 years of age or younger.

§ 2.052 Curfew for Minors

(a) Prohibition in Being in Public Places at Certain Times. Minors who are 13, 14, 15, or 16 years of age shall not be in public places or on the premises of any establishment within the corporate limits of the City:

- (1) after 11:00 p.m. on Friday or Saturday;
- (2) after 10:00 p.m. on Sunday through Thursday; or
- (3) before 5:00 a.m. on any day of the week.

(b) Prohibition for Younger Minors. Minors who are under 13 years of age shall not be in public places or on the premises of any establishment within the corporate limits of the City after 10:00 p.m. and before 5:00 a.m. on any day of the week.

§ 2.053 Violation by Parents, Guardians, and Legal Custodians

A parent, guardian, or legal custodian of a minor under his or her supervision violates this Subchapter if he or she knowingly permits, or by insufficient control allows, the minor to be or remain in a public place or on the premises of an establishment in violation of this Subchapter.

§ 2.054 Defenses

It is a defense to prosecution under this Subchapter if:

- (1) the minor was engaged in interstate travel;

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- (2) the minor was on a sidewalk in front of the minor's place of residence or a neighbor's place of residence;
- (3) the minor's parent, guardian, or legal custodian was accompanying the minor;
- (4) an adult who the minor's parent, guardian, or legal custodian has designated was accompanying the minor;
- (5) the minor was carrying out an errand or other lawful activity that his or her parent, guardian, or legal custodian directed;
- (6) the minor was participating in, going to, or returning from:
 - (A) lawful employment, or
 - (B) a lawful educational, athletic, entertainment, religious, or social event;
- (7) a medical, criminal, or weather-related emergency conditions existed; or
- (8) the minor was exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly.

§ 2.055 Enforcement Authority and Procedures

(a) Duty of Law Enforcement Officer to Inquire. A law enforcement officer who has stopped a person who the officer believes to be in violation of this Subchapter shall ask the age of that person and inquire into the reason for that person being in a public place or on the premises of an establishment before taking any enforcement action.

(b) Duty of Law Enforcement Officer to Ascertain. When a law enforcement officer takes a minor into custody for the purpose of charging the minor with violating this Subchapter, the investigating officer shall ascertain the name and address of the minor's parent, guardian, or legal custodian.

(c) Duty of Law Enforcement Officer to Notify. Without unreasonable delay, the investigating officer shall notify the minor's parent, guardian, or legal custodian of the whereabouts of the minor.

(d) Duty of Parent, Guardian, Legal Custodian. Upon the reasonable request of a law enforcement officer, the minor's parent, guardian, or legal custodian shall appear at the location where the minor is in custody and shall cooperate in the completion of the investigation of the offense.

(e) Discretion to Issue a Warning. Nothing in this Subchapter shall restrict the discretion of the law enforcement officer who has taken a minor into custody under the provisions of this Subchapter from issuing a written warning to the minor and the minor's parent, guardian, or legal custodian in lieu of the filing of a formal complaint under this Subchapter.

TITLE II: MUNICIPAL GOVERNMENT

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CHAPTER 20: FORM OF MUNICIPAL GOVERNMENT

Section

20.001 Type B General-Law Municipality

§ 20.001 Type B General-Law Municipality

The City elected to be a Type B general-law municipality, complied with the provisions of the Texas statutes from which Sections 7.001-.008 of the Texas Local Government Code were derived, and, therefore, is a Type B general-law municipality. The City has the authority granted to Type B general-law municipalities in the Texas Local Government Code.

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Subchapter Q. City Fire Marshal

- 21.160 Fire Marshal
- 21.161 Authority to Contract with Person or Firm

SUBCHAPTER A. CITY OFFICERS, GENERALLY

§ 21.001 City Council to Provide for Officers of the City

The City Council may appoint or select officers and agents of the City from time to time, as necessary to carry out the City's functions under the Local Government Code.

State Law Reference - Texas Local Government Code, § 23.051

City Officials and Employees

§ 21.002 Officers to Serve at Pleasure of City Council

All officers and agents of the City shall serve at the pleasure of the City Council, except as specifically excepted by other provisions of the Local Government Code and this Code.

§ 21.003 Removal of Officers

The City Council may dismiss at any time the officers that it appoints and may appoint others in their places. *State law reference-Authority to remove municipal officers, Texas Local Government Code, § 23.053.*

SUBCHAPTER B. CITY SECRETARY

§ 21.010 Office Created

The Office of City Secretary is created and shall receive such compensation as may be fixed by the Council. The Mayor, with the consent of City Council, shall appoint the City Secretary.

§ 21.011 Bond Required

The City Secretary shall execute a bond, payable to the City, before taking office conditioned that he or she will faithfully perform the duties of the Office of the City Secretary. The City Council shall determine the amount of the bond at least annually. If the Council fails to determine the amount of the bond for the succeeding year, the amount last prescribed shall continue to be the amount of the bond required. Such bond shall be a corporate surety bond and the City shall pay all of the bond's costs, premiums, and expenses.

§ 21.012 Duties

The City Secretary shall perform all duties of the City Secretary as set forth in the Local Government Code, and such other duties the Council may assign.

SUBCHAPTER C. CITY CLERK

§ 21.020 City Secretary to Serve as City Clerk

The City Secretary shall perform all duties of the City, or Municipal, Clerk as set forth in the Local Government Code, and such other duties as the City Council may assign to the City Clerk.

SUBCHAPTER D. CITY TREASURER

§ 21.030 City Secretary to Serve as Treasurer

The City Secretary shall serve as Treasurer of the City and shall perform all duties of the City Treasurer as set forth in Local Government Code and such other duties as the Council may assign to the City Treasurer.

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SUBCHAPTER E. CITY ASSESSOR AND COLLECTOR

§ 21.040 City Secretary to Serve as Assessor and Collector

The City Secretary shall serve as Assessor and Collector of the City and shall perform all duties of such offices as the Council may assign to the City Assessor and Collector.

SUBCHAPTER F. CITY ATTORNEY

§ 21.050 Office Created; Appointment and Termination

The Office of City Attorney is created. The City Attorney shall be appointed and/or terminated by the City Council.

§ 21.051 Authority to Contract with Person or Firm

The City Council may contract with a private firm or person in private legal practice to perform the duties and fill the office of City Attorney.

SUBCHAPTER G. CITY MARSHAL

§ 21.060 Office Abolished

The City, having a population of less than 5,000 as shown by the last preceding federal census, abolishes the Office of Marshal and authorizes the City Council to substitute any qualified peace officer of this State, who shall have all of the powers of the marshal.

State Law Reference - Texas Local Government Code, § 23.029, authorizes municipalities to abolish the office of City Marshal.

SUBCHAPTER H. CODE ENFORCEMENT OFFICER

§ 21.070 Office Created

The Office of Code Enforcement Officer is created.

§ 21.071 Appointment and Duties

(a) Appointment. The Mayor, within the consent of the City Council, may appoint the Code Enforcement Officer.

(b) Duties. The Code Enforcement Officer shall process all building permit applications, including inspections of construction, conduct sanitary inspections in accordance with this Code, and such other duties that the Council may assign to the Code Enforcement Officer.

(c) Authorization. The Code Enforcement Officer is authorized and directed to enforce all the provisions of this Code, unless otherwise specified.

City Officials and Employees

(d) Deputies. The Code Enforcement Officer may appoint and deputize officers, inspectors, and assistants, and other employees that the Council may authorize.

(e) Reports. The Code Enforcement Officer shall submit monthly activity reports and an annual summary report to the City Council by January 15th of each year, detailing the Building Department's activities during the preceding period. The Code Enforcement Officer shall place his or her recommendations for amendments to this chapter in the reports.

(f) Records. The Code Enforcement Officer shall keep a permanent, accurate account of all fees and other monies that he or she collects or receives. The accounting shall include, at a minimum, the names of the persons upon whose account the monies were paid, the date and amount paid, and the location of the building or premises to which the monies relate.

(g) Cooperation of Other Officials. The Code Enforcement Officer may request, and shall receive so far as may be necessary in the discharge of his duties, the assistance and cooperation of other officials of the City.

(h) Compensation. The Council shall provide for the compensation of the Code Enforcement Officer.

SUBCHAPTER I. CHIEF OF POLICE [Reserved]

SUBCHAPTER J. FLOODPLAIN ADMINISTRATOR

§ 21.090 City Secretary to Serve as Floodplain Administrator

The City Secretary is appointed the Floodplain Administrator to administer and implement the applicable provisions of this Code and other appropriate sections of Title 44 of the Code of Federal Regulations [National Flood Insurance Program Regulations] pertaining to floodplain management.

SUBCHAPTER K. ANIMAL CONTROL OFFICER

§ 21.100 Appointment; Compensation

The Office of Animal Control Officer is created. As long as the City has an agreement with Hays County to administer and enforce the County's ordinances for the regulation, licensing, and control of animals within the geographical area of the City, the animal control Officer of Hays County shall be the Animal Control Officer for the City. Upon the termination of that agreement with Hays County, the Mayor, with the consent of the City Council, shall appoint the City's Animal Control Officer. He or she shall be compensated in an amount that the City Council determines.

§ 21.101 Duties

The Animal Control Officer shall enforce the provisions of Chapter 170 (Animals) and have such authority and duties specified in Chapter 170.

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SUBCHAPTER L. DIRECTOR OF PUBLIC WORKS

§ 21.110 Office Created; Appointment

The Office of Director of Public Works is created. The Mayor, with the consent of the City Council, may appoint the Director of Public Works.

§ 21.111 Duties

The Director of Public Works shall:

- (1) direct and supervise the activities of the Department of Public Works;
- (2) construct, maintain, and repair, as necessary, all assets of the City; and
- (3) supervise the activities of all maintenance employees of the City.

SUBCHAPTER M. EMERGENCY MANAGEMENT DIRECTOR

§ 21.120 Appointment of Emergency Management Director

(a) Creation. The Office of Emergency Management Director of the City is created, which shall be held by the Mayor in accordance with state law.

(b) Appointment. The Director may appoint an Emergency Management Coordinator who shall serve at the pleasure of the Director.

(c) Responsibilities; Delegation. The Director shall be responsible for a program of comprehensive Emergency Management within the City, and for carrying out the duties and responsibilities set forth in this Code. He or she may delegate authority for execution of these duties to the Coordinator, but ultimate responsibility for such execution shall remain with the Director.

(d) Organization. The Emergency Management Organization of the City shall consist of the officers and employees of the City so designated by the Director in the Emergency Management Plan, as well as organized volunteer groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the Emergency Management Plan.

(Ord. 119, passed 4-4-89)

SUBCHAPTER N. RECORDS MANAGEMENT OFFICER

§ 21.130 City Secretary to Serve as Records Management Officer

(a) Officer. The City Secretary shall serve as the Records Management Officer for the City. As provided by state law, each successive holder of the office shall file his or her name with the director and librarian of the Texas State Library within thirty days of the initial designation or of taking up the office, as applicable.

(b) Duties. In addition to other duties assigned in this Code, the Records Management Officer shall:
(1) administer the records management program and provide assistance to department heads in its implementation;

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- (2) plan, formulate, and prescribe records disposition policies, systems, standards, and procedures;
- (3) identify essential records and establish a disaster plan for each municipal office and department to ensure maximum availability of the records in order to reestablish operations quickly and with minimum disruption and expense;
- (4) develop procedures to ensure the permanent preservation of the historically valuable records of the City;
- (5) establish standards for filing and storage equipment and for record-keeping supplies;
- (6) study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for the City;
- (7) monitor records retention schedules and administrative rules issued by the Texas State Library and Archives Commission to determine if the records management program and the municipality's records control schedules are in compliance with state regulations;
- (8) disseminate to the City Council and department heads information concerning state laws and administrative rules relating to local government records;
- (9) ensure that the maintenance, preservation, microfilming, destruction, or other disposition of the records of the City are carried out in accordance with the policies and procedures of the records management program and the requirements of state law;
- (10) maintain records on the volume of records destroyed under approved records control schedules or through records destruction authorization requests, the volume of records microfilmed or stored electronically, and the estimated cost and space savings as the result of such disposal or disposition;
- (11) report annually to the City Council on the implementation of the records management plan in each department of the City, including summaries of the statistical and fiscal data compiled under paragraph (10); and
- (12) bring non-compliance by department heads or other municipal personnel with the policies and procedures of the records management program or the Local Government Records Act to the City Council's attention.

(Ord. 121; passed 1-8-91)

SUBCHAPTER O. JUDGES

§ 21.140 Municipal Judge

(a) Creation. The Office of Municipal Judges of the City of Hays Municipal Court is created.

(b) Appointment. The City Council shall appoint the Municipal Judge of the Municipal Court.

(Ord. 116, passed 3-1-88)

§ 21.141 Term; Vacancies

(a) Term. The Municipal Judge shall serve for a term of two (2) years and run concurrently with the term of office of the Mayor. Unless otherwise provided for by the City Council at the time of the Mayoral election, such appointment shall be automatically renewed with the election/re-election of the Mayor to a term of office.

(b) Vacancy. The City Council shall fill any vacancy in the office of Municipal Judge by death, resignation, or otherwise by appointment for the remainder of the unexpired term only.

(Section 2 of Ord. 116, passed 3-1-88)

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State Law References - Term of Municipal Judge is found in Texas Government Code, § 29.005. Filling a vacancy in the office of Municipal Judge is found in Texas Government Code, §29.011

§ 21.142 **Qualifications**

The municipal court judges shall comply with all state law requirements for municipal court judges.
(Ord. 116, passed 3-1-88)

State Law Reference - Texas Election Code, §§141.001, .004

§ 21.143 **Jurisdiction**

The jurisdiction of municipal court judges shall be the jurisdiction that the state legislature provides under the Texas Constitution and statutes.

§ 21.144 **Compensation**

The City Council shall the compensation, if any, for municipal court judges.

§ 21.145 **Removal of Office**

The City Council may remove a Municipal Judge from office at any time, with or without good cause, by adopting a Council Resolution declaring the Council's lack of confidence in a Judge, provided that two-thirds (2/3rds) of the Council vote in favor of the resolution.

(Section 3 of Ord. 116, passed 3-1-88)

§ 21.146 **Duties of Presiding Judge**

The presiding judge shall:

- (1) maintain a central docket of all cases filed in the geographic limits of the City over which the municipal court of the City has jurisdiction;
- (2) distribute cases to associate judges, if necessary;
- (3) temporarily assign associate judges, when necessary;
- (4) cause all dockets, books, papers, and other records of the municipal court to be permanently kept, and permit the records to be available for inspection at all reasonable times to any interested person;
- (5) maintain, as part of the court records, an index to the municipal court judgments, such as county clerks are required by law to prepare for criminal cases arising in county courts;
- (6) provide for the preservation of the court's records on microfilm, when necessary; and
- (7) supervise the operations, clerical functions, administration of the municipal court, and all clerical personnel in the administrative department of the municipal court.

State Law Reference - Municipal judges, Texas Government Code, §§ 29.004 - 29.007.

SUBCHAPTER P. **MUNICIPAL COURT CLERK**

§ 21.150 **Office of Municipal Court Clerk Created; Appointment**

- (a) Creation. The Office of Municipal Court Clerk is created.

City Officials and Employees

(b) Appointment. The City Council shall appoint the Municipal Court Clerk of the Municipal Court.

(c) Duties; Authority. The City Secretary shall serve as ex officio clerk of the court and, as such, shall have and exercise the authority, jurisdiction, and power conferred by law upon municipal court clerks. The City Secretary is authorized to appoint deputy court clerks, as necessary, for the proper discharge of his or her duties. Deputy clerks shall act as official clerks of the municipal court and shall perform all acts incident to the office.

§ 21.151 Duties of the Municipal Court Clerk

The clerk or deputy clerk, shall perform the duties described in the Texas Government Code, § 29.010, as amended. *State Law Reference - Municipal court clerks authorized and duties defined, Texas Government Code, §§ 29.010 - 29.011.*

SUBCHAPTER Q. CITY FIRE MARSHAL

§ 21.160 Office Created; Appointment and Termination

The Office of City Fire Marshal is created. The City Council may appoint and/or terminated the City Fire Marshal.

§ 21.161 Authority to Contract with Person or Firm

The City Council may contract with a local government, private firm, or person to perform the duties and fill the Office of City Fire Marshal.
(Ord. 120, passed 4-4-89)

CHAPTER 22. CITY COUNCIL AUTHORITY AND MEETING; ORDINANCES; MAYOR AND COUNCIL MEMBERS

Section

Subchapter A. Ordinances and Regulations

- 22.001 Regulatory Authority
- 22.002 Style of Ordinances and Resolutions
- 22.003 Introduction and Action on Ordinances
- 22.004 Recording Ordinances and Resolutions
- 22.005 Publication of Ordinances
- 22.006 Approval of Legal Documents

Subchapter B. Conduct of Meetings

- 22.020 Regular Meetings
- 22.021 Procedures Controlled by Robert’s Rules
- 22.022 Quorum
- 22.023 Addressing the City Council

Subchapter C. Mayor and Council Members

- 22.030 Definitions
- 22.031 Terms of Office
- 22.032 President; President Pro Tempore

SUBCHAPTER A. ORDINANCES AND REGULATIONS

§ 22.001 Regulatory Authority

The City Council shall have the power to pass, publish, amend, repeal, and enforce all ordinances, rules, and police regulations not contrary to the Constitution and statutes of this State for the good government, peace, and order of the City and the trade and commerce therein that may be necessary or proper to carry the powers vested in local governments into effect.

State Law Reference - Authority to adopt ordinances, Texas Local Government Code, Chapters 51 and 52.

§ 22.002 Style of Ordinances and Resolutions

The style of all ordinances shall be “BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HAYS, TEXAS” and the style of all resolutions shall be “BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAYS, TEXAS.”

§ 22.003 Introduction and Action on Ordinances

All ordinances and resolutions shall be in writing and shall be introduced by a member of the City Council at an open meeting of the City Council. It shall only be necessary to provide a brief explanation and read the caption of the ordinance or resolution unless a motion is made by any council member to read the entire ordinance or

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resolution. An ordinance must be adopted by a majority vote, unless otherwise required by other provisions of this code or state law.

§ 22.004 Recording Ordinances and Resolutions

After the City Council adopts an ordinance or resolution, the Mayor shall sign the ordinance or resolution, and the City Secretary shall attest the Mayor's signature and shall number, attest, and record the ordinance in a book of ordinances and the resolution in the minutes.

§ 22.005 Publication of Ordinances

If the City Council adopts an ordinance or a bylaw, the City shall post the ordinance or bylaw, or a caption that summarizes the purpose of the ordinance or bylaw and the penalty for violating the ordinance or bylaw in three (3) public places in the City or shall publish the ordinance in a newspaper that is published in the City, or if one is not published in the City, a newspaper with general circulation in the City for at least two (2) days period if the newspaper is a daily paper or in one (1) issue if the newspaper is a weekly paper. The ordinance may be enforced after the publication unless otherwise provided.

State Law Reference - State regulations regarding publication of ordinances, Texas Local Government Code, § 52.012.

Cross-Reference - General penalties for ordinance violations, Chapter 2.

§ 22.006 Approval of Legal Documents

The Mayor shall sign, the City Secretary shall attest to, and the City Attorney shall approve as to form all legal instruments requiring the assent of the City, unless otherwise provided for by law or otherwise stipulated in this Code.

SUBCHAPTER B. CONDUCT OF MEETINGS

§ 22.020 Regular Meetings

The regular monthly meeting of the City Council shall be on the first Thursday of each month, will begin at 6:30 p.m., and will continue until all business before the Council has been completed. The meeting will be held at City Hall.

§ 22.021 Procedures Controlled by Robert's Rules

The current edition of Roberts Rules of Order, as amended, will govern the conduct of all meetings of the City Council, and all meetings of any boards, commissions, or committees which may be established or authorized by the City Council.

§ 22.022 Quorum

(a) Mayor Present. The Mayor and three (3) council members constitute a quorum.

(b) Mayor Absent. If the Mayor is absent, four (4) council members constitute quorum.

State Law Reference - What constitutes a quorum for City Council Meetings, Texas Local Government Code, § 23.028.

**City Council Authority and Meeting;
Ordinances; Mayor and Council Members**

§ 22.023 Addressing the City Council

(a) Citizen Comments. The City Council will allot as much as thirty (30) minutes at regular meetings to hear persons who desire to make comments to the City Council. This time may be extended at the discretion of the Council.

(1) Registering to Make Comments. Any person desiring to participate in this portion of the meeting shall at the beginning of the meeting indicate in writing a desire to speak and indicate in full the topic on which they desire to speak. Such person will limit his or her comments to the topic indicated.

(2) Length of Time. No person will exceed five (5) minutes in his or her presentation to the City Council, unless granted additional time by the presiding officer.

(3) Delegations. Delegations of more than five (5) persons shall appoint one person to present their views to the City Council. If the delegation fails to appoint a spokesman for the group, the presiding officer shall appoint a spokesman for the group.

(b) Limitation on Discussion and Debate. Public participation is limited to the designated open forum of a meeting. At all other times during the City Council meeting, the members of the audience will not enter into discussion or debate on matters being considered by the City Council, unless recognized by the presiding officer.

(c) Restriction to Agenda. Specific, factual information or recitation of existing policies may be furnished in response to inquiries, but the City Council shall not deliberate, discuss, or make any decision on any subject not on the agenda.

SUBCHAPTER C. MAYOR AND COUNCIL MEMBERS

§ 22.030 Definitions

“Alderman,” “Councilman” or “Council Member” are used interchangeably throughout this Code, and for all purposes, refer to the elected officials of the City on said ballot as alderman or council member.

“Council Member” means either alderman, alderwoman, councilman or councilwoman, and will be the preferred title for such person.

§ 22.031 Terms of Office

(a) Two-year Terms. Pursuant to the Local Government Code, the office of Mayor, council member, or any other official elected to City office, shall be elected for the term of two years.

(b) Staggered Terms. The elected offices of Mayor and council member shall be staggered so that three council member positions expire in one year and the Mayor and the other two council member positions expire the next year.

State Law Reference - Governing body’s election to have two-year staggered terms of office for the Mayor and Council Members, Texas Local Government Code, § 23.026(b)

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§ 22.032 President; President Pro Tempore

(a) Mayor as President. The mayor is the president of the City Council.

(b) President Pro Tempore. At the first meeting of each new City Council, or as soon as practicable, the City Council shall elect one of its members to serve as President Pro Tempore for a term of one year. The President Pro Tempore performs the duties of the Mayor if the Mayor fails, is unable, or refuses to act.

(c) Appointment of Presiding Officer. If the Mayor and President Pro Tempore are absent from a meeting, the council members present at the meeting may appoint any council member to act as the presiding officer if a quorum is present.

State Law Reference - Presiding officer at council meetings, Texas Local Government Code, § 23.027.

CHAPTER 23. CITY DEPARTMENTS, BOARDS, COMMISSIONS, AND COMMITTEES

Section

Subchapter A. Creation of Departments, Boards, Commissions, and Committees

23.001 Creation of Departments, Commissions, and Committees

Subchapter B. Police Department [RESERVED]

Subchapter C. Police Reserve Force [RESERVED]

Subchapter D. Building Department

23.030 Creation

Subchapter E. Parks and Recreation Board [RESERVED]

Subchapter F. Planning and Zoning Commission [RESERVED]

Subchapter G. Public Library Board of Directors and Department [RESERVED]

SUBCHAPTER A. CREATION OF DEPARTMENTS, BOARDS, COMMISSIONS, AND COMMITTEES

§ 23.001 Creation of Departments, Commissions, and Committees

The City Council may by ordinance create such departments, commissions, and committees as it determines to be in the best interest of the City and its inhabitants.

SUBCHAPTER B. POLICE DEPARTMENT [RESERVED]

SUBCHAPTER C. POLICE RESERVE FORCE [RESERVED]

SUBCHAPTER D. BUILDING DEPARTMENT

§ 23.030 Creation

The City Council hereby creates the City of Hays Building Department, which shall be under the jurisdiction of the Code Enforcement Officer.

SUBCHAPTER E. PARKS AND RECREATION BOARD [RESERVED]

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SUBCHAPTER F. PLANNING AND ZONING COMMISSION [RESERVED]

**SUBCHAPTER G. PUBLIC LIBRARY BOARD OF DIRECTORS AND DEPARTMENT
[RESERVED]**

CHAPTER 24: MUNICIPAL COURT

Section

24.001	Creation; Jurisdiction; Practices and Procedures
24.002	Warrant of Arrest Fees
24.003	Ordinances and Code; Judicial Notice
24.004	Jury Duty Pay

§ 24.001 Creation; Jurisdiction; Practices and Procedures

(a) Creation. The Local Government Code creates a municipal court in each municipality in the State, including the Municipal Court of the City of Hays, Texas.

(b) Jurisdiction. The Municipal Court of the City shall have the full jurisdiction as allowed for such courts by the Texas Legislature as provided in Appendix 2 - "Municipal Court Jurisdiction" to this Code.

(c) Appendix. The City Secretary is authorized to replace and update Appendix 2 - "Municipal Court Jurisdiction" to this Code upon the advice of the City's counsel.

Cross reference - See also Appendix 2 - Municipal Court Jurisdiction

(d) Practice and Procedures. The rules prescribed by state law governing trials in the state justice courts shall govern the procedures and practices of the municipal court. The City Council may prescribe such additional rules of practice and procedure that are not inconsistent with state law.

State Law Reference - Municipal courts created and jurisdiction established, Texas Government Code, §§ 29.002 - 29.003.

§ 24.002 Warrant of Arrest Fees

If any person fails to appear before the court, either in compliance with a personal bond or as directed by notice from the municipal court clerk's office, the court may issue a warrant for his or her arrest and shall charge the person a warrant of arrest fee, as set by the City Council. Once the City receives fees under this section, the City shall deposit such fees in the general fund and shall not refund the fees except if the court failed to give the person proper notice.

Cross-Reference - Appendix 1 - Fee Schedule, Part 24.00.

§ 24.003 Ordinances and Code; Judicial Notice

The municipal court shall take judicial notice of the City's ordinances and this Code.

§ 24.004 Jury Duty Pay

The City shall pay each person serving as a juror in municipal court the amount required under state law for each day or fraction of each day they serve as a juror.

CHAPTER 25: EMERGENCY MANAGEMENT

Section

25.001	Powers & Duties of Emergency Management Director
25.002	Emergency Management Plan
25.003	Interjurisdictional Program
25.004	Conflict with These Rules and Regulations
25.005	Liability for Damages and Injuries
25.006	Commitment of Funds
25.007	Standard of Conduct in Emergency Actions
25.008	Offenses
25.009	Construction

§ 25.001 Powers & Duties of Emergency Management Director

The duties and responsibilities of the Emergency Management Director are:

(1) Development and execution of an ongoing survey of actual or potential hazards that threaten life and property within the City and an ongoing program of identifying and requiring or recommending the implementation of measures that would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur.

(2) Supervising the development and recommendation of a City Emergency Management Plan, including all mutual aid arrangements necessary for the implementation of such plan, to the City Council for its approval.

(3) Possessing the authority to declare a local state of disaster. Such declaration may not be continued or renewed for a period in excess of seven (7) days except by or with the consent of the City Council. The Emergency Management Director shall give prompt and general publicity of any order or proclamation declaring, continuing, or terminating a local state of disaster and shall file such proclamation promptly with the City Secretary.

(4) Issuing necessary proclamations, regulations, or directives that are necessary for carrying out the purposes of this chapter. The Emergency Management Director shall disseminate such proclamations, regulations, or directives promptly by means calculated to bring its contents to the attention of the general public and, unless circumstances attendant on the disaster prevent or impede, shall promptly file them with the City Secretary.

(5) Directing and controlling the operations of the City of Hays City Emergency Management Organization as well as the training of emergency management personnel.

(6) Determining all questions of authority and responsibility that may arise within the City Emergency Management Organization.

(7) Maintaining a liaison relationship with other municipal, county, district, state, regional, or federal emergency management organizations.

(8) Marshaling all necessary personnel, equipment or supplies from any department of the City to aid in the carrying out of the provisions of the Emergency Management Plan.

(9) Supervising the drafting and execution of mutual aid agreements, in cooperation with the representatives of the State and of other local political subdivisions of the State, and the drafting and execution, if deemed desirable, of an agreement with Hays County and with other municipalities within the County, for the county-wide coordination of emergency management efforts.

(10) Supervising and giving final authorization for the procurement of all necessary supplies and equipment, including acceptance of private contributions that may be offered for the purpose of improving emergency management within the City.

(11) Authorizing agreements, after the City Attorney's approval, for use of private property for public shelter and other purposes.

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(12) Surveying the availability of existing personnel, equipment, supplies, and services that could be used during a disaster, as provided for in this chapter.

(13) Execution of any other requirements of the Texas Disaster Act 1975 (TEX. GOVT. CODE §§418.001 - .0192).

(Ord. 119, passed 4-4-89)

§ 25.002 Emergency Management Plan

(a) Maintain a Current Plan. The Emergency Management Director shall develop and maintain a comprehensive Emergency Management Plan in a current state.

(b) Criteria. The plan shall set forth the form of the organization, establish and designate divisions and functions, assign responsibilities, tasks, duties, and powers, and designate officers and employees to carry out the provisions of this ordinance. As provided by state law, the plan shall follow the standards and criteria established by the State Division of Emergency Management of the State of Texas. Insofar as possible, the form of organization, titles, and terminology shall conform to the recommendations of the State Division of Emergency Management.

(c) Duties. After City Council approval, it shall be the duty of all departments and agencies to perform the functions assigned by the Plan and to maintain their portion of the plan in a current state of readiness at all times.

(d) Legal Effect of Plan. The Emergency Management Plan shall be considered supplementary to this subchapter and have the effect of law during the time of a disaster.

(Ord. 119, passed 4-4-89)

§ 25.003 Interjurisdictional Program

The Mayor is hereby authorized to join with the County Judge of the County of Hays and the mayors of the other cities in the County in the formation of an Emergency Management Council for the County of Hays and shall have the authority to cooperate in the preparation of a joint emergency management plan and in the appointment of a joint Emergency Management Coordinator, as well as all powers necessary to participate in a county-wide program of emergency management insofar as that program may affect the City.

(Ord. 119, passed 4-4-89)

§ 25.004 Conflict with These Rules and Regulations

When the orders, rules, and regulations made and promulgated pursuant to this Chapter are in effect, they shall supersede and override all inconsistencies with existing ordinances, orders, rules, and regulations.

(Ord. 119, passed 4-4-89)

§ 25.005 Liability for Damages and Injuries

(a) Governmental Functions. The City's implementation of the provisions in this chapter is an exercise of the City's governmental functions for the protection of the public peace, health, and safety.

(b) Protection from Liability. Neither the City, the agents and representatives of the City, nor any individual, receiver, firm, partnership, corporation, association, or trustee, nor any of the agents that in good faith carry out, comply with, or attempt to comply with any order, rule, or regulation promulgated pursuant to the

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provisions of this chapter shall be liable for any damage sustained to persons as the result of such activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grant the City a license of privilege, or otherwise permit the City to inspect, designate, and use whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending, or practice enemy attack or natural or man-made disaster shall, together with his or her successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege, or other permission or for the loss of, or damage to, the property of such person.

§ 25.006 Commitment of Funds

(a) Authorization Required. No person shall have the right to expend any City public funds to carry out any Emergency Management activity authorized by this chapter without the City Council's prior approval.

(b) Agreements. No person shall have any right to bind the City by contract, agreement, or otherwise without the City Council's prior and specific approval unless such actions occur during a declared disaster.

(c) Declared Disaster. During a declared disaster, the Mayor may expend and/or commit public funds of the City when he or she deems prudent and necessary for the protection of health, life, or property.
(Ord. 119, passed 4-4-89)

§ 25.007 Standard of Conduct in Emergency Actions

Every officer, agent, or employee of the City, while responding to or acting in an emergency situation, is authorized to do everything reasonably necessary under the circumstances to effectively manage the emergency. This provision shall prevail over every other ordinance and law of the City and, to the extent which the City has the authority to so authorize, over any other law establishing a standard of care in conflict with this section.

§ 25.008 Offenses

It shall be unlawful for any person to:

(1) willfully obstruct, hinder, or delay any member of the Emergency Management organization in the enforcement of any rule or regulation issued pursuant to this chapter;

(2) wear, carry, or display any emblem, insignia, or any other means of identification as a member of the Emergency Management organization of the City unless the Emergency Management Director or Coordinator has granted that person authority to do so;

(3) simulate a warning signal or the termination of an authorized warning signal through the operation of a siren or other device without the expressed authorization of the Emergency Management Director or Coordinator.
(Ord. 119, passed 4-4-89)

§ 25.009 Construction

This chapter shall not be construed so as to conflict with any State or Federal statute or with any military or naval order, rule, or regulation.
(Ord. 119, passed 4-4-89)

CHAPTER 27: MUNICIPAL ELECTIONS

Section

27.001	Governed by State and Federal Law
27.002	Adoption of Voting System
27.003	Preservation of Election Records

§ 27.001 Governed by State and Federal Law

(a) Governing Law. All municipal elections shall be governed by the Texas election laws and the Federal Voting Rights Act, as applicable. Annual elections for City officials shall be held on the second (2nd) Saturday in May of each year.

State Law Reference - Uniform Election Dates, Texas Election Code, §§ 41.001 - .033.

(b) Federal Voting Rights Act. The Federal Voting Rights Act may also be applicable to any change affecting voting, including a change of polling place, annexation, and method of electing City Council members. The City will submit proposed changes affected by the Federal Voting Rights Act to the Attorney General of the United States for approval if required to do so under then existing law.

§ 27.002 Adoption of Voting System

The City shall use the paper ballot voting system in City elections, unless the City Council designates otherwise.

§ 27.003 Preservation of Election Records

The City Secretary shall preserve all election records and returns for a period of sixty (60) days, except for the following:

- (1) Applications for a place on a ballot, which the City Secretary shall preserve for two (2) years after the date of election.
- (2) Campaign treasurer appointments, which the City Secretary shall preserve for two (2) years after the date the appointment is terminated.
- (3) Campaign and officeholder reports, which the City Secretary shall preserve for two (2) years after the date of the filing of the report.
- (4) Orders appointing election judges, which the City Secretary shall preserve for the longer of: (A) the term for which the appointment is made or (B) the period for preserving precinct election records in the last election in which an appointee served under the order.

However, if an election contest, a criminal investigation, or proceeding in connection with an election to which the records pertain is pending, the City Secretary shall preserve the records until the contest, investigation, or proceeding is contemplated and the judgment, if any, becomes final.

CHAPTER 28: RECORDS MANAGEMENT

Section

Subchapter A. General Provisions

- 28.001 Policy
- 28.002 Definitions
- 28.003 Municipal Records Declared Public Property
- 28.004 Duties and Responsibilities of Department Heads

Subchapter B. Records Management Plan

- 28.010 Records Management Plan to Be Developed; Approval of Plan; Authority of Plan

Subchapter C. Records Control Schedule

- 28.020 Records Control Schedules to Be Developed; Approval; Filing with State
- 28.021 Implementation of Records Control Schedules; Destruction of Records under Schedule
- 28.022 Destruction of Unscheduled Records

SUBCHAPTER A. GENERAL PROVISIONS

§ 28.001 Policy

The City shall provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all municipal records through a comprehensive system of integrated procedures for their management from creation to ultimate disposition, consistent with the requirements of the Texas Local Government Records Act and accepted records management practice.
(Ord. 121; passed 1-8-91)

§ 28.002 Definitions

The following definitions shall apply in this Chapter unless the context clearly indicates otherwise:

“*Department Head*” means the officer who by ordinance, order, or administrative policy is in charge of all office of the City of Hays that creates or receives records.

“*Director*” and “*Librarian*” mean the executive and administrative officer of the Texas State Library and Archives Commission.

“*Essential record*” means any record of the City necessary to the resumption or continuation of its operations in an emergency or disaster, to the re-creation of its legal and financial status, or to the protection and fulfillment of obligations to the people of the state.

“*Municipal records*” means all documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media, or other information recording media, regardless of physical form or characteristic and regardless of whether public access to them is open or restricted under the laws of the state, created or received by the City of any of its officers or employees pursuant to law or in the transaction of

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public business are hereby declared to be the records of the City of Hays and shall be created, maintained, and disposed of in accordance with the provisions of the Ordinance or procedures authorized by it and in no other manner.

“*Permanent record*” means any record of the City for which the retention period on a records control schedule is given as permanent.

“*Records control schedule*” means a document prepared by or under the authority of the Records Management Officer listing the records maintained by the City, their retention periods, and other records disposition information that the records management program may require.

“*Records management*” means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of record keeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

“*Records Management Officer*” means the person designated in Section 5 of this Ordinance.

“*Records management plan*” means the plan developed under § 28.010 of this Chapter.

“*Retention period*” means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction. (Ord. 121; passed 1-8-91)

§ 28.003 Municipal Records Declared Public Property

All municipal records are the property of the City. No municipal official or employee has, by virtue of his or her position, any personal or property right to such records even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited. (Ord. 121; passed 1-8-91)

§ 28.004 Duties and Responsibilities of Department Heads

In addition to other duties assigned in this chapter, department heads shall:

- (1) cooperate with the Records Management Officer in carrying out the policies and procedures established in the City for the efficient and economical management of records and in carrying out the requirements of this chapter;
- (2) adequately document the transaction of government business and the services, programs, and duties for which the department head and his or her staff are responsible; and
- (3) maintain the records in his or her care and carry out their preservation, microfilming, destruction, or other disposition in accordance with the policies and procedures of the records management program of the City and the requirements of this chapter.

Records Management

SUBCHAPTER B. RECORDS MANAGEMENT PLAN

§ 28.010 Records Management Plan to be Developed; Approval of Plan; Authority of Plan

(a) Development of Plan. The Records Management Officer shall develop a Records Management Plan for the City for submission to the City Council. The plan must contain policies and procedures designed to reduce the costs and improve the efficiency of recordkeeping, to adequately protect the essential records of the municipality, and to properly preserve those records of the municipality that are of historical value. The plan must be designed to enable the Records Management Officer to carry out his or her duties prescribed by state law and this chapter effectively.

(b) Binding Effect of Plan. Once approved by the City Council the Records Management Plan shall be binding on all offices, departments, divisions, programs, commissions, bureaus, boards, committees, or similar entities of the City, and records shall be created, maintained, stored, microfilmed, or disposed of in accordance with the plan.

(c) No Exemptions. State law relating to the duties, other responsibilities, or recordkeeping requirements of a department head do not exempt the department head or the records in the department head's care from the application of this chapter and the Records Management Plan adopted under it and may not be used by the department head as a basis for refusal to participate in the records management program of the City. (Ord. 121; passed 1-8-91)

SUBCHAPTER C. RECORDS CONTROL SCHEDULE

§ 28.020 Records Control Schedules to be Developed; Approval; Filing with State

(a) Records Control Schedules. The Records Management Officer, in cooperation with department heads, shall prepare records control schedules on a department by department basis listing all records series created or received by the department and the retention period for each series. Records control schedules shall also contain such other information regarding the disposition of municipal records as the records management plan may require.

(b) Monitoring and Compliance. Each records control schedule shall be monitored and amended as needed by the Records Management Officer on a regular basis to ensure that it is in compliance with records retention schedules issued by the state and that it continues to reflect the record-keeping procedures and needs of the department and the records management program of the City.

(c) Prior Approval by Department Head and City Council. Before its adoption, a records control schedule or amended schedule for a department must be approved by the department head and the City Council.

(d) Prior Acceptance by Director and Librarian. Before its adoption, a records control schedule must be submitted to and accepted for filing by the Director and Librarian as provided by state law. If a schedule is not accepted for filing, the schedule shall be amended to make it acceptable for filing. The Records Management Officer shall submit the records control schedules to the director and librarian. (Ord. 121; passed 1-8-91)

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§ 28.021 Implementation of Records Control Schedules; Destruction of Records Under Schedule

(a) Required Implementation. A records control schedule for a department that has been approved and adopted shall be implemented by department heads according to the procedures of the records management plan.

(b) Destruction of Records. A record whose retention period has expired on a records control schedule shall be destroyed unless an open records request is pending on the record, the subject matter of the record is pertinent to a pending lawsuit, or the department head requests in writing to the Records Management Officer that the record be retained for an additional period.

(c) Prior Approval by City Council. Prior to the destruction of a record under an approved records control schedule, authorization for the destruction must be obtained by the Records Management Officer from the City Council.

(Ord. 121; passed 1-8-91)

§ 28.022 Destruction of Unscheduled Records

A record that has not yet been listed on an approved records control schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under an approved schedule and the Records Management Officer has submitted to and received back from the Director and Librarian an approved destruction authorization request.

(Ord. 121; passed 1-8-91)

State Law Reference - *A municipality must establish a records management program to be administered by a Records Management Officer under provisions of Texas Local Government Code, §§ 201.001 - 205.010.*

CHAPTER 29: FINANCE AND REVENUE; TAXATION

Section

Subchapter A. Fiscal Year

29.001 Fiscal Year Designated

Subchapter B. City Depository

29.010 Official Depository Designated

Subchapter C. Annual Budget

29.020 Budget Officer
29.021 Budget Process

Subchapter D. Audit of City Funds

29.030 Financial Reporting of Agencies Funded by City

Subchapter E. Ad Valorem (Property) Tax

29.040 Ad Valorem (Property) Tax
29.041 Participation in Appraisal District
29.042 Optional Residence Homestead Exemption

Subchapter F. Local Sales and Use Tax

29.050 Local Sales Tax Authorized [Reserved]
29.051 Telecommunications Tax Authorized [Reserved]

SUBCHAPTER A. FISCAL YEAR

§ 29.001 Fiscal Year Designated

The fiscal year of the City is designated as beginning with the first day of October of each year and ending the next ensuing last day of September.

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SUBCHAPTER B. CITY DEPOSITORY

§ 29.010 Official Depository Designated

The City Council will designate the official depository of the City by a duly adopted resolution. Checking accounts or savings accounts, as authorized by the City Council, shall be established at Bank One of Texas with the requirement that all checks written against any account(s) shall require at least two signatures. The Mayor, Mayor Pro Tem, or City Secretary are the authorized persons who may sign City checks.

State law reference-Texas Local Government Code, Chapter 105, requires municipalities to designate an official depository for municipal funds.

SUBCHAPTER C. ANNUAL BUDGET

§ 29.020 Budget Officer

The Mayor serves as the Budget Officer for the City Council.

State law reference-Texas Local Government Code, §102.001(a).

§ 29.021 Budget Process

The Budget Officer, the City Council, and the Municipal will comply with the requirements of Chapter 102 of the Texas Local Government Code in:

- (1) preparing an annual municipal budget;
- (2) filing the proposed municipal budget with the Municipal Clerk;
- (3) holding a public hearing on the proposed municipal budget;
- (4) providing notice of the public hearing on a proposed municipal budget or on a public hearing relating to a municipal budget;
- (5) adopting an annual municipal budget;
- (6) filing the approved municipal budget and required information with the Municipal Clerk;
- (7) ensuring posting the approved budget and other required information on the City's website, if it maintains an Internet website;
- (8) levying taxes in accordance with the approved municipal budget;
- (9) spending municipal funds in strict compliance with the adopted municipal budget, except in an emergency; and
- (10) filing a true copy of the approved municipal budget or an amendment to that budget in the Hays County Clerk's Office.

State law reference-Texas Local Government Code, §102.002 - .010.

SUBCHAPTER D. AUDIT OF CITY FUNDS

§ 29.030 Financial Reporting of Agencies Funded by City

The City Council may condition funding of volunteer or other groups that request City support on the group's submittal of periodic, adequate financial information to the City Council that lists the group's income and expenditures by type, amount, and date.

Finance and Revenue; Taxation

SUBCHAPTER E. AD VALOREM (PROPERTY) TAXES

§ 29.040 Ad Valorem (Property) Tax

The tax system for the City of Hays will be an ad valorem tax on real property (real estate) tax system based on property evaluations as determined by the Hays Central Appraisal District. The City Council will determine the City's property tax rate following all notice and other requirements as set by State law. (Ord. 101, passed 9-2-80; Amd. Ord. 101-A, passed 8-11-87)

§ 29.041 Participation in Appraisal District

The City elects to participate in the Hays Central Appraisal District. The City will be responsible for the collection of its taxes unless it makes other contractual arrangements.
State law reference-Texas Tax Code, Chapter 6.

§ 29.042 Optional Residence Homestead Exemption

(a) Exemption. The City Council may authorize by resolution or ordinance an optional residence homestead exemption off of the appraised value for property tax purposes to those residence homestead owners age 65 or older on January 1 of each applicable tax year.

(b) Responsibility to Apply. It is the residence homestead owner's responsibility to apply for this optional exemption with the proper granting authority.

SUBCHAPTER F. LOCAL SALES AND USE TAX

§ 29.050 Local Sales Tax Authorized [Reserved]

§ 29.051 Telecommunications Tax Authorized [Reserved]

TITLE IV: PUBLIC HEALTH AND FIRE SAFETY

Chapter

40. HEALTH AND SANITATION

41. LITTER AND SOLID WASTE

42. FIRE PREVENTION

43. CEMETERIES

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CHAPTER 40: HEALTH AND SANITATION

Section

Subchapter A. Standing Water Regulations (Mosquito Control)

40.001 Accumulations of Water Prohibited

Subchapter B. Contaminated Water

40.010 Collections of Water Containing Bacillus Coli Declared Public Nuisance

40.011 Collections of Water Contaminated with Bacillus Coli to Be Eliminated

Subchapter C. Impairing Drainage

40.020 Impairing of Drainage Ways Prohibited

Subchapter D. Public Toilets

40.030 Public Toilets to Be Kept in Sanitary Condition

Subchapter E. Health and Sanitation Nuisances

40.040 Nuisances Described

40.041 Offensive Odors; Noxious or Offensive Activities

40.042 Notice; Abatement by City

Subchapter F. Dead Animals

40.050 Disposal of Dead Animals

SUBCHAPTER A. STANDING WATER REGULATIONS (MOSQUITO CONTROL)

§ 40.001 Accumulations of Water Prohibited

(a) Prohibition. Persons may not have, keep, maintain, cause, or permit within the City any collection of standing or flowing water in which mosquitoes breed or are likely to breed, unless the collection of water is treated to prevent breeding.

(b) Collections of Water. The collections of water prohibited in subsection (a) are those contained in ditches, pools, ponds, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs (except livestock troughs in frequent use), urns, cans, boxes, bottles, tubs, buckets, defective house roof gutters, automobile tires, tanks, or flush closets, or other similar water containers.

(c) Proof of Breeding. The City deems the natural presence of mosquito larvae in standing or running water as sufficient evidence that mosquitoes are breeding.

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(d) Failure to Act. A person violates this section if he, she, or it fails to prevent mosquito breeding within three (3) days after the Code Enforcement Officer gives that person written notice of a violation of this section.

(e) Methods of Treatment. The Code Enforcement Officer shall approve one or more of the following methods of treatment of collections of water to prevent mosquito breeding:

- (1) Screening with wire netting of at least sixteen (16) meshes to the inch each way or with any other material that will prevent the ingress or egress of mosquitoes;
- (2) Emptying of unscreened containers every seven (7) days, together with thorough drying or cleaning;
- (3) Application of a larvacide approved by and under the direction of the Code Enforcement Officer;
- (4) Covering surface water with kerosene, petroleum, or paraffin oil once every seven (7) days;
- (5) Cleaning and keeping ponds and other collections of water sufficiently free of vegetable growth and other obstructions and stocking with mosquito-destroying fish;
- (6) Filling or draining ponds or other collections of water to the Code Enforcement Officer's satisfaction or his or her authorized representative; and/or
- (7) Removing or destroying tin cans, tin boxes, broken or empty bottles, and similar containers likely to hold water.

(f) Authorized City Actions. The City is authorized to take all necessary measures and costs to prevent or halt the conditions responsible for mosquito breeding and levy a lien against a person's property for all costs incurred by the City if the person responsible for conditions giving rise to the breeding of mosquitoes fails or refuses to take measures necessary to prevent mosquito breeding within three (3) days after the Code Enforcement Officer gives the person due notice.

(g) Authority to Enter. The Code Enforcement Officer or his other agent may enter any premises within his or her jurisdiction at all reasonable times to enforce this section.

State Law Reference - Municipal authority to fill, drain, and regulate any place containing stagnant water or any other condition that may produce disease is found in Texas Health & Safety Code, § 342.001.

SUBCHAPTER B. CONTAMINATED WATER

§ 40.010 Collection of Water Containing Bacillus Coli Declared Public Nuisance

Any person maintaining or allowing to be maintained a well, pool, spring, or collection of water within the City containing the bacillus coli germ or bacteria on premises owned or controlled by him or her shall be guilty of a misdemeanor for a public nuisance.

§ 40.011 Collection of Water Containing Bacillus Coli to be Eliminated

The Code Enforcement Officer shall instruct a person owning or controlling a well, pool, spring, or collection of water within the City contaminated with bacillus coli on their property to seal, fill, or drain such well, pool, spring, or water collection so that it can no longer be used for drinking, bathing, or domestic purposes. If such person owning or controlling the premise fails to fill, drain, or seal such well, pool, spring, or collection of water, the Code Enforcement Officer shall file a complaint against such person in the Municipal Court and shall report the condition, together with his or her recommendations, to the City Council. If the City Council deems it for the best interest of the public health that such well, pool, spring, or collection of water be closed up, filled in, or sealed over, it shall instruct the City to carry out the required work and charge the costs to the person owning or controlling the property and the costs may be collected by suit in any court of competent jurisdiction.

Health and Sanitation

State Law Reference - Municipal authority to fill, drain, and regulate any place containing stagnant water or any other condition that may produce disease is found in Texas Health & Safety Code, § 342.001.

SUBCHAPTER C. IMPAIRING DRAINAGE

§ 40.020 Impairing of Drainage Ways Prohibited

It shall be unlawful for any person to throw or place in any street, alley, drainage ditch, or gutter any trash, tin, shavings, refuse, or other matter that prevents the free passage of water or that causes it to stagnate. It is unlawful for any person installing or repairing water, gas, or service pipes to leave any street, alley, drainage ditch, or gutter in a condition that impairs the drainage of that area.

SUBCHAPTER D. PUBLIC TOILETS

§ 40.030 Public Toilets to Be Kept in Sanitary Condition

All owners or persons in charge of public buildings, filling stations, camps, and other places of public assemblage shall provide clean and sanitary, sufficient and suitable, and well-lit and ventilated toilet accommodations for each sex. The owners or persons in charge of these accommodations must these accommodations in a thoroughly clean and sanitary condition.

SUBCHAPTER E. HEALTH AND SANITATION NUISANCES

§ 40.040 Nuisances Described

(a) In General. Health and sanitation nuisances are those things that render the ground, water, air, or food hazardous or injurious to human life, health, that is offensive to the senses, or that threatens to become detrimental to the public health. Any person causing, permitting, or suffering a nuisance to exist upon any premises or upon any building occupied or controlled by him or her or in any street, alley, sidewalk, or gutter immediately adjacent to such premises shall, upon conviction, be guilty of a misdemeanor.

(b) Specific Public Nuisances. The following are specifically declared to constitute public nuisances:

(1) Bakeries, restaurants, food markets, and other places where food is prepared, kept for sale, or served and not kept in a clean, sanitary condition, or for which a valid health certificate has not been issued, in which employees have a communicable disease, in which suitable sanitary toilet facilities are not provided, or in which insects, flies, rats, mice, or vermin have access to food.

(2) The storage, sale, or transportation of spoiled or diseased meats or other foods.

(3) The maintenance of organic material accumulations, such as manure piles in barns, stables, hogpens, chicken yards, and cowlots, that are breeding places of insects, flies, or mosquitoes or convenient harborage for rats and mice.

(4) The discharge or exposure of sewage, human excreta, wastewater, garbage, or other organic filth into or on any place in such a manner that transmission of disease from the infected material may result, or the placing or maintaining of such materials as tin cans or rubbish of any sort that might constitute a breeding place for mosquitoes or flies or offer a hiding place or protection for rodents.

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(5) Privies not protected against flies or privies and cesspools the drainage from which is likely to pollute the soil, surface water, or water supply from which water for public or private consumption is obtained.

(6) Cellars, vaults, drains, pools, privies, sewers, yards, grounds, or premises which have become foul, nauseous, or not maintained with adequate ingress or egress or not sufficiently supported, ventilated, sewerred, drained, cleaned, or lighted.

(7) Any transportation of garbage, human excreta, or other organic waste, except in tight covered wagons or containers which prevent leakage or access to flies.

(8) Stagnant water on private or public premises likely to afford breeding places for mosquitoes.

(9) Hide houses, bone boiling, or rendering establishments, tallow soap work, or other trades deleteriously affecting public health.

(10) All carcasses; all decaying flesh, fish, fowls, fruit, or vegetables; all deposits of manure; all flesh of any kind or description whatever; all filthy or offensive water or slops in any private yard or premises; and all other unwholesome substances upon any street, alley, public ground, or enclosure.

(11) Sweeping or depositing of trash, paper, or rubbish into any street, alley, public thoroughfare, or other public place.

(12) Burning any substance that may cause or produce an offensive smell, smoke, or odor capable of annoying persons living in the vicinity or persons passing along the streets, alleys, or public thoroughfares.

(13) Permitting or allowing weeds, filth, or rubbish of any kind to remain on any sidewalk in front of or at the side of any premises or in the street adjacent to the premises, or upon any alley that may be at the rear or side of the premises.

(14) Scattering or distributing any advertisements, circulars, handbills, printed or written announcements, or paper of like character, or any medicines, upon the streets, sidewalks, alleys, or within the public buildings or grounds of the City.

(15) Conducting or causing to be conducted any matter that obstructs any alley or gutter, drain, or public ground, except such articles as are permitted by City law.

(16) Buildings, barns, sheds, filling stations, construction camps, junk shops, camp houses, or any part thereof, which are in such a dilapidated or filthy condition as to harbor vermin or endanger the life or health of persons living in the vicinity or the public generally.

(17) Displaying food in the open air, unless in proper cases constructed so as to protect such food from insects, flies, dust, filth, dogs, rodents, and insects.

(18) Every trade, business, or occupation injurious to the health or comfort of persons who reside in the vicinity, and any can or receptacle containing water or slops that have become stagnant, offensive or unwholesome.

(19) Conducting any business or enterprise that allows paper, paper cups, or any other debris to escape from such premises or building and litter any sidewalk, alley, street, or other public place or private property.

(20) Allowing weeds, grass, or other uncultivated plants to attain a height greater than eighteen (18) inches on any lot or tract within the City.

(21) Allowing rubbish, brush, or any other unsightly, objectionable, or unsanitary matter to grow or accumulate on any lot within the City.

State Law Reference - *Texas Health & Safety Code, Chapter 342; see also authority to take action and adopt rules to promote health and suppress disease is found in Texas Health & Safety Code, § 122.005.*

§ 40.041 Offensive Odors; Noxious or Offensive Activities

(a) Offensive odors are any unreasonable noxious, unpleasant, or strong odors that cause material distress, discomfort, or injury to persons of ordinary sensibilities in the immediate vicinity.

Health and Sanitation

(b) A person shall not conduct or carry out any noxious or offensive activity upon any lot.

(c) A person shall not do anything on any lot that may be or become an annoyance or nuisance to the surrounding neighborhood.

(d) Offensive odors and noxious and offensive activities are nuisances. The City may abate these odors and activities and may file a citation for a violation of this chapter in Municipal Court.

(Section 3 of Ord. 110, passed 5-4-82)

§ 40.042 Notice; Abatement by City

(a) Notice. The City shall provide notice under this chapter in writing served in person by an officer or employee of the City or by letter, certified mail, return receipt requested, addressed to an owner at his or her postal address. If personal service is not feasible and the owner's address not known, notice may be given by publishing a brief summary of the notice two (2) times within ten (10) consecutive days in a newspaper of general circulation in Hays County and shall describe the prohibited condition(s) and specify a period of not less than ten (10) days from the date of receipt or publication of the notice to abate the prohibited condition(s).

(b) Offense. If the City brings a lot or premises into compliance with this section, the owner or occupant of that lot or premises shall remain liable for prosecution for failure to comply with this chapter.

SUBCHAPTER F. DEAD ANIMALS

§ 40.050 Disposal of Dead Animals

The owner, if known, and if not known, the owner of the premises where the carcass of any animal, dead of disease or other cause and not slaughtered for food, is found, shall remove and dispose of such carcass at his or her own expense, within twenty four (24) hours after such death.

State Law Reference - Authority to require removal and disposal of dead animals, Texas Health & Safety Code, § 342.021.

CHAPTER 41: LITTER AND SOLID WASTE

Section

Subchapter A. General Provisions

- 41.001 Definitions
- 41.002 Motor Vehicle Maintenance, Assemblage and the like on Public Property
- 41.003 Refrigerators and Other Containers

Subchapter B. Littering

- 41.010 Littering by Pedestrians and Motorists Prohibited
- 41.011 Vehicles Transporting Loose Materials
- 41.012 Loading and Unloading Operations
- 41.013 Responsibility to Keep Property Clean; Abatement
- 41.014 Dumping Refuse; Other Material

Subchapter C. Solid Waste Disposal

- 41.030 Solid Waste Disposal

Subchapter D. Administration and Enforcement

- 41.040 Enforcement Authorizations

SUBCHAPTER A. GENERAL PROVISIONS

§ 41.001 Definitions

The following definitions shall apply to this chapter unless the context in which they are used indicates otherwise:

“Illegally Dumped Solid Waste” means any solid waste placed on properties with or without the consent of the owner or person in control where that waste constitutes a nuisance detrimental to the public health and welfare.

“Institution or Institutional” means any church, church building, or structure housing any charitable, philanthropic, or eleemosynary undertaking, or any school.

“Junk” means all worn-out and discarded material including odds and ends, old iron or other metal, glass, paper, cordage, and inoperative or junked motor vehicles, boats, boat trailers, houseboats, barges, and travel trailers.

“Litter” is any quantity of uncontainerized paper, metal, plastic, glass, or miscellaneous solid waste that may be classed as trash, debris, rubbish, refuse, garbage, or junk not placed in a solid waste container.

“Manager” means the person in charge of real estate used for apartment, institutional, or commercial purposes.

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“*Manual Collection*” means the service rendered in collecting municipal solid waste from containers that can be handled in part by individuals picking up the containers as distinguished from picking up containers by mechanical means because those containers are too large for handling by manual means.

“*Municipal Solid Waste*” means solid waste resulting from or incidental to municipal, community, trade, business and recreational activities, including garbage, rubbish (or trash), ashes, street cleanings, dead animals, and output of all other solid waste.

“*Sanitary Landfill*” means the method of disposing of municipal solid waste on land without creating a nuisance or hazard to public health or safety by utilizing the principles of engineering to confine the solid waste to the smallest practical volume and to cover it with a layer of earth at appropriate periodic intervals.

“*Structure*” as used in this chapter, has the same definition as it does in Chapter 71 (Building Code).

“*Unserviceable Motor Vehicle*” means a motor vehicle with safety inspection sticker or license tags that expired more than one (1) year ago.
(Ord. 106; passed 11-3-81)(Ord. 020298-01; passed 2-2-98)

§ 41.002 Motor Vehicle Maintenance, Assemblage and the Like on Public Property

It shall be unlawful to repair, strip, assemble, or perform ordinary maintenance on a motor vehicle on public property, parking lots, or vacant lots within the City Limits, except in those situations in which immediate action is necessary because a vehicle is disabled.

§ 41.003 Refrigerators and Other Containers

(a) Applicability. This section applies to a refrigerator, ice box, or other airtight or semi-airtight container that has:

- (1) A capacity of at least 1½ cubic feet;
- (2) An opening of at least fifty (50) square inches; and
- (3) A door or lid equipped with a latch or other fastening device capable of securing the door or lid shut.

(b) Prohibition for Safety. A person shall not place or permit a container described in subsection (a) outside of a structure or in a warehouse, storage room, or unoccupied or abandoned structure so that it is accessible to children.

(c) Criminal Penalty.

(1) Offense. A person commits an offense if the person violates subsection (b) of this section, which is also a violation of Section 756.012 of the Texas Health and Safety Code.

(2) Misdemeanor. An offense under this section is a misdemeanor punishable by a fine of not less than \$5 or more than \$200.

(3) Separate Offense. Each day of a continuing violation constitutes a separate offense.

State Law Reference - See also Texas Health and Safety Code, §§ 756.011-.013.

Litter and Solid Waste

SUBCHAPTER B. LITTERING

§ 41.010 Littering by Pedestrians and Motorists Prohibited

(a) Littering Prohibited. It shall be unlawful for any person to throw, discard, place, or deposit litter in any manner or amount on any public or private property within the City limits, except in lawfully provided containers.

(b) Presumption. In prosecuting the owner of a motor vehicle for violating subsection (a), proof that the litter originated from the particular vehicle described in the complaint, together with proof that the defendant named in the complaint was at the time of such violation the registered owner of that vehicle, shall constitute in evidence a presumption that the registered owner was the person who committed the violation.

(c) Duty of Advertisers. It shall be the duty of every person distributing handbills, leaflets, flyers, or any other advertising and information material to take whatever measures that may be necessary to keep such materials from littering public or private property.

(d) Containers Required. To facilitate the proper disposal of litter by pedestrians and motorists, publicly patronized or used establishments shall provide, regularly empty, and maintain in good condition adequate containers that meet standards that the City prescribes. This requirement shall be applicable, but not limited to, fast food outlets, shopping centers, convenience stores, supermarkets, service stations, commercial parking lots, and public institutions.

§ 41.011 Vehicles Transporting Loose Materials

(a) Cover Required. It shall be unlawful for any person, firm, corporation, institution, or organization to transport any loose cargo by truck or other motor vehicle within the City limits unless that cargo is covered and secured in such manner as to prevent depositing of litter on public and private property.

(b) Duty of Owners and Operators. Subsection (a) shall also apply to the owner or operator of the truck or other vehicle.

(c) Presumption. In prosecuting a person, firm, corporation, institution, organization, or owner or operator of a truck or other vehicle under subsection (a), proof that the cargo was not adequately covered and secured shall constitute in evidence a presumption of a violation of this section.

§ 41.012 Loading and Unloading Operations

(a) Containers Required. Any owner or occupant of an establishment or institution at which litter is attendant to the packing and unpacking and loading and unloading of materials at exterior locations shall provide suitable containers for the disposal and storage of that litter and shall make appropriate arrangements for its collection.

(b) Litter Removal Duty. Further, it shall be the duty of the owner or occupant under subsection (a) to remove any litter that has not been containerized at the end of each day.

§ 41.013 Responsibility to Keep Property Clean; Abatement

(a) Responsibility. Each resident shall be responsible for the upkeep and appearance of their residence and shall not permit the accumulation of rubbish, trash, garbage, or unserviceable motor vehicles.

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(b) Duty to Dispose. It is the duty of each resident to dispose or cause to be disposed of the items described in subsection (a) of this section.

(c) Litter Abatement. Owners, agents, occupants, or lessees of private property that faces City sidewalks and strips between streets shall keep such sidewalks and strips free of litter.

(d) Proper Disposal. It shall be unlawful for a person under this section to sweep or push litter from sidewalks and strips into streets. Owners, agents, occupants, or lessees of private property must pick up and put sidewalk and strip sweepings into household or commercial solid waste containers.

(e) Resident Agent for Non-Resident Owners. Non-resident owners of vacant lots or other vacant property shall appoint a resident agent to keep that lot or other property free of litter.

(f) Notice; Cleanup; Assessment of Costs. If, after due warning, citation, or summons, an owner, agent, occupant, or lessee of private property fails to remove litter from any such private property, the City is authorized to serve written notice to the owner or his or her appointed agent stating that if the condition is not corrected within ten (10) days of receipt of notice, the City will clean the property and charge the owner or his or her appointed agent for the costs. If the owner or his or her agent does not pay the bill within thirty (30) days, the City may record a lien against the property for the amount of the cleaning charge until the claim has been satisfied.

(g) Complaints.

(1) Filing a Complaint. Any resident of the City may file a complaint regarding a violation of this section. A person filing a complaint under this section must file the complaint in writing with the City Secretary, Code Enforcement Officer, or Mayor. Each complaint filed must contain the following information:

- (A) Name and address, if known, of resident in violation.
- (B) Description of offending items.

(2) Action on Complaints Filed. The City will act upon complaints within (3) three working days of the date that the complaint is filed with the City. The first act of the City in response to the first filing of a complaint for a particular alleged violation of this section will be to notify the resident alleged to be in violation by letter of the complaint, including a Copy of this section with that letter.

(Ord. 106; passed 11-3-81)

§ 41.014 Dumping Refuse; Other Material

It is unlawful for any person to dump refuse, garbage, rubbish, junk, or any other material, including cement or any building material on or near City streets, private property, parks, parking lots, commercial or public buildings, or on adjoining highways and rights-of-way. However, the owner or resident of private property may deposit a reasonable amount of refuse or garbage on his or her private for soil composting purposes, so long as such is done in a manner that prevents the deposit from being blown by the wind or strewn or scattered by animals.

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SUBCHAPTER C. SOLID WASTE DISPOSAL

§ 41.030 Solid Waste Disposal

(a) Containers or Receptacles Required; Specifications.

(1) *Containers Required.* Every person occupying a residence or duplex and every owner of an apartment shall provide such premises with a sufficient number of solid waste containers or receptacles to provide for the output of municipal solid wastes from those premises, as is provided in this subsection.

(2) *Garbage Containers.* Garbage containers or receptacles used to comply with this subsection shall be watertight and constructed of a solid and durable grade of metal, plastic, or paper materials.

(A) *Underground Containers Prohibited.* Underground garbage containers are prohibited for use in the City.

(B) *Cover and Handle.* All containers (except plastic or paper bags or other sack-type containers) used to comply with this subsection shall have a close-fitting or other type of approved cover equipped with a handle.

(C) *Sack-Type Containers.* Plastic or paper refuse bags or sack-type containers used to comply with this subsection shall be secured at the top to prevent spillage.

(D) *Specifications.* Containers used to comply with this subsection shall not contain any inside structures, such as bands or reinforcing angles or anything within the container to prevent the free discharge of the contents. The City shall condemn containers used to comply with this subsection that have deteriorated or that have become damaged to the extent that the covers will not fit securely or that they have jagged or sharp edges capable of causing injury to persons whose duty it is to handle such containers. If after notice from the City to a person responsible for complying with this subsection that the person's container is condemned and must be replaced, the person fails to replace the subject container or containers, the City will inform that person that garbage service to that person's property will cease until such time as that person provides a proper container or containers for the removal of garbage. The City maintains the right to continue billing that person for garbage collection services during this period of non-compliance.

(E) *Lids.* The lid shall be close-fitting and shall remain in place covering the container or receptacle at all times when any material is in the container. The lid may be attached by an appropriate means to a rack upon which the containers are placed or to an adjacent fence or other appropriate fixed object in order to prevent lids from getting into the pathway of vehicles.

(3) *Rubbish or Trash Receptacles.* Rubbish or trash containers or receptacles shall be constructed of suitable durable material.

(A) *Underground Containers Prohibited.* Underground rubbish or trash containers are prohibited for use in the City.

(B) *Specifications.* Containers for small, loose rubbish, or trash items shall either conform to the requirements for garbage containers or shall consist of a basket, cardboard box, or burlap bags provided that the container is durable enough to hold the contents during the collection process and provided the capacity of the container shall not exceed 50 pounds and that the combined weight of the

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small, loose items of rubbish and trash and the container shall not exceed 50 pounds. Furthermore, the container shall not be overloaded to the point at which spillage occurs from overflow, wind, or handling.

(C) Sack-Type Containers. Plastic, paper, or other bag or sack-type containers for small, loose items of rubbish or trash shall be secure at the top to prevent spillage.

(b) Illegally Dumped Materials on Private Property; Removal.

(1) *Notice to Remove.* It shall be the duty of the City to notify the owner or agent for management purposes of any private premises within the City upon which any solid waste material has been illegally placed or disposed to remove such solid waste materials within ten (10) days. This notice shall be in writing and may be served on the owner or such agent by handing it to her or him in person or by registered mail addressed to such owner or agent at his post office address as shown on the tax rolls of Hays County, or when such address is not shown on the tax rolls, then by notice by publication in a newspaper of general circulation in the City as many as two times within ten consecutive days. Such owner or agent shall reimburse the City for any notification expenses concerning any solid waste material improperly or illegally disposed.

(2) *Removal Without Notice.* The City may determine the waste material is an immediate health hazard and remove it without notification.

(3) *Removal by the City.* Upon the failure of any such owner or agent to comply with the notice, as set out in this subsection, or upon the written request and authorization of such owner or agent so notified, or in the event that the City determines that such conditions constitute an immediate health hazard, it shall become the responsibility of the City to have such solid waste materials collected and removed from any property within the City.

(4) *Charge for Removal.* All costs that the City incurs for removal of any solid waste that has been illegally placed or disposed are the responsibility of the owner or agent, and the City will provide such owner or agent a statement for reimbursement.

(c) Collection Procedures.

(1) *Residential Collection.* It shall be the duty of every occupant of any residence or duplex to provide a sufficient number of solid waste containers at the place the City designates for collection of municipal solid waste from the particular premises and to provide adequate capacity for the solid waste placed out for collection without overloading the capacity of the containers provided for that purpose.

(A) Specifications. All containers shall conform to the requirements of subsection (a) of this section.

(B) Authorized Contractors. All collection of solid waste materials from residences or duplexes shall be by authorized contractors of the City.

(2) *Placement of Containers.*

(A) Collection Area. Persons responsible for compliance with this subsection shall place solid waste containers just behind the curbline of the street abutting each property, but shall not place such containers in the street or on the sidewalk, or in any manner placed where the containers will interfere with vehicular or pedestrian traffic. Where special conditions exist that such containers so placed are

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subject to overturn and spill, then at the City's discretion, the City may require such containers to be placed in a portable or movable rack.

(B) **Packout Collection Service.** Persons using a packout collection service shall place garbage containers for that service at locations and under such conditions that the City approves.

(C) **Rubbish; Trash; Brush.** The collection of rubbish, trash, and brush as defined in this Code is subject to the following requirements, which requirements are subject to contractual agreement signed by the City and waste disposal entity:

(I) Non-putrescible solid waste consisting of tree, shrub, and hedge clippings may be collected, providing that trunks and limbs do not exceed three (3) inches in diameter and are cut in lengths not to exceed five (5) feet.

(II) Rubbish, trash, or brush that is to be collected from the public utility easement, or public way and not from the street, shall be placed at the property line, but shall not be placed inside the easement, or public way in such a manner as to obstruct or interfere with vehicular or pedestrian traffic.

(III) Where rubbish, trash, or brush is not collected from the public utility easement, or other public way, but is collected from the street, it shall be placed just behind the curblin of the street abutting the premises, but shall not be placed in the street or on the sidewalk in such a manner as to obstruct or interfere with vehicular or pedestrian traffic.

(IV) The amount of brush collected weekly is subject to the contractual agreement between the City and the waste disposal entity.

(V) Rubbish or trash consisting of small, loose items shall be placed in an approved container as specified in subsection (a).

(VI) All boxes and cartons must be broken down and bundled and no bundle shall exceed 50 pounds in weight.

(VII) Regular collection of rubbish or trash consisting of large bulky items, such as furniture or appliances, will not be provided. The City will provide dumpsters twice yearly for residents to dispose of bulky items.

(VIII) Rubbish or trash collection service shall not be rendered as a packout collection service.

(3) *Collection from Apartments and Commercial Establishments.* The City will perform the manual collection and removal of solid waste materials from apartments, institutions, and commercial establishments, as defined in this subchapter only when the containers conform to the requirements for containers for residential or duplex collection service, as specified in subsection (a), or as the City approves. The placement of containers for collection from apartment houses, institutions, and commercial establishments is subject to the prior approval of the City. Rubbish or trash collection shall not be rendered as a packout collection service.

(d) **Dead Animals.** The bodies of dead animals shall not be placed in solid waste containers or in any street, easement, or public way. The collection and removal of dead animal bodies shall be the responsibility of the owner or occupant of the premises.

(e) **Materials That the City Does Not Handle.**

(1) *Scope of the Service.* The City in the collection and removal of solid waste materials is intended, in general, to serve the needs of dwelling units and their directly related activities, operating businesses, and commercial establishments except as exempted from the provisions of the subchapter. It is considered to be beyond the scope of such service to collect or remove solid waste materials generated by clearing,

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construction, demolition, and other such solid waste materials resulting from an activity beyond the scope described above.

(2) *Solid Waste Materials.* The City will not collect or remove as a regular service the following:

(A) Construction, Etc. Rock, scrap building materials or other trash resulting from construction, remodeling, or destruction by fire, the elements, acts of God, or other causes resulting from a general cleanup of vacant or improved property or trees, brush and/or debris cleared from property in preparation for construction or occupancy, but the owner or developer must remove these materials at the expense of the owner or developer.

(B) Industrial and Commercial Wastes. Industrial wastes resulting from manufacturing or processing operations, including waste from food and vegetable produce house, poultry dressing establishments, meat processing and meat packing plants, but the owner or occupant of the building, business, or premises at which such wastes originate must dispose of these materials in the manner prescribed by state law and any applicable ordinance. The City will determine what wastes fall within the above industrial classification.

(f) Billing for Solid Waste Collection.

(1) *Method of Charging and Billing.*

(A) Billing and Payment. The City will bill all solid waste collection and disposal charges and fees in a manner that will show each customer's solid waste collection fees and charges on their water bill. The charges and fees established and authorized in this subchapter shall be billed to the person in whose name the water service connection is taken where the premises are served with water and/or sewer and shall be billed to the person in control of the premises. The person who is so billed and to whom the services are made available shall be obligated to make payment for those services as provided in this subchapter.

(B) Collection of Delinquencies. In addition to all other legal remedies available for the collection of a debt, the following actions and remedies are authorized for delinquent payment of the charges authorized in this subchapter:

(I) The City may refuse to pick up and dispose of the garbage at the delinquent location.

(II) The City may shut off and terminate the water and/or sewer service, if any, serving the delinquent premises in question in accordance with the City's Water Tariff or Sewer Tariff, if any.

(III) The City may apply all present water utility guaranty deposits upon termination of sanitary service and/or water service to any amounts due either for sanitation service charges or fees of water utility bills.

(IV) Any person who shall fail to timely pay the charges for solid waste collection and disposal provided for by this subchapter, after billing and notice, shall be guilty of a misdemeanor and, in addition to any other remedies provided may be fined as provided in this Code.

(2) *General Regulations.*

(A) Establishing Service Charges. The City will base the establishment of service charges upon the current use of the property, not the zoning district.

(B) Exclusivity of Contracting. Except as set forth in this subchapter, collection service shall be provided through the City, and such service shall not be contracted through any other person or entity.

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(3) *Schedule of Service Charges.* The City Council from time to time shall set the service charges under this subchapter for collection of solid waste, use of disposal sites, and any other service.

(g) Processing, Disposal.

(1) *Disposal Site.* All garbage and rubbish or trash or other solid waste materials must be processed and/or disposed of at a location and in a manner that the City has approved.

(2) *Disposal by Other Means.* The City will permit the processing and disposal of solid waste materials by private persons only upon the proper application to the City and proof that the person will comply with all applicable City, county, and state regulations pertaining to solid waste processing and disposal operations.

(h) Payment Procedures; Discontinuing Service and Administrative Fees.

(1) *City Policy.* The City will discontinue utility or waste collection service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The City's form for application for utility service and all bills shall contain, in addition to the title, address, and telephone number of the official in charge of billing, visible and easily readable statements that:

(A) All bills are due and payable on or before the date set forth on the bill; and

(B) If any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice, according to the City's Water Tariff; and

(C) Any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the City official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(2) *Delays or Waivers.* The City will evaluate requests for delays or waiver of payment on an individual basis. Normally in the absence of payment, the City official will consider only questions of proper and correct billing.

(3) *Administrative Fees.* The City Council, by resolution, will establish an Administrative Fee for overseeing and billing residents for service provided by the Waste Collection contractor.

(Ord. 020298-01; passed 2-2-98)

SUBCHAPTER D. ADMINISTRATION AND ENFORCEMENT

§ 41.040 Enforcement Authorizations

The following designated personnel are authorized to enforce sections of this chapter as prescribed below:

(1) *Hays County Sheriff's Department and Authorized Agents.* The Hays County Sheriff and Sheriff's deputies and authorized agents of the City are authorized to enforce, in their normal course of duty, the following violations of this chapter:

Littering by pedestrians and motorists.

Littering with handbills, leaflets, and the like.

Transporting loose materials without adequate covering.

Lack of containers at loading/unloading operations.

Failure to clean loading/unloading areas.

Improper commercial solid waste containerization.

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Depositing commercial solid waste in sidewalk or other pedestrian litter receptacles.

Litter on private premises.

Litter on sidewalks and strips.

Sweepouts.

Dumping refuse and other material.

Repair, strip, or assemble of vehicles on public property.

Placement of refrigerators and other containers.

Allowing refrigerators and other containers to remain unsecured.

(2) *Code Enforcement Officer.* The Code Enforcement Officer is authorized to enforce the following violations of this chapter:

Litter control at construction/demolition projects and appropriate collection/disposal.

Violations of household and commercial solid waste containerization regulations that constitute existing or potential fire or health hazards.

Violations of clean-property regulations that constitute existing or potential fire, health, or safety hazards.

Refrigerators and other containers that are placed or allowed to remain in violation of this chapter.

CHAPTER 42: FIRE PREVENTION

Section

Subchapter A.	Outdoor Burning
42.001	Definitions
42.002	Prohibition
42.003	Limitations on Outdoor Burning
Subchapter B.	Fireworks [Reserved]
Subchapter C.	Enforcement
42.030	Enforcement

SUBCHAPTER A. OUTDOOR BURNING

§ 42.001 Definitions

The following definitions shall apply to this subchapter unless the context clearly indicates otherwise:

“Rubbish” means flammable materials, combustibles, tires, oil paint, poisons, pesticides, or any material which would emit noxious or objectionable fumes or smoke.

“Household Garbage” means plastics, food, items, cans, bottles, clothing, fabrics, or discarded household items.

(Ord. 105, passed 11-9-81)

§ 42.002 Prohibitions

The burning of rubbish or household garbage is prohibited under all circumstances.

(Ord. 105, passed 11-9-81)

§ 42.003 Limitations on Outdoor Burning

The burning of items that are not rubbish or household garbage is allow if the done in compliance with the following safeguards:

- (1) No burning at all without a responsible adult present.
- (2) No burning during high winds and/or drought conditions.
- (3) No burning unless sufficient water supply available to control the fire.

(Ord. 105, passed 11-9-81)

SUBCHAPTER B. FIREWORKS [Reserved]

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SUBCHAPTER C. ENFORCEMENT

§ 42.030 Enforcement

- (a) Peace officers and Fire Prevention Officers are empowered to enforce any provision of this chapter.
- (b) The Code Enforcement Officer is specifically empowered to enforce Subchapter A.

(c) The fine or penalty for a violation of Subchapter A shall not exceed the maximum amount stated in Appendix 3 of the City of Hays Code of Ordinances - "Municipal Enforcement Authority."
(Ord. 105, passed 11-9-81)

Cross-Reference - Appendix 3 - Municipal Enforcement Authority

CHAPTER 43: CEMETERIES

Section

43.001	Authorized Cemeteries
43.002	Burial Limited to Authorized Cemeteries
43.003	Disinterment of Certain Bodies Buried on Private Ground
43.004	New Cemeteries; Application

§ 43.001 Authorized Cemeteries

The cemeteries existing on the date of enactment of this Code within the City Limits, if any, are recognized and authorized as legal and proper places for the interment of persons who may die in the City or may be brought to the City for burial.

§ 43.002 Burial Limited to Authorized Cemeteries

(a) Limitation. It shall be unlawful for any person to bury the body of any deceased person anywhere within the City Limits other than in a cemetery duly authorized and recognized as a public burying ground under the terms of this Chapter, except by special permission granted by the City and confirmed by the City Council.

(b) Unauthorized Burial. If the body of any deceased person is buried anywhere within the City except in a legally authorized cemetery or burying ground without such permission, then the City may require the person so burying the body to disinter such body and bury it in a duly authorized cemetery or burying ground.

§ 43.003 Disinterment of Certain Bodies Buried on Private Ground

The City may disinter and bury in an authorized cemetery a body of a deceased person that is found buried on any lot or ground in the City when the City cannot locate the owner or agent of the lot or ground.

§ 43.004 New Cemeteries; Application

(a) Application Required. Any person wishing to establish or enlarge a cemetery, mausoleum, or other facility for the burial, interment, or other final disposition of the remains of dead persons shall make application to the City Council to establish or enlarge such a facility.

(b) Information. Any person making an application under subsection (a) shall provide the following information to the City:

- (1) A survey of all real property included in the facility.
- (2) A plat of all burial lots or structures included on the real property.
- (3) Proof of ownership of all included real property.
- (4) Proof of compliance with all statutory requirements relating to cemeteries and perpetual care trusts or funds.
- (5) A bond sufficient to hold the City and all adjacent property owners harmless from any activities for the burial of any human remains on the property of another.

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(c) Public Hearing. After a person submits an application under this section, the City Council shall hold a hearing to consider the application and shall, if no objection is filed, grant a permit to operate a facility for the final disposition of human remains as set forth in the application. If objections are filed, the application shall be treated as an application for a zoning variance.

State Law Reference - *Municipal authority to regulate cemeteries and burial of dead, Texas Health & Safety, §§ 694.003; 713.001 - 713.009.*

TITLE VI: CITY PROPERTY

Chapter

60. IDENTIFICATION OF CITY VEHICLES AND EQUIPMENT

61. REAL PROPERTY [RESERVED]

62. USE OF CITY PROPERTY

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CHAPTER 60: IDENTIFICATION OF CITY VEHICLES AND EQUIPMENT

§ 60.001 City Vehicles to be Marked

The city office having control of a city-owned motor vehicle (except undercover law enforcement vehicles) or piece of heavy equipment shall have the name of the title of the department or office having custody of the vehicle or equipment printed upon each side of the vehicle or equipment in letters that are plainly legible at a distance of not less than one hundred (100) feet and in a color sufficiently different from the body of the vehicle or equipment so that the letters are plainly legible. The city office may use a decal in lieu of printing.

State Law Reference - Texas Transportation Code, § 721.004, identification of city-owned vehicles and heavy equipment.

CHAPTER 62: USE OF CITY PROPERTY

Section

Subchapter A. General Provisions

62.001 Purpose

Subchapter B. Specific Uses and Prohibitions

62.020 Dangerous Activities on Certain Public Property

SUBCHAPTER A. GENERAL PROVISIONS

§ 62.001 Purpose

The purpose of this chapter is to regulate the use of city property in a manner that protects the public health, safety, and welfare and preserves the investment that the City has made in its property.

SUBCHAPTER B. SPECIFIC USES AND PROHIBITIONS

§ 62.020 Dangerous Activities on Certain Public Property

(a) Public Nuisance. The City declares the use of bicycles, rollerblades, skateboards, rollerskates, or other similar means of travel on the sidewalks and walkways adjacent to and surrounding municipal buildings to be a public nuisance because of the threat to public health, safety, and welfare. These sidewalks and walkways have limited sight views, heavy pedestrian traffic, or a use that is incompatible with persons traveling on bicycles, rollerblades, skateboards, rollerskates, or other similar means of travel.

(b) Prohibition. A person shall not travel on bicycle, rollerblades, skateboard, rollerskates, or other similar means of travel on the walkways adjacent to or surrounding municipal buildings.

Cross-Reference - See Section 1.021(i)(5) (*Rules of Construction*).

State Law Reference - Texas Civil Practices and Remedies Code, § 101.022.

TITLE VII: BUILDINGS

Chapter

70. BUILDING CODES

71. OTHER BUILDING REGULATIONS [RESERVED]

72. MOBILE AND MODULAR HOMES

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CHAPTER 70: BUILDING CODES

Section

Subchapter A. General Provisions

70.001	Short Title
70.002	Purpose
70.003	Applicability
70.004	Prohibition
70.005	State Adopted Building Codes Applicable
70.006	Relationship to Federal or State Environmental Laws
70.007	Relationship to Other Laws

Subchapter B. Definitions

70.020	Definitions
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Subchapter C. Minimum Standards for Residential Buildings

70.030	Minimum Square Footage for Residential Buildings
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Subchapter D. Minimum Standards for Non-Residential Buildings [Reserved]

Subchapter E. Administration [Reserved]

Subchapter F. Permits [Reserved]

Subchapter G. Inspections [Reserved]

Subchapter H. Permit Revocations, Suspensions, Variances, and Appeals [Reserved]

Subchapter I. Enforcement [Reserved]

SUBCHAPTER A. GENERAL PROVISIONS

§ 70.001 Short Title

This chapter shall be known and may be cited to as the Building Code.

§ 70.002 Purpose

The purposes of this Chapter are to provide minimum standards to safeguard life, limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use, occupancy, location, and maintenance of all buildings and structures, and certain equipment located within the City.

City of Hays - Buildings

§ 70.003 **Applicability**

(a) Applicability to Construction. The provisions of this chapter apply to the construction, grading, excavation, site clearance, alteration, movement, demolition, repair, and use of:

- (1) all buildings and structures within the City Limits, including work located in a public right-of-way, public utility towers and poles, hydraulic flood control structures, and transmission lines; and
- (2) all buildings in all phases of the extraterritorial jurisdiction of the City.

(Ord. 110, passed 5-4-82; Amend. Ord. 110(1), passed 11-1-83)

(b) Applicability to Additions, Etc. Additions, alterations, repairs, and changes of use or occupancy for all buildings and structures shall comply with the provisions for new buildings and structures except as otherwise provided in this chapter.

(c) More Restrictive Provisions Control. If more than one section of this chapter is applicable to a specific situation and specifies different materials, methods of construction, or other requirements, the most restrictive of the applicable sections shall govern.

§ 70.004 **Prohibition**

No residence or other building may be moved from outside the City to any lot within the City for use as living quarters. (Section 7 of Ord. 110, passed 5-4-82)

§ 70.005 **State Adopted Building Codes Applicable**

(a) State Residential Building Code. Pursuant to Subsections (a) and (b) of Section 214.212 of the Texas Local Government Code, the State of Texas adopted the International Residential Code, as it existed on May 1, 2001, as a municipal residential building code in this state and made it applicable to all construction, alteration, remodeling, enlargement, and repair of residential structures in municipalities, to protect the public health, safety, and welfare. However, pursuant to Subsection (a) of Section 214.213 of the Texas Local Government Code, the International Residential Code and the International Building Code do not apply to the installation and maintenance of electrical wiring and related components.

(b) State Electrical Code. Pursuant to Subsection (a) of Section 214.214 of the Texas Local Government Code, the State of Texas adopted the National Electrical Code, as it existed on May 1, 2001, as the municipal electrical construction code in this state and made it applicable to all residential and commercial electrical construction applications.

(a) State Commercial Building Code. Pursuant to Subsections (a) and (b) of Section 214.216 of the Texas Local Government Code, the State of Texas adopted the International Building Code, as it existed on May 1, 2003, as a municipal commercial building code in this state and made it applicable to all commercial buildings in a municipality for which construction began on or after January 1, 2006, and to any alteration, remodeling, enlargement, or repair of those commercial buildings, to protect public health, safety, and welfare.

§ 70.006 **Relationship to Federal or State Environmental Laws**

Regardless of any other provision in this title, no person shall erect, place, or maintain a structure or building in violation of any state or federal pollution control or environmental protection law or regulation.

Building Codes

§ 70.007 Relationship to Other Laws

When regulations or restrictions imposed by this title are more or less restrictive than regulations or restrictions imposed by another governmental authority by legislation, rule, or regulation, the regulations, rules, or restrictions that are more restrictive or that impose higher standards or requirements shall govern.

SUBCHAPTER B. DEFINITIONS

§ 70.020 Definitions

When used in this Chapter, the following definitions shall apply unless the context clearly indicates otherwise:

“Commercial” means a building for the use or occupation of people for:

- (A) a public purpose or economic gain; or
- (B) a residence if the building is a multifamily residence that is not defined as residential by this section.

“International Building Code” means the International Building Code promulgated by the International Code Council.

“International Residential Code” means the International Residential Code for One- and Two-Family Dwellings promulgated by the International Code Council.

“National Electrical Code” means the electrical code published by the National Fire Protection Association.

“Residential” means having the character of a detached one-family or two-family dwelling or a multiple single-family dwelling that is not more than three stories high with separate means of egress, including the accessory structures of the dwelling, and that does not have the character of a facility used for the accommodation of transient guests or a structure in which medical, rehabilitative, or assisted living services are provided in connection with the occupancy of the structure.

SUBCHAPTER C. MINIMUM STANDARDS FOR RESIDENTIAL BUILDINGS

§ 70.030 Minimum Square Footage for Residential Buildings

All main dwellings or buildings constructed or erected on the property within the City Limits shall:

- (1) have a floor space of not less than 1,200 square feet of living area;
- (2) have exterior front walls, or have a trim, of not less than seventy-five percent masonry; and
- (3) be subject to architectural review by designee(s) of the City Council.

(Section 5 of Ord. 110, passed 5-4-82)

SUBCHAPTER D. MINIMUM STANDARDS FOR NON-RESIDENTIAL BUILDINGS [Reserved]

SUBCHAPTER E. ADMINISTRATION [Reserved]

SUBCHAPTER F. PERMITS [Reserved]

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SUBCHAPTER G. INSPECTIONS [Reserved]

**SUBCHAPTER H. PERMIT REVOCATIONS, SUSPENSIONS, VARIANCES, AND APPEALS
[Reserved]**

SUBCHAPTER I. ENFORCEMENT [Reserved]

CHAPTER 72. MOBILE AND MODULAR HOMES

Section

72.001	Definitions
72.002	Prohibitions
72.003	Modular Homes
72.004	Complaints

§ 72.001 Definitions

The following words, terms, and phrases shall have the following meanings, unless the context in which they are used indicates otherwise:

“*Camper/Camper Trailer*” means usually a smaller version of a mobile home normally used for weekend or vacation pleasure; normally self-contained with holding tanks for water and sewage.

“*House Trailer*” the definition “*Mobile Home*” applies.

“*Mini/Motor Home*” the definition “*Camper/Camper Trailer*” applies.

“*Mobile Home*” any house/home on wheels that can easily be moved from place to place and manufactured solely for permanent or semipermanent living purposes.

“*Modular Home*” means a house brought to a site in sections and normally set up for permanent living arrangements.

(Ord. 107, passed 2-2-82)

§ 72.002 Prohibitions

(a) Mobile Homes; House Trailers. Mobile homes and house trailers are prohibited within the City Limits. Therefore, it is unlawful to bring in, set up, or occupy a mobile home or house trailer within the City Limits.

(b) Camper/Camper Trailers; Mini/Motor Homes; Mobile Homes; House Trailers. Camper/Camper trailers, mini/motor homes, mobile homes, and house trailers are prohibited within the City Limits for use as permanent dwellings.

(c) Exception. By petition to the City Council, a resident may inhabit a trailer upon verification of an emergency (*i.e.*, a home damaged by fire or storm, making it uninhabitable). The emergency repairs must already be in progress, or be in progress within 30 days of the petition.

(Ord. 107, passed 2-2-82)

§ 72.003 Modular Homes

(a) Restriction. Modular homes are restricted to a minimum of 1,400 square feet of living space.

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(b) Approval Required. Prior to beginning construction on a modular home, the owner or its agent must submit the plans or specifications for the proposed modular home to the City and obtain the approval of the City Council.
(Ord. 107, passed 2-2-82)

§ 72.004 Complaints

(a) Filing of Complaints. Any resident of the City may file a written complaint about possible violations of this chapter with the Mayor, the Code Enforcement Officer, the City Secretary, or a Council member. Complaints must identify the location of the violation.

(b) Action on Complaint. The City official receiving a complaint under this section will act upon a complaint as soon as possible, including notifying the alleged violator of the complaint and providing the alleged violator a copy of this chapter.
(Ord. 107, passed 2-2-82)

CHAPTER 92. SUBDIVISION REGULATIONS

Section

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SUBCHAPTER A. GENERAL PROVISIONS

§ 92.001 Short Title

This Chapter shall be known and may be cited to as the Subdivision Regulations.

§ 92.002 Purpose

The purpose of this chapter is to provide for the orderly, safe and healthful development of the area within the corporate limits of the City and the City's extraterritorial jurisdiction, and to promote the health, safety, morale and general welfare of the entire community. The provisions of this chapter apply to all property located within the incorporated City limits of the City as such limits may increase or decrease from time to time through annexation or dis-annexation. In addition and to the extent permitted by state law, the provisions of this chapter apply to all property located within the extraterritorial jurisdiction of the City of Hays.

(Section 10-1 of Ord. 110B, passed 7-5-06)

State Law Reference - Texas Local Government Code, Chapters 42, 43, and 212; § 212.002.

§ 92.003 Definitions

When used in this chapter, the following definitions shall apply unless the context clearly indicates otherwise:

“*Alley*” means a minor public right-of-way that is not intended to provide the primary means of access to abutting lots and that is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.

“*Abandoned*” means out-of-service and not safeguarded in compliance with this Code. However, an underground storage tank shall not be deemed abandoned if it has been closed in accordance with this Code or with any other applicable state, federal, or local law or regulation.

“*Approval*” means written approval from the City pursuant to a duly executed application for approval made on a form that the City has promulgated.

“*Aquifer-Related Watershed*” means all land area in a watershed that is within the Edwards Aquifer Recharge Zone or that naturally drains to, or is otherwise located in the contributing zone upstream from the recharge zone.

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“Area of Shallow Flooding” means a designed AO, AH, or VO zone on a community’s Flood Insurance Rate Map (FIRM) with a one percent (1%) change or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

“Area of Special Flood Hazard” is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A99, VO, V, VE, X or D.

“Block” means a combination of two (2) or more lots into a unit within a subdivision.

“Building” means any structure, either temporary or permanent, that has a roof or other covering and that is designed or used for the shelter or enclosure of any person, animal, or property of any kind, including tents, awnings, or vehicles situated on private property and used for purposes of a building.

“Building Setback Line” is a line that is parallel from the boundary line of a parcel or lot at a distance equal to the applicable setback distance for that boundary line.

“Center Line of Waterway” center line of the waterway refers to existing topographically defined channels. If not readily discernable, the center line of the two (2) year flood plan.

“Code Enforcement Officer” or *“Inspector”* means person who the City Council designates to enforce this Code and any other City regulation.

“Comprehensive Plan” means the plan that § 211.004 of the Texas Local Government Code, as amended, requires the City to adopt for land use planning. The comprehensive plan is an independent, long-range plan for use and development of land within the City and the City’s extraterritorial jurisdiction.

“Confirming Plat” is the plat that results from the formal process for recording one or more lots or parcels of land previously sold by metes and bounds and legally recorded in the Office of the County Clerk of the County, prior to August 11, 1984.

Cross-Reference - §92.041 (Confirming Plat)

“Construction” means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site, but does not include uses in securing survey or geological data including necessary borings to ascertain subsurface conditions.

“Construction plans” means location and design location and design of improvements to be installed as part of a development.

“Consultant for Public Works” means a registered professional engineer that the City Council appoints to perform the duties of the City’s Engineer or Director of Public Works.

“Control Points (Monuments)” Control points (monuments) are those that control or are used to relocate lost or obliterated property corners. Control points (monuments) are placed where they are least likely to be destroyed and where they can be conveniently used.

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“*Cul-de-sac*” means a street having but one outlet to another street, and terminated on the opposite end by a vehicular turn-around.

“*Critical Water Quality Zone*” means lands and waters as defined in the provisions of this chapter.

“*Dead-End Street*” means a street, other than a cul-de-sac, with only one outlet.

“*Density*” is a measure of the degree, extent, or magnitude of land development for single-family dwellings, computed by dividing the number of lots in a proposed residential subdivision by the total acreage of the tract to be subdivided, and expressed as a decimal, fraction, percentage, or ratio.

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

“*Development Free Zone*” means area of land that falls within the Critical Water Quality Zone and the Critical Water Transition Zone as defined in this chapter.

“*Edwards Aquifer*” means the water-bearing substrata also known as the Edwards and Associated Limestone Aquifer. It includes the following geographic formations: Comanche Peak, Edwards, Kiamichi and Georgetown.

“*Edwards Aquifer Recharge Zone*” means the interim boundaries of the recharge zones that encompass all land over the Edwards Aquifer recharging the same, as determined by the outcrop of the geologic units comprising the Edwards Aquifer, including such areas overlain with quaternary terrace deposits. Most of the corporate limits of the City and its extraterritorial jurisdiction are contained within the Edwards Aquifer Recharge Zone.

“*Engineer*” means a person licensed or authorized under the Texas Engineering Practice Act, as amended, to practice the profession of engineering.

“*Erected*” means built, constructed, altered, reconstructed, poured, laid, moved upon, or any physical operations on the premises that are required for construction. Excavation, site clearance, landfill and the like shall be considered a part of erection.

“*Extraterritorial Jurisdiction*” means that land not within the corporate limits of the City, but land over which the City has jurisdiction by virtue of Chapter 42 of the Texas Local Government Code, as amended.

“*FIRM*” means “*Flood Insurance Rate Map.*”

“*Flood*” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

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

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

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

“*Floodway*” means channel of a watercourse and portions of the adjoining flood plan that are reasonably required to carry and discharge the regulatory flood.

“*Gross Site Area*” is the total area of a tract or parcel of land being developed expressed in acres or square feet.

“*Impervious Cover*” means man-made or constructed coverage of the natural ground with any structure or surface that impedes, inhibits, or does not permit the absorption or passage of water. Impervious cover includes, but is not limited to, buildings, parking areas, roads, streets, driveways, sidewalks, swimming pools, impermeable concrete, asphalt paving, compacted base material, and brick pavers on compacted base. Permeable pavement, pavers and man-made areas of compacted or uncompacted rock or stone shall be considered one hundred (100) percent impervious cover regardless of how much water they allow to pass through to natural ground. Decks that allow the passage of water to natural ground shall be considered fifty (50) percent impervious cover. Roof overhangs/eaves are not considered impervious cover.

“*Intermediate Waterway*” means any natural channel for surface water drainage that drains an area greater than three hundred twenty (320) acres but less than six hundred forty (640) acres.

“*Lot*” means an undivided tract or parcel of land having access to a public street and that is, or in the future may be, offered for sale, conveyance, transfer, or improvement, which is designated as a distinct and separate tract, and that is identified by a tract or lot number or symbol in a duly approved subdivision plat that has been properly filed for record.

“*Lot Area*” is the net area of the lot, expressed in square feet or acreage, not including portions of any public street or alley.

“*Master Plan*” means the Comprehensive Plan.

“*Major Waterway*” means any natural channel for surface water drainage that drains six hundred forty (640) acres but less than three hundred twenty (320) acres.

“*Minor Waterway*” any natural channel for surface water drainage that drains an area greater than sixty-four (64) acres but less than three hundred twenty (320) acres.

“*Net Site Area*” is the difference between the gross site area located within a development and the area of land located within the critical water quality zone.

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“*Nonconforming Lot*” means any lot existing of record on July 5, 2006, that does not meet the area, width, or depth requirements of this chapter.

“*Officer*” means any officer referred to in this chapter by title. It also means the person that the City employs or appoints to that position, or their duly authorized representative.

“*On-Site Sewage Facility*” means any septic system or method for the storage, treatment, or disposal of sewage other than an organized disposal system operated in accordance with the terms and conditions of a permit from Hays County, Texas or the City or its authorized agent.

“*Organized Disposal System*” means any public or private system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a permit from the Texas Commission on Environmental Quality.

“*Overland Flow*” storm water runoff that is not confined by any natural or manmade channel such as a creek, drainage ditch, storm sewer, or the like.

“*Pavement Width*” means the portion of a street available for vehicular traffic. Where curbs are laid, it is the portion between the face of the curbs.

“*Plat*” means a drawing of a parcel of land containing one or more lots and the additional information that this chapter requires.

“*Preliminary Plat*” means a plat of the proposed arrangement of streets, lots, easements, and other public spaces in a subdivision in preparation for review by the City Council.

A “*Private Street*” or “*Private Street-Access Easement*” is a street that is not a public street and that is restricted to private access to private property.

“*Resubdivision*” means the subdivision of a tract that is already subdivided pursuant to a recorded plat.

“*Right-of-Way*” means any travel way open to the general public for travel or land dedicated for eventual travel by the public. A dedicated right-of-way may, in addition to travel by the public, be used for installation of utilities or other public purposes.

“*Septic System*” means a on-site sewage facility for disposing of sewage through soil absorption, and includes as components the line from the building to the septic tank, the septic tank (with one or more compartments), and the soil absorption system or evapotranspiration beds.

“*Setback Distance*” means the minimum distance required between a structure and the front, side, or rear boundary line of the parcel of land on which the structure is located.

“*Street*” means the entire width of a right-of-way between the boundary lines of every publicly-maintained way when any part of the way is open to the use of the public for purposes of vehicular travel.

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

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“*Structure*” means anything constructed or erected, the use of which requires location on or in the ground or attachment to something having a location on the ground.

“*Subdivider*” means any person or any agent of a person, dividing or proposing to divide land so as to constitute a subdivision as that term is defined in this section. In any event, the term “subdivider” is restricted to include only the owner, the equitable owner, or the authorized agent of an owner or an equitable owner of land sought to be subdivided.

“*Subdivision*” means the division of any tract of land located within the City or its extraterritorial jurisdiction, into two or more parts to lay out a subdivision of the tract, including an addition to the City, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of the purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts. “*Subdivision*” is the division of a tract regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. “*Subdivision*” does not include:

- (A) a division of land into parts greater than five acres, where each part has access and a public improvement is not being dedicated, or
- (B) a governmental entity’s condemnation of a portion of any tract of land for additional right-of-way for any existing street, if the condemnation does not divide the remainder of the tract that was not condemned into two or more parts, or
- (C) the conveyance or dedication to any governmental entity of a portion of any tract of land for additional right-of-way for any existing street, if the conveyance or dedication:
 - (I) does not divide the remainder of the tract that was not conveyed or dedicated into two or more parts,
 - (II) is accepted by the governmental entity,
 - (III) is by metes and bounds description and not by plat, and
 - (IV) is not be pursuant to or in connection with any subdivision or resubdivision of the whole tract or any part of the tract that is not conveyed or dedicated.

State Law Reference - *Texas Local Government Code, §§ 212.004 -.0045.*

“*Subdivision Gross Area*” is the total area (in acres) of the land located within the boundary of a tract of land to be subdivided or joined into one or more lots.

“*Subdivision Net Area*” is the area (in acres) of the land located within the boundary of a tract of land to be subdivided or joined into one or more lots after subtracting the area (in acres) of all public right-of-way(s) that located within the boundaries of the land to be subdivided.

“*Surveyor*” means a licensed state land surveyor or a registered public surveyor, as authorized by the state statutes to practice the profession of surveying.

“*Tract of Origin*” is the parcel(s) of land in existence prior to being subdivided.

“*Uplands Zones*” all lands and waters that are not included within the critical water quality zone or the water quality transition zone.

“*Utility Easement*” means an interest in land granted to the City, or to the public generally, or to a private utility corporation, for installing or maintaining utilities across, over or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of such utilities.

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“*Water Quality Transition Zone*” are lands and waters as defined in this chapter.

“*Yard*” means the open area between building setback lines and lot lines.
(Section 10-3 of Ord. 110B, passed 7-5-06)

§ 92.004 Approval Required for Subdivision, Vacation, and Permit Issuance; Exceptions

(a) Subdivision and Vacation Approval Required. A person shall not divide, subdivide, re-subdivide, or vacate any land in the City or its extraterritorial jurisdiction in a manner that would create a subdivision until the City Council has approved that action in accordance with this chapter and applicable state law.

(b) Subdivision Compliance Prior to Permit Issuance. The City shall not issue any permit pursuant to any provision of this Code for any structure or utility connection or for the installation, modification, or repair of any on-site sewage facility:

(1) on any lot in a subdivision, re-subdivision, or confirming plat until the City has approved the final plat for such subdivision or confirming plat and the subdivider or other authorized person files the approved plat for such subdivision or confirming plat in the County Clerk’s records, or

(2) on any lot in a subdivision, re-subdivision, or confirming plat for which the subdivider or other authorized person has not fully complied with the standards in this chapter.

State Law Reference - Texas Local Government Code, §§ 212.003, .005, .006.

§ 92.005 Connection of Utilities

A utility or entity subject to subsection (b) of § 212.012 of the Texas Local Government Code, as amended, may not serve or connect any land with water, sewer, electric, gas, or other utility service unless the utility or entity has been presented with or holds a certificate applicable to the land and issued under § 212.0115 of the Texas Local Government Code, as amended, and § 92.053 (Certification).

State Law Reference - Texas Local Government Code, §§ 212.0115, .012.

§ 92.006 General Standards

(a) Conformity with Comprehensive Plan (Master Plan). The City Council will not approve a plat for a subdivision unless it conforms to the Master Plan.

(b) Provision for Future Subdivisions and Streets. If a subdivider is subdividing a tract into parcels larger than ordinary building lots, the subdivider shall arrange these parcels to allow the opening of future streets.

§ 92.007 Conflicting Standards

Whenever the standards and specifications in this chapter conflict with those contained in another provision of this Code, the most stringent or restrictive provision shall govern.

(Section 10-12 of Ord. 110, passed 5-4-82)

§ 92.008 Inspection; Approval

(a) Inspection; Approval. A registered professional engineer who the City retains shall inspect all plans and actual construction of required improvements. The City Council will not consider for approval or acceptance any plans or completed construction without the certification from such engineer that such plans and calculations

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and such construction is complete and that they are in accordance with specifications and standards contained or referenced in those specifications and standards, and/or with plans previously approved for the subject subdivision. (Section 10-9, §1 of Ord. 110B, passed 7-5-06)

(b) Engineer's Duties. The engineer whom the City retains shall make frequent field inspections during the construction period and arrange for testing in accordance with accepted civil engineering practice. The engineer shall submit periodic progress reports to the City Council during the construction period. Nevertheless, the final responsibility for the adequacy and acceptability of all construction shall rest with the subdivider. (Section 10-9, §1 of Ord. 110B, passed 7-5-06)

(c) Construction Inspection. The City's Engineer shall inspect such improvements while in progress and upon completion of construction shall notify the subdivider, the City Council, and the Attorney for the City in writing as to his acceptance or rejection of the construction. He or she shall reject such construction if it fails to comply with the standards and specifications contained or referred to in the Code. If he or she rejects any construction, the Attorney for the City shall, on direction of the City Council, proceed to enforce the guarantees provided in this chapter. (Section 10-9, §4 of Ord. 110B, passed 7-5-06)

§ 92.009 Financial Responsibility and Security

(a) Financial Responsibility. All expenses for the installation of utilities, water, sewer extensions, streetlights, signs, and public streets, and all other installation expenses associated with the subdivision or confirming plat, shall be borne by the subdivider.

(b) Financial Security. Before the plat is filed of record, the applicant shall file with the City a corporate surety bond or letter of credit, in a form approved by the City Attorney, in favor of the City, or cash escrow agreement as approved by the City Attorney, in an amount equal to the cost of the installation expenses as determined by the City's Engineer, to guarantee performance and completion of all such installations. Such bond, letter of credit, or cash escrow shall be conditioned upon the applicant's compliance with this chapter and all other provisions of the Code, and shall secure and may be used for the payment of any and all damages to persons or property which damages arise from, or are caused by, any act or conduct of or authorized by the applicant upon which any legal judgment results. No work may commence on any such installation until such performance bond, letter of credit or cash escrow has been posted and approved by the City. (Section 10-9, §8 of Ord. 110B, passed 7-5-06)

State Law Reference - Texas Local Government Code, § 212.901.

§ 92.010 Maintenance of Improvements; Security

(a) Maintenance of Improvements. The subdivider shall maintain all required improvements in good condition and in a manner acceptable to the City's Engineer and without cost to the City for a period of two (2) years after acceptance of completed construction.

(b) Security Upon Acceptance of Improvements. Upon completion of construction and final acceptance, the subdivider shall either deposit money in escrow or file with the Council a letter of credit or other such guarantee acceptable to the City Council, executed by a bank or a surety company holding a license to do business in the State of Texas, and acceptable to the City Council, in an amount equal to ten (10) percent of the construction costs of the improvements required, and approved by the City. Such money or surety shall be irrevocable for two (2) years from the date of acceptance of completed construction. Such surety shall guarantee that, in the event of failure of the

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subdivider to maintain such improvement as provided above, the subdivider's credit shall be encumbered so as to cause the improvements to be repaired or restored without cost to the City. Such money in escrow or bond shall be approved as to form and legality by the City Attorney.
(Section 10-9, §2 of Ord. 110B, passed 7-5-06)

§ 92.011 Construction Guarantee

For good cause shown, the City Council may approve the filing of the final plat prior to completion of all construction of improvements provided the subdivider shall file security and the maintenance guarantee sufficient to guarantee construction. The security shall be either money in escrow or a letter of credit, irrevocable for a period of two (2) years from the date of approval of the final plat, in escrow or in a form approved by the City Attorney, in the amount equal to 110% of the total estimated cost of constructing and installing all the improvements required by this Ordinance. Such letter of credit shall guarantee that, in the event of failure of the subdivider to make such improvements, within two (2) years from the date of approval of the final plat, the subdivider's credit shall be encumbered so as to cause the improvements to be constructed and installed without cost to the City.
(Section 10-9, §3 of Ord. 110B, passed 7-5-06)

§ 92.012 Failure to Complete Improvements

Approval of all plats shall be deemed to have expired in subdivisions for which no assurances for completion have been posted or the improvements have not been completed within one (1) year of plat approval, unless otherwise approved by the City. In those cases in which a surety instrument has been required and improvements have not been completed within the terms of said surety instrument, the City may declare the developer and/or surety to be in default and require that all the improvements be installed.
(Section 10-9, §5 of Ord. 110B, passed 7-5-06)

§ 92.013 Extensions

For good cause shown, the City Council may extend the period of time for completion under Section 92.013 for an additional period of time not to exceed six (6) months, if the subdivider has not completed the required site improvements or completed such improvements in compliance with this chapter. The Council shall not grant an extension unless security and maintenance guarantees as required in this chapter have been provided by the subdivider covering the extended period of time.
(Section 10-9, §6 of Ord. 110B, passed 7-5-06)

§ 92.014 Release of Security

(a) Condition for Release. The City shall not release any security and/or maintenance guarantees until the subdivider has met all the requirements for approval and acceptance of improvements.

(b) Partial Releases of Security. Money held as security may be drawn from time to time in relation to the percent of construction completed. Completion of construction phases shall be approved by the City's Engineer and submitted to the City Council for approval and release of funds.

(c) Anticipation of Inability to Perform. If it becomes apparent that the subdivider is not going to complete the construction of any or all of the required improvements in accordance with the previously approved plans and Code requirements, or provide the necessary maintenance within the stipulated two (2) year period (or any extension granted under Section 92.014), the City's Engineer shall so inform the City Council in writing. Thereafter, the City

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Council shall take necessary action against the guarantees and security posted by the subdivider to complete such construction or maintenance at no cost to the City. The City Council may also file appropriate proceedings in the appropriate court against the subdivider and his/her security as set forth above.
(Section 10-9, §7 of Ord. 110B, passed 7-5-06)

§ 92.015 Filing Fee

Preliminary plat filing and subdivision of existing lots will require a filing fee of a minimum of \$35 plus \$10 for each lot.
(Section 10-9, §9 of Ord. 110B, passed 7-5-06)

§ 92.016 Consultant for Public Works

(a) Duties. The consultant for public works that the City retains to assist in the processing of proposed plats pursuant to this chapter shall discharge all duties that the City Council assigns to the consultant, including, without limitation:

- (1) consulting with members of the Council and the Mayor concerning technical points of subdivision plats as they relate to conformance with the provisions of this chapter, and
- (2) recommending to the Council and the Mayor, such rules, regulations, standards, and specifications as the consultant deems appropriate to the proper enforcement of provisions of this chapter.

(b) Fee for Service. The City shall pay the consultant for public works on a fee basis, which the Council shall approve prior to retaining the consultant.

(c) Direct Reimbursement. The individual(s), firm, or organization submitting plans to the City for approval shall pay all costs that the City of Hays incurs for Engineering, Legal, and Technical review of plans and development within the City of Hays and its ETJ directly to the consultant the City retains for those services.
(Ord. 110, passed 5-4-82; Amend. Ord. 110D, passed 11-1-93)

§ 92.017 Conflict of Interest

If a member of the City Council has a “substantial interest” in a “subdivided tract,” as those terms are defined in Section 212.017 of the Texas Local Government Code, as amended, the member shall file with City Secretary, before the Council votes or makes a decision regarding the approval of the plat for the tract, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. A violation of this provision is not a violation of this Code, but is a violation of Section 212.017 of the Texas Local Government Code, as amended.

State Law Reference - Texas Local Government Code, §§ 212.0115, .012.

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SUBCHAPTER B. SPECIAL PROVISIONS

§ 92.020 Dimensional Regulations

As minimum lot setbacks, no building shall be nearer than 75 feet to the road or street upon which the subject property abuts, nor nearer than 10 feet to the side property lines of a lot. However, one person, owning two (2) or more adjoining lots, may develop and use all of such property as a unit, ignoring the interior lot lines. (Sec. 4 of Ord. 110, passed 5-4-82; Amend. Ord. 110(1), passed 11-1-83)

§ 92.021 Streets

(a) Street Layout. Subdividers shall provide adequate streets for proposed subdivisions.

(1) *Design*. The arrangement, character, extent, grade, location, and width of each street shall consider existing and planned streets, topography, public safety, convenience, and its appropriate relationship to the proposed uses of land the street is to serve. Bends and turns shall maintain the minimum pavement width for the designed street category.

(2) *Improvements to Existing Roadways*. Subdividers shall construct or improve portions of existing roadways abutting, bordering, or within proposed subdivisions if necessary for safe and convenient travel to or through such subdivisions.

(3) *Curb Cuts*. Curb cuts for proposed driveways require City approval.

(4) *Tract Greater Than 10 Acres*. A tract of land having a gross area of greater than 10.0 acres in size shall have at least one new internal public street as the primary access to and within the subdivision. At least seventy-five percent (75%) of the newly subdivided residential lots shall have direct driveway access to the internal street(s).

(b) Relation to Adjoining Street System. Where necessary to the neighborhood pattern, existing streets in adjoining areas shall be continued, and shall be at least as wide as such existing streets and in alignment with those streets.

(c) Projection of Streets. Where adjoining areas are not subdivided, the arrangement of streets in the subdivision shall make provision for the proper projection of streets into such unsubdivided areas.

(d) Street Jogs. Whenever possible, street jogs with centerline offsets of less than 150 feet shall be avoided.

(e) Street Intersections. Street intersections shall be as nearly at right angles as practicable, giving due regard to terrain and topography. Street intersections and driveways shall be located in accordance with county standards for minimum stopping, sight distance, and desirable sight triangles. Sight distance criteria shall conform to county standards and reflect geometric design guidelines proscribed by the American Association of State Highway and Transportation Officials (AASHTO).

(f) Culs-de-Sac. In general, a culs-de-sac shall not exceed 1,200 feet in length, and shall have a turnaround of not less than 100 feet in diameter in residential areas, and not less than 200 feet in diameter in commercial areas.

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- (g) Minor Streets. Minor streets shall be laid out so as to discourage their use by through traffic.
- (h) Private Streets. Private streets are allowed unless prohibited by the City Council.
- (i) Street Design Standards. Street design standards shall follow Hays County Standards, unless otherwise provided for in this Code.
- (j) Pavement Widths and Rights-of-way of Streets Forming Part of Subdivision. Pavement widths and rights-of-way of streets forming part of the subdivision shall comply with the City Standard Street Details and Specifications.
- (k) Proposed Streets. Proposed streets shall be considered in their relationship to existing and other planned streets, to topographical conditions public safety and commerce, and in their appropriate relationship to the proposed uses of land to be served by the street. Removal of mature trees that are required to be shown on the preliminary plat shall be avoided whenever possible in the placement of street rights of way. To the maximum extent feasible, streets shall be configured to avoid clearing or cutting standing trees of six inches and greater in diameter measured at 54 inches above the grade.
- (l) Street Configuration. Streets shall be laid out or configured so as to discourage their use by cut through traffic in the subdivided area or through adjoining neighborhoods.
- (m) Curbs and Gutters. Ribbon curbs shall be installed by the subdivider on both sides of all interior streets, and on the subdivision side of all streets forming part of the boundary of the subdivision. Ribbon curbs shall be constructed of Portland cement concrete at least twelve (12) inches in width, and eighteen (18) inches in depth and flush with the pavement. Materials shall conform to the City of Austin's Standard Specifications for Public Work Construction.
(Section 10-7 of Ord. 110B, passed 7-5-06)

§ 92.022 Sidewalks

- (a) Requirement. Sidewalks shall be constructed on the subdivision side of all through streets adjacent to the subdivision and as deemed necessary by the City Council in commercial, public, and residential areas.
- (b) Design and Construction. Sidewalks shall be designed and constructed in accordance with the Standard Details and Specifications of this chapter and shall comply with all applicable ADA requirements.
- (c) Crosswalk Ways. Crosswalk ways that are three (3) feet in width shall be dedicated where deemed necessary by the City Council to provide circulation or access to schools, playgrounds, shopping centers, and other community facilities, or to provide pedestrian circulation within the subdivision. Crosswalk ways shall be provided with concrete or other approved sidewalk material at least three (3) feet wide. All crosswalks shall comply with all applicable ADA requirements.
(Section 10-7 of Ord. 110B, passed 7-5-06)

§ 92.023 Water Installations

- (a) Water Supply and Distribution. All subdivisions shall be provided with an adequate water supply and water distribution systems for residential or nonresidential use and fire protection approved by the City. Private

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water wells on individual residential, commercial, retail, and multifamily lots will not be authorized without the express written consent of the City Council.

(b) Availability of Service. If the subdivision is not to be served immediately by the existing system, the subdivider shall be required to make necessary improvements to the existing City water system.

(c) Fire Hydrants. Standard fire hydrants shall be installed every 500 feet by “lay of hose” in residential areas and 300 feet by “lay of hose” in commercial and retail areas as part of the water distribution system. (Section 10-6, §17. of Ord. 110-B, passed 7-5-06)

§ 92.024 Sewage Disposal Systems

(a) Sewage Disposal. Proposed subdivisions shall be planned with City-approved sewage disposal systems with provisions for perpetual maintenance of those systems. If on-site sewage disposal facilities (septic systems) are to be installed, subdividers shall conform to all local, state, and federal requirements. If an organized sewage disposal system (central sewer) is to be installed, the plans for such system must comply with local, county, and state regulations, must be recommended for approval by the City’s Engineer, and must be approved by the City Council prior to the filing of the plat. (Section 10-7 of Ord. 110B, passed 7-5-06)

(b) Private/On-Site Sewage Disposal Facilities. All proposed subdivisions within the City shall comply with the construction standards for on-site sewage facilities promulgated by the applicable agency under Chapter 336 of the Texas Health and Safety Code and be in compliance with the current State rules and regulations.

(c) Condition of Recordation. A subdivision plat shall not be recorded until approved by the City pursuant to this section.

(d) Compliance with this Chapter. All plats shall meet the requirements of this chapter and shall show any existing on-site sewage facilities as part of the technical support data submission requirement, as outlined in this chapter.

(e) Demonstration of Ability. Before the City approves any subdivision plat, the subdivider shall demonstrate and certify that all lots, other than those served by an organized sewage system, will support the installation of private, on-site sewage facilities.

(f) Information and Data. In determining whether lots will support private, on-site sewage facilities, the City may require such information, supporting data, profile holes, soil borings, or other tests reasonably necessary to determine whether disposal systems, including sufficient usable land for primary and alternate drain fields of six thousand (6,000) square feet each on natural slopes of less than thirty (30) percent, will function properly on each lot in the subdivision in accordance with the criteria of this division. The subdivider shall bear the cost of all tests and the City shall have the right to witness all tests and inspect the property. All tests must be certified by a registered professional engineer, registered sanitarian, or other person whom the City deems qualified to make such determination.

(g) Lots Not Suitable. If the City has determined that any lot in the subdivision is not suitable for a disposal system, the plat shall not be approved unless the legend also contains substantially the following additional language:

Notice: Lot (designating the lot by number) has been determined not suitable for septic system development.

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(Section 10-8 of Ord. 110B, passed 7-5-06)

§ 92.025 Utilities

(a) Utility Lines. Where possible, all utility lines that pass under a street shall be installed before the street is paved. When it is necessary that utility lines pass under the street pavement, they shall be installed underground to a point at least two (2) feet from the edge of the right-of-way. All subdivisions with four or more lots shall be provided with underground utility services located in compliance with City Standard Details.

(Section 10-7 of Ord. 110B, passed 7-5-06)

§ 92.026 Water Quality Zones

(a) Critical Water Quality Zones.

(1) Establishment. Critical water quality zones shall be established along all creeks and tributaries with drainage basins greater than sixty-four (64) acres in size. The zone line shall be delineated parallel to each such creek or tributary according to the size of the drainage basin.

(A) For minor waterways, the zone line shall be defined by the one hundred year flood plain, provided that it shall never be extended beyond one hundred (100) feet on each side from the centerline of the waterway.

(B) For intermediate waterways, the zone line shall be defined by the one hundred year flood plain, provided that it shall never be located greater than two hundred (200) feet nor less than one hundred (100) feet on each side from the center line of the waterway.

(C) For major waterways, the zone line shall be defined by the one hundred year flood plain; provided that it shall never be located greater than four hundred (400) feet nor less than two hundred (200) feet on each side from the center line of the waterway.

(2) Flood Plain Delineation. The flood plain delineation shall be based on a channel in its unaltered state, and shall assume fully developed watershed conditions.

(3) Limit on Construction Activity. The critical water quality zone shall remain free of all construction activity, development and alterations except that the following may be permitted:

(A) Utilities as required by this chapter.

(B) Fences that do not obstruct flood flows.

(C) Public and private parks and open spaces, with development in the parks and open space limited to trails and facilities (other than stables and corrals for animals) for hiking, jogging, non-motorized biking, and nature walks.

(D) Water quality basins

(E) Private drives to allow access.

(4) Location of Utilities. All utilities other than wastewater shall be located outside the critical water quality zone, except for crossings.

(5) Wastewater Lines. Wastewater trunk lines and lateral lines shall be located outside the critical water quality zone whenever possible except for crossing. At the time of preliminary plat review, the City's appointed designate shall make a report to City Council on any significant environmental impact and

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possible alternative related to wastewater line locations in the critical water quality zone. In no case shall any wastewater line be located less than one hundred (100) feet from the center line of a major waterway or fifty (50) feet from the center line of an intermediate waterway except for crossings, unless approved by the City Council upon consideration of reports by the City appointed designate, and unless the applicant has shown that installation outside of this zone is physically prohibitive or environmentally unsound.

(b) Water Quality Transition Zone.

(1) *Establishment of Water Quality Transition Zone.* A water quality transition zone (“WQTZ”) shall be established parallel to all critical water quality zones, and shall extend from the outer boundaries of the critical water quality zone for three hundred (300) feet along major waterways, two hundred (200) feet along intermediate waterways, and one hundred (100) feet along minor waterways.

(2) *Limit on Construction Activity.* The water quality transition zone shall remain free of all construction activity, development and alterations except that the following may be permitted:

- (A) Utilities as provided for in this code.
- (B) Fences that do not obstruct flood flows.
- (C) Public and private parks and open space, with development in the parks and open space limited to trails and outdoor facilities (other than stables and corrals for animals) for hiking, jogging, non motorized biking, and nature walks when a program of fertilizer, pesticide, and herbicide use is approved by the City.
- (D) Concrete private drives to allow access to property not otherwise accessible.
- (E) Arterial, collector, and residential street crossing provided that major waterways may not be crossed.
- (F) Minor drainage facilities and water quality controls, provided such facilities or controls are in compliance with the floodplain modification guidelines section of the City of Austin Environmental Criteria Manual, as amended, as if they were in the floodplain.

(3) *Minimum Lots Size.* The minimum size of all lots within or partially within a water quality transition zone shall be at least one (1) acre, exclusive of all land within a twenty-five (25) year floodplain.

(4) *No Development Without Exemption.* No commercial, multi-family, or single family residential development shall occur within the water quality transition zone unless an exemption has been obtained pursuant to this chapter.

(c) Upland Zone.

(1) *Establishment of Upland Zone.* An uplands zone is established to be that portion of land which is not located within the Critical Water Quality Zone or the Critical Water Transition Zone.

(2) *Development Limitations.* Development limitations including impervious cover shall not exceed the limits set forth in this chapter.

(3) *Minimum Lots Size.* The minimum size of all lots within the uplands zone shall be at least one (1) acre.

(d) Building Sites. All lots or tracts of land shall contain an adequate building site prior to development. An adequate building site shall not contain:

- (1) Discontinuous segments;
- (2) Land within the critical water quality zone;

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(3) Land within the water quality transition zone, unless an exemption is obtained pursuant to this subchapter.

- (4) Land within a drainage or utility easement;
- (5) Any stream, pond or permanent water quality controls;
- (6) Land within building setback lines.

(e) Impervious Cover Calculations.

(1) *Compliance with Zoning.* Although a certain percentage of impervious cover is discussed and designated within this section, nothing in this section shall release a person from meeting the requirements of the City's Zoning Code.

(2) *Areas Included.* Impervious cover calculations shall include all roads, driveways, parking areas, buildings, concrete and other impermeable construction covering the natural land surface. Swimming pool surface water area for pools which discharge to a storm drainage system shall also be included. All pedestrian sidewalks within public right-of-way are excluded from the impervious cover calculations. Water quality controls and other conveyances for drainage purposes only shall not be calculated as impervious cover.

(3) *Pavers.* Permeable or interlocking pavers does not qualify as impervious cover.

(4) *Assumptions.* Impervious cover calculations for single family lots shall be assumed as follows:

LOT AREA	IMPERVIOUS COVER
One (1) or greater	6,000 square feet
Less than one (1) acre	5,000 square feet

(5) *Requirements.* Single family shall comply with the following requirements:

Land Use	Minimum Lot Size	Aggregate Impervious Cover
Single Family	1.0 acre	18 percent

(6) *Limitation on Impervious Cover.* The projected impervious cover on any single lot or undivided tract in the upland zone shall not exceed eighteen (18) percent.

(7) *Inclusion of Roadways.* Impervious cover calculations shall include each roadway within a proposed development only up to a maximum pavement width of twenty-four (24) feet. Requirements for water quality controls or detention facilities for runoff from such roadways are not affected by this provision.

(8) *Certain Roadways.* Development adjacent to roadways shall include in its calculations the roadway's impervious cover as outlined in the City of Austin Environmental Criteria Manual, as amended, except that this provision does not apply to those roadways that already have Water Quality Controls in place or have been approved for construction by the City Council.

(9) *Other Areas to Include in Calculations.* Impervious cover calculations for development within the extraterritorial jurisdiction of the City, shall include any site area used for the storage of scrap and metal salvage, including auto salvage, as impervious cover.

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(10) *Existing Impervious Cover.* In calculating projected impervious cover data, all existing impervious surfaces shall be included in the calculations and charged against impervious cover allowances. This provision does not include any “natural” imperviousness, such as rock outcrops. Roads, parking area, buildings and other construction are to be assumed as one hundred (100) percent impermeable unless specific proposed alternate surfaces are authorized as being less than such by the City Council or its appointed designate. Water quality basins, swales and other conveyances for overland drainage need not be calculated as impervious cover.

(11) *Exemption Allowing Additional Impervious Cover in the Water Quality Transition Zone, or Upland Zone and of Commercial, Retail, and/or Multi-Family Developments.* The City Council may grant an exemption for the following types of developments:

(A) Additional impervious cover for single-family development within the WQTZ and/or Upland Zone; and

(B) Commercial, retail and/or multi-family development in the WQTZ and/or the Upland Zone.

(I) A person desiring to develop in the water quality transition zone or increasing the allowable impervious cover in the Upland Zone or for retail and/or multi-family development may submit an application for an exemption at the time of submission of the preliminary site plan, and the application shall be acted upon by the City Council at the same time that the preliminary site plan is acted upon.

(II) A exemption may be granted only if the following standards are met:

a) Impervious cover in the water quality transition zone shall be no more than eight (8) percent of the total portion of the lot that is in the transition zone. The impervious cover within the water quality transition zone shall be part of, and not in addition to, the total amount of impervious cover allowed on the lot as a whole. This paragraph applies to increased development within the WQTZ.

b) A minimum setback of at least seventy-five (75) feet shall be maintained between the critical water quality zone and developed, impervious, or pollutant source areas, or areas with disturbed vegetation or soil in the water quality transition zone. Within the aquifer recharge zone, a one hundred and fifty (150) foot minimum setback shall also be preserved between developed, impervious, or pollutant source areas, or areas with disturbed vegetation or soil in the water quality transition zone and any identified recharge features. This paragraph applies to increased development within the WQTZ or the Upland Zone.

c) Impervious cover, water quality controls, and drainage shall be designed to allow maximum infiltration of clean rainfall runoff. The applicant shall provide an increased average annual infiltration equal to one hundred twenty five (125) percent of the infiltration volume lost due to development within the transition zone. The increase must be shown compared to the average annual infiltration volume without the proposed water quality transition zone encroachment. Increased infiltration can be achieved using retention/re-irrigation of storm water runoff, infiltration basins, disconnected impervious cover, and/or engineered vegetative buffers. Infiltration estimates must be based either on soil data for the site published by the Soil Conservation Service or on field measurements of the infiltrative capacity of the surface soil, using such devices as a ring infiltrometer. Subsurface infiltration testing methods for septic systems are not acceptable. This paragraph applies to increased development within either the WQTZ or the Upland Zone.

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d) Water quality controls shall be designed to be at least twenty-five (25) percent more efficient at reducing the average annual pollutant load for total suspended solids, total nitrogen, total phosphorous and total organic carbon or chemical oxygen demand than water quality controls required for development in the Upland Zone. This paragraph applies to increased development within either the WQTZ or the Upland Zone.

e) Where development encroaches into the water quality transition zone, associated turf and landscaped areas requiring fertilizer, pesticides, herbicides, insecticides, or fungicides for maintenance shall be prohibited. Disturbances of the natural vegetation and tree cover shall be prohibited except within the building footprint and the surrounding construction disturbance area. The surrounding construction disturbance area within the water quality transition zone shall be limited to a maximum radius of twenty (20) feet from the building footprint, unless the developer can demonstrate that a greater, specified radius is necessary and would not produce greater adverse effects than a twenty (20) foot radius. The developer shall be required to prepare and present to the City for approval deed restrictions which convey the requirements of this section to future property owners of lots located within the water quality transition zone. This paragraph applies to increased development within the WQTZ.

f) An exemption under this subsection may be granted only if the impervious cover allowance within a water quality transition zone has not been transferred to another parcel.

(III) The conditions of a exemption under this subsection shall be imposed on the property as a restrictive covenant running with the land, in a form approved by the City Attorney, and recorded in the real property records of the Hays County, Texas once a final site plan is approved by the City Council.

(f) Water Quality Standards and Specifications.

(1) *General.*

(A) Inspection. The City's Engineer shall inspect all land grading, drainage, detention, and water quality controls to determine compliance with the approved site plan.

(B) Concurrence Letter. When construction of these facilities is complete, the design engineer shall submit a concurrence letter to the City's Engineer stating that in the design engineer's opinion, the project is in substantial conformance with the approved construction plans. The City's Engineer will then perform a final inspection. If all applicable Code provisions and construction plan requirements are met, a Certificate of Occupancy will be released by the accountable official.

(C) Water Quality Control Inspection and Certificate of Compliance. Final acceptance of facilities by the City, or approval of Certificates of Occupancy shall not be issued until a water quality control inspection of the facility and certificate of compliance is completed by the City.

(2) *Erosion-Sedimentation Control and Construction Sequencing; Dust Control.*

(A) Erosion and Sedimentation Controls. Erosion and sedimentation controls in accordance with the specifications established in the City of Austin Environmental Criteria Manual, as amended, are required for all construction and development, the construction of all roads, utilities, parks, golf courses, water quality controls, detention basins, and all other activities utilizing clearing, trenching, grading or similar construction techniques.

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(B) Complete Projects. Projects shall not be considered complete until restoration has been made, the approved permanent vegetation established, and installation certified for acceptance by the City after receipt of the design engineer's concurrence letter.

(C) Changes. Significant changes to approved erosion control and construction sequencing plans may be made in the field after two (2) days written notice to the permit holder if the Code Enforcement Officer deems the control or sequencing inappropriate or inadequate, and has confirmed those findings with the City. Minor changes which result in an upgrading of erosion controls or simply reflect the progression of construction on a site may be accomplished in the field without such written approval.

(D) Temporary Erosion and Sedimentation Control Plan and Water Quality Plan. Development shall require a temporary erosion and sedimentation control plan and water quality plan certified by a registered professional engineer and approved by the City's Engineer which will control off-site sedimentation during the construction of the project by temporary structural controls, site management practices, or other approved methods until permanent revegetation is certified complete. The temporary erosion control plan must be phased to be effective at all stages of construction and must be adjusted, maintained, and repaired as necessary. The water quality plan shall be approved in conjunction with the site plan approval. In addition, a dust control plan approved by the City's Engineer shall be included with the other plans required in this section.

(I) At the time the developer submits a final site plan, the developer also shall submit the erosion and sedimentation control, water quality, and dust control plans.

a) The plan must specify site layout, grading, and drainage patterns, locations of all land disturbance, silt fences, spoil disposal areas, delineation of limits of construction, construction staging areas, construction entrances, temporary and permanent erosion and sedimentation controls, and temporary and permanent water quality controls.

b) The plan must contain a discussion of project phasing and measures for assuring that proper erosion protection is in place.

c) The plan must contain measures to limit airborne particulates and dust when dry and/or windy conditions create potential air quality degradation.

(II) Prior to clearing activities at the site, all permanent water capture-type controls must be excavated and drainage appurtenances constructed such that these facilities will serve as temporary construction-phase sedimentation traps prior to final finishing and revegetation of the structure.

(III) Silt control measures must be placed in the unfinished water quality structure to assure that sediment does not flow unfiltered from the unfinished facility.

(IV) The contractor's representative is responsible for compliance with construction-phase sediment and erosion control rules must perform the following activities:

a) Attend the pre-construction meeting at the site to present proposed temporary erosion control measures to the City's Engineer and/or the City's representative.

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b) Prior to any site clearing, conduct an inspection of all temporary erosion control measures with the City's Engineer and/or the City's representative.

c) During or immediately after all significant rainfall events, visit the site to evaluate the performance of temporary erosion control measures.

d) Following each significant rainfall event, schedule a meeting with the City's Engineer or the City's Engineering representative to discuss the performance, ongoing adequacy, and required upgrades of the site's temporary erosion control measures.

e) During dry or windy conditions creating potential dust migration off-site, must implement the dust suppression measures described in the erosion/sedimentation plan.

(V) All drainage from potentially disturbed areas must drain through a properly installed silt fence prior to exiting the site. Silt fences must be constructed in strict compliance with design specification detailed in the City of Austin's Environmental Criteria Manual. Silt fence construction must use proper excavation and anchoring depth and minimal disturbance and complete compaction of disturbed areas adjacent to the silt fence, as described in the City of Austin Environmental Criteria Manual. Silt Fences must be properly secured to steel posts and woven wire supports such that there are no openings at the junctions of silt fence material. The contractor shall only use new or completely intact silt fence material. No worn, torn, or punctured silt fence material is permitted. When accumulated silt behind a silt fence exceeds six (6) inches in depth, it must be removed and properly disposed of. After completion of the project and certification of complete stabilization of site vegetation, the silt fence may be removed; however, the disturbed ground must be thoroughly compacted such that there is no loose soil along the former path of the silt fence.

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

(I) Clearing of existing vegetation is prohibited unless the City determines the clearing is pursuant to and in accordance with a released site plan or a released subdivision construction plan;

(II) Limited clearing of existing vegetation or other specified development activities necessary for surveying or geological testing is authorized before release of a site plan or subdivision construction plans to the minimum extent necessary to surveyor conduct geological tests. Areas cleared for surveying or testing purposes shall not exceed a width of fifteen (15) feet. No tree with a diameter greater than eight (8) inches or having a circumference of nineteen (19) inches shall be removed in connection with surveying or testing.

(III) Clearing of existing vegetation on land used for an agricultural use is prohibited if an application for approvals required to develop that land for other than an agricultural use is pending or such an approval has been granted, including without limitation an application for approval of a preliminary subdivision plan, a final subdivision plat, a site plan, or zoning as a district where the agricultural use is not permitted. The City may waive this prohibition if the applicant can show that the clearing has a bona fide agricultural purpose and is unrelated to the proposed development or sale of the land for nonagricultural uses.

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(IV) The location for clearing for temporary storage of spoils or construction equipment shall be shown on the released site plan. Any such location shall be in accordance with the City of Austin Environmental Criteria Manual, as amended. Topsoil shall be protected against erosion during and after the site grading operations. Where practical, the existing vegetation shall be left in place.

(V) The length of time between rough-cutting and final surfacing of a street shall not exceed 12 months. If an applicant does not meet this deadline, the City shall provide written notice to the applicant and to the record owner of the subject property that the City may complete the street or revegetate the disturbed area at the applicant's expense unless the work is completed no later than 60 days after the date of notice.

(VI) Roadway clearing width shall not exceed the width of the dedicated right-of-way.

(VII) Vegetation within the critical water quality zone and the water quality transition zone may not be disturbed except for purposes consistent with development activity permitted.

(VIII) All constructed and altered drainage channels shall be stabilized and vegetated immediately after final grading.

(IX) The City shall submit a copy of the erosion and sedimentation control measures to the Barton Springs/Edwards Aquifer Conservation District for review and comment.

(3) *Water Quality Controls.*

(A) General. Water quality controls and the drainage systems to the controls shall be designed, constructed and maintained at a minimum in accordance with the specifications established by the City of Austin Environmental Criteria Manual. Construction of Water Quality Control facilities must begin not later than eighteen (18) months after approval of a final site plan providing for such facilities. The applicable Watershed Development Permit shall expire if construction is not commenced before such deadline to commence construction. Water quality controls shall be required according to the criteria established by this Section as evaluated for each development application. When water quality controls are required, they shall be shown on the slope map, preliminary plats, preliminary site plan, land use site plan, construction site plan and/or the subdivision construction plans.

(I) For water quality controls located in series, the second or later control following sedimentation, extended detention, sedimentation/filtration or similar structure shall not require an impervious liner.

(II) Water Quality controls shall be required for golf courses, play fields and similar improved recreational uses where fertilizers, herbicides, or pesticides are applied.

(III) Water quality controls shall increase the capture volume by one tenth (.10) of an inch above the required one half (.50) inch for each ten (10) percent increment of impervious cover over eighteen (18) percent.

(IV) Water quality controls are required for all development regardless of the level of impervious cover. Such controls will be designed to meet the standards of the City of Austin

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Environmental Manual, as amended, provided that the design therein achieves the greatest pollutant removal efficiency for the particular site conditions.

(IX) Vegetative buffers may be used to treat runoff from private driveways and parking areas for single family residential use, or for sidewalks, roof tops, golf courses, play fields, or landscaped areas receiving applications of chemical pesticides or fertilizers. Vegetative buffers shall not be used to treat public, roadways, driveways, or parking areas unless water quality retreatment is provided. Vegetative buffers shall be designed to meet the standards of the City of Hays, as well as applicable requirements of the Lower Colorado River Authority (LCRA), City of Austin, and Texas Natural Resource Conservation Commission.

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

(I) Water quality control facilities designed in the Water Quality Transition Zone must be placed as close to the Upland Zone line as technically practical.

(II) Plans are to be submitted to the Texas Natural Resource Conservation Commission for approval.

(III) All with four lots or more consisting of less than five (5) acres per lot shall provide water quality controls that shall comply with the City of Austin's Environmental Manual, as amended.

(IV) Water quality control facilities shall be situated and constructed to capture runoff from developments and associated streets (including boundary streets).

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

(VI) The design of all permanent water quality control sedimentation basins shall allow an average residence time of twenty-four (24) hours for the water quality volume.

(VII) All basins shall have impervious liners to prevent seepage to groundwater.

(VIII) Input to and release from detention basins shall utilize grasslined swales and/or overland flow dispersion measures.

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

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(C) Maintenance and Compliance.

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

(II) Water quality control facilities for a commercial, retail and/or multi-family lot development shall also require an annual renewal permit.

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

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

b) The developer's engineer shall submit to the City for approval the estimated annual operation and maintenance costs for each year of the first five (5) years for the operation of the water quality control facilities associated with each phase of the final plat phase of single family and two-family developments.

c) To aid in defraying the City's costs associated with maintenance and operations of water quality control facilities constructed by the developer for single family and two-family residential developments, the developer will, at the time of final platting each subdivision phase, pay the City an amount equal to the estimated first five (5) years of operation and maintenance costs associated with the water quality facilities required to service each final plat phase. The water quality control facilities will not be considered operational and thus maintained by the City until the first single family residence is constructed and occupied.

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

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

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

b) Bring an action for mandatory injunction to require the property owner to accomplish the necessary maintenance.

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(VI) All drainage easements across private property shall contain the necessary language to permit the required water flow, allow and require the maintenance set out herein, and permit the necessary access by the City for inspection and maintenance. All these shall be properly noted on the site plan and/or subdivision plat.

(VII) The required maintenance on a commercial, retail, and/or multi-family lot by a property owner and the power of the City shall be noted in a restrictive covenant agreement to be filed with the Hays County Deed Records.

(VIII) The applicant shall designate one person or legal entity, with a current address, to which notice shall be given pursuant to this subsection.

(IX) An inspection and renewal permit fee for water quality basins, as specified in the Fee Schedules that the City Council adopts, shall be paid at the time of development approval.

(X) A water quality facility located wholly on City property and serving nothing but City property or a public works project shall be maintained by the City.

(XI) A water quality facility serving both City property and private property zoned nonresidential or devoted to nonresidential use shall be maintained by the owner of the private property served by the facility, unless the City has otherwise entered into an agreement providing for maintenance of the facility by the City.

(D) Inspection and Renewal Permit.

(I) At least once each year the City shall inspect the premises of each water quality control required to be maintained by the owner.

(II) Any person or entity owning or operating commercial, retail, and/or multifamily development in the City or ETJ shall obtain and maintain in force an annual renewal permit for the required water quality controls, unless the owner and the City have entered into a contractual agreement where by the controls will be maintained by the City. A water quality control renewal permit shall be granted or renewed after:

a) the applicant has filed with the City a maintenance plan in accordance with the City of Austin Environmental Criteria Manual, as amended.

b) the applicant has paid the permit fee as established by the City and supplied the necessary information to verify that the controls are in proper operating condition.

(III) Upon transfer of ownership of a commercial, retail, or multi-family development, the new owners/operators shall obtain a new permit, accept responsibility for the water quality controls at the time of transfer of the development, and document the transfer of the permit on a form provided by the City on or before the date of transfer of the development.

(IV) No permit shall be granted or renewed until or unless the permit fee has been paid and the facility is in operating condition as designed. The City shall inspect and accept a report from a registered engineer verifying that the water quality control is in operating condition as designed. The fee shall be paid simultaneously with the filing of the application. No refund or rebate of a

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permit fee shall be allowed based on denial of the permit, suspension or revocation of the permit, or discontinuance of use of a water quality control. The permit fee shall be sufficient to cover the cost of inspection and review of the report from owner.

(V) Quarterly, beginning with the 3-month anniversary of the issuance of the water quality control facility operating permit, permittee must submit documentation that the facility is in proper operating condition, including photographs of the facility. The photos should be dated, and should show, at a minimum, the inlet structure, outlet structures and the condition of any vegetation. The fourth quarter documentation should be submitted together with the annual report required for permit renewal.

(E) Fiscal Security.

(I) Fiscal security shall be required for development in the City and the ET1 to ensure that the water quality controls required are functioning properly. Fiscal security shall be based on an estimate prepared by the developer's engineer and reviewed and approved by the City. The estimate shall include, but is not limited to, the cost to construct the temporary and permanent water quality control facilities for the particular site development.

(II) The fiscal security shall be returned to the applicant no earlier than one year after completion of the development, and only upon the receipt of a certified engineering concurrence letter verifying that the controls are constructed in conformance with the approved design as verified after inspection by the City.

(III) In the event the annual inspection required under this Chapter reveals that the water quality controls are not being properly maintained or repaired, fiscal security shall be required in connection with the issuance of the next annual inspection and renewal permit. The amount of the fiscal security shall be ten percent (10%) of the amount which had been required for the initial construction of the water quality control facilities. This fiscal security shall be retained by the City for a minimum of two (2) years to a maximum of five (5) years; however, the City retains the right to extend or reimpose the requirement for fiscal security at any time inspections reveal that the water quality controls are not being maintained or repaired.

(4) *Additional Pollution Reduction Requirements.* All development shall include the following additional pollution reduction techniques:

(A) Untreated Runoff; Critical Environmental Features. No untreated run-off arising from development shall be allowed to flow over critical environmental features that are recharge features.

(B) Untreated Runoff; Recharge Features. No untreated run-off arising from development, shall be allowed in defined channels containing recharge features provided that for single family residential lots adjacent to Transition Zones, untreated run-off may be discharged through the transition zone provided that the Transition Zone meets the criteria in the City of Austin Environmental Criteria Manual, as amended, for vegetative filter strips.

(C) Stormwater Detention. Developments must provide detention for the two (2) year storm, unless it is determined by the City that the development is a participant in a regional stormwater detention facility, or centralized detention facility, or control of the two (2) year storm will result in identifiable adverse flooding as determined by a Registered Professional Engineer and confirmed by the City's Engineer.

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(D) Pollution Reduction Measures. Commercial, retail and/or multi-family development shall also include two of the following four pollution reduction measures:

- (I) Xeriscape with a fertilizer reduction element and an Integrated Pest Management Plan;
- (II) A street sweeping program or covered parking with parking drainage isolated from stormwater;
- (III) Construction restricted to 0-10% slopes;
- (IV) The design includes separation of roof run-off from other filtered run-off volumes and reirrigates this on the site.

(5) *Landscape.*

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

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

(6) *Ecological Considerations.* Development shall comply with the following standards, as well as other provisions of this Code addressing ecological considerations:

(A) Minimal Impairment. The development shall cause minimal impairment of the regenerative capacity of aquifers and other ground water and surface water supplies. Plugging, filling, or sealing any significant recharge feature, as that term is defined in this Code, is prohibited.

(B) Minimal Adverse Impact. The development shall cause minimal adverse impact upon critical areas, such as streams, slopes greater than fifteen percent (15%), highly erodible soils and mature stands of native vegetation.

(C) Protect Creek Flow. No proposed structure shall impair creek flow or cause lateral back up of water.

(D) Pesticide and Fertilizer Management Plan.

(I) A pesticide and fertilizer management plan shall be submitted providing information regarding proper use, storage, and disposal of pesticides and fertilizers. The plan shall indicate likely pesticides and fertilizers to be used. The plan shall include two lists of pesticides and fertilizers: (1) those which, due to their chemical characteristics, potentially contribute significantly to water quality degradation; and (2) those which, due to the chemical characteristics, potentially would result in minimal water quality degradation.

(II) Landscaped areas should use limited amounts of fertilizer. Nitrogen within the fertilizer should be slow-release formulations: composted organic mulches, urea formaldehyde (UF), methylene urea, isobutylidene diurea (IBDU), and sulfur coated urea (Pitt, 1994). The mass of nitrogen applied to each area per year should not exceed the estimated nitrogen utilization rate of the vegetation. The following table provides a guide of typical nitrogen utilization rates for the Texas Hill Country:

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VEGETATION	NITROGEN UPTAKE (pounds/acre/yr.)	REFERENCE
Lawn Grass	130	Leps & Dubie (no date)
Ryegrass	200-280	U.S. EPA (1981)
Coastal Bermuda Grass	400-675	U.S. EPA (1981)

(6) *Water Conservation Plan.* As part of the requirements for development, the applicant shall submit a Water Conservation Plan. The water conservation plan shall include as a minimum the following:

- (A) Identify of all water users;
- (B) Monitoring program to identify and repair water pipe leaks;
- (C) Installation of water-efficient plumbing fixtures; and
- (D) Description of a water-efficient landscape program, including options for landscape irrigation using rooftop runoff (rainwater harvesting).

(Section 10-6 of Ord. 110B, passed 7-5-06)

§ 92.027 Driveways

(a) Driveways. Drainage in side ditches should not be significantly altered or impeded by any driveway. All driveways shall be designed such that drainage flow from a twenty-five (25) year storm shall not exceed a depth of twelve (12) inches on any portion of the driveway. Should driveway culverts be required the City Council may require the following information be submitted. The dimensions of the culvert or opening and other design features, such as slope capacity of structure, drainage with material specifications computations and amount of flow, pipe specification corrugated metal or concrete, necessary grading upstream and downstream information, end section treatment and similar information on any upstream and downstream structures shall be shown on a site plan and accepted by a designee of the City Council.

(b) Connection to Public Roadway. The City is not responsible for any damage to existing or future driveways that may occur when the drainage areas are repaired or improved to insure the integrity of the roadways. Therefore driveways connected to city roadways over drainage areas, side ditches, should be constructed of material that will not impede improvements and may be easily restored if damaged. This aspect of driveway construction must be addressed in construction plans submitted to the City.

(c) Permit Required. A permit is required for all driveways on new and existing homes. This permit is to be filled out completely and submitted to the City Administrator. Construction plans for driveways must accompany the permit. The driveway must meet the above standards before construction. A permit fee may be required for driveways.

(Ord. 110B, passed 7-5-06; Amend. Ord. 100598, passed 10-5-98)

§ 92.028 Drainage

(a) Drainage Criteria. The Drainage Criteria Manual, 2006 Edition, and amendments thereto, as published by the City of Austin, Engineering Department is hereby designated and adopted as the drainage criteria and policy of the City.

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(b) Conflicting Standards. Whenever the standards and specifications of this chapter conflict with another provision of the Code, the most stringent or restrictive provision shall govern.

(c) Interpretation. The interpretation of the requirements set forth in this section shall be made by the City administrator or designate, unless specified otherwise by the City Council.

(d) Responsibility for Conveyance of Storm Drainage. The developer shall be responsible for the design and construction of facilities that are adequate to provide for the conveyance of all storm drainage flowing through or abutting the subject property, including drainage directed to the property by prior development as well as that naturally flowing by reason of topography.

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

(1) *Controls and Detention Ponds*. All required drainage controls and detention ponds should meet the Standards of the City of Austin.

(2) *Open Space Calculation*. Drainage improvements shall be designated as open space and shall not count toward the one-acre minimum lot size requirement.

(3) *Location, Ownership, and Maintenance of Improvements*. Drainage improvements shall be constructed in easements dedicated by plat and shall be owned and maintained by the lot owner or the home/property owners' association.

(f) Drainage Pattern Design. Drainage patterns should be designed to prevent erosion, maintain filtration and recharge of local seeps and springs, and attenuate the harm of contaminants collected and transported by storm water. Overland sheet flow and natural drainage features and patterns shall be maintained to the greatest extent reasonably possible and the dispersion of runoff back to sheet flow shall be the primary objective of drainage design where possible, depending on volumes and velocities of runoff for the development, as opposed to concentrating flows in storm sewers and drainage ditches.

(g) Limitation on Use of Certain Improvements. Construction of enclosed storm sewers and impervious channel linings are permitted only when the City finds that the use of open and/or natural channels are not practical.

(h) Storm Sewer Design. If storm sewers are deemed necessary, the developer shall design the drainage system to mitigate its harmful impact on the environment by using structural devices or other methods to prevent erosion and dissipate discharges from outlets wherever practicable, and by loading discharges to maximize overland flow through buffer zones or grass-lined swales.

(I) Adequate Offsite Facilities. The responsibility of the developer shall extend to the provision of adequate offsite drainage facilities and improvements to accommodate the full effects of the development of said property.

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

(k) Minimum Requirements. Unless otherwise specified herein, the design of all storm drainage facilities shall at least meet the requirements of the most current version of the City of Austin Drainage Criteria Manual.

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

(m) Setback for Critical Environmental Features. Critical environmental features shall have a standard setback of one hundred and fifty (150) feet around said feature. An administrative variance may be granted by the City's Engineer for a fifty (50) foot setback on the downstream side only of said feature.

(n) Rate of Runoff. The rate of runoff after construction shall not exceed the site's runoff rate prior to construction. Rate of runoff shall be computed on a two, ten, and 25-year storm peak flow using the City of Austin Drainage Criteria Manual, as amended.

(o) Surface Drainage Channels. Surface drainage channels shall be designed to reduce velocity, minimize potential erosion, and to maximize the bottom width to flow depth ratio, in accordance with the following criteria:

(1) Configuration. Channel cross-sections shall be trapezoidal in configuration.

(2) Side Slopes. Side slopes of channels shall not be any steeper than four horizontal to one vertical.

(p) Six-Month Design Storm. For a six-month design storm assuming wet antecedent conditions, channel bottom flow depth shall not exceed four inches and design flow velocity shall be two and one-half (2 1/2) feet per second.

(q) Stabilization and Vegetation. All constructed and altered drainage channels shall be stabilized and vegetated immediately after final grading.

(r) Exceptions. The City Council may allow exceptions to the design flow velocities or depths in limited transitional channel sections (such as culverts, culvert entries and exits, drop sections, and sharp bends) or on lands with greater than 15 percent (15%) slope, or less than two percent (2%) slope; provided that the design flow velocity shall never be greater than three (3) feet per second or design depth greater than six (6) inches.

(s) Edwards Aquifer Recharge Zone. A developer shall not cause rainfall/runoff that would have occurred under pre-development conditions over the Edwards Aquifer Recharge Zone to be collected, channeled, and/or conveyed downstream of the recharge zone after a development is completed.

(t) Easements. Public drainage easements shall include all drainage at least to the limits of the 25-year flood as indicated on the flood plain maps or as determined on the basis of the Drainage Criteria Manual, as amended. All drainage easements across private property shall contain the necessary language to permit the required

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unobstructed water flow, require maintenance of vegetation by the property owner(s), and permit the necessary access by City officials for inspection and repairs. The minimum drainage easement width shall be 25 feet. All easements, 25- and 100-year flood plain boundaries shall be clearly shown on drainage plans and the site plan.

(u) Roadway Drainage. As a general rule, drainage carried in roadside channels shall be minimized and off-roadway locations shall be used as the primary drainage network whenever practicable. When roadside channels are required, they shall be contained within a dedicated right-of-way or right-of-way easement. Channel side slopes shall be no steeper than four to one, except for curves and transitions where slope stabilization acceptable to the City's Engineer may be allowed. Roadways shall be designed for fordable driveway approaches whenever practicable. All driveways shall be designed such that drainage flow from a 100-year storm shall not exceed a depth of 12 inches on any portion of the driveway. Should driveway culverts be required, the culvert design capacity and general location shall be shown on the construction plans. Minimum driveway culvert diameter shall be 12 inches. In no case shall driveway approaches constitute a blockage of roadway drainage.

(v) Maintenance and Compliance.

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

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

- (A) Cause the necessary restoration to be accomplished and assess the property owner for the City's actual cost; or
- (B) Bring an action for mandatory injunction to require the property owner to accomplish the necessary maintenance.

(w) Use of Professional Services. The City shall have the right to select and engage sanitarians or engineers, or any combination thereof, to conduct investigations, tests, examine plans and specifications, present evidence, advise and represent the City, and assist the applicant in the development of a on-site sewage facility or water retention and drainage facility in accordance with the provisions of this chapter. The applicant shall be required to reimburse the City for reasonable costs of such services.

(Section 10-7 of Ord. 110B, passed 7-5-06)

SUBCHAPTER C. PLAT PROCESSING AND APPROVAL

§92.040 Applicability

(a) Subdivision Approval Required. No land in the City or its extraterritorial jurisdiction shall be divided or combined into one or more lots until such subdivision of land has been approved by the City Council in accordance with the regulations in this chapter.

(b) Prerequisites for Issuance of Permits. No permit shall be issued pursuant to any Code provision for any structure or for the repair, modification or installation of a on-site sewage facility upon any lot in a subdivision

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or re-subdivision for which a final plat has not been approved and filed for record by the City, or upon any lot in a subdivision in which the standards contained in this chapter or referred to in this chapter have not been complied with in full.

(c) Legal Action. On behalf of the City, the City attorney shall, when directed by the City Council, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this chapter or the standards referred to in this chapter with respect to any violation thereof which occurs within the City as such jurisdiction is determined under Chapter 42 of the Texas Government Code, or within any area subject to all or a part of the provisions of this chapter.

(Section 10-4 of Ord. 110B, passed 7-5-06)

§92.041 Plat Preparation, Contents, and Submittal

(a) General. The subdivider shall cause to be prepared a plat by a surveyor or engineer in accordance with this chapter.

(b) Early review. To assist in meeting all the requirements of this chapter, applicants shall submit three (3) blue-line copies of proposed plats and meet with the City administrator at least thirty (30) days prior to the formal application and filing date.

(c) Formal application and filing date. Subdividers shall apply by letter, accompanied by the original plat, five (5) full-sized copies, and all required attachments, addressed to the City Council. Applications must be administratively complete and shall be delivered to the City administrator or City secretary not earlier than the 29th day, but not later than the 26th day, before the City Council meeting date. Late/administratively incomplete applications will not be accepted.

(d) Filing fee. A filing fee set by the City Council shall be due eight days before the City Council meeting. The City will deny applications for which fees have not been paid before the meeting convenes.

(e) Form and contents. The plat shall be drawn in indelible ink or typed and, after recording, a copy on mylar or similar material eighteen (18) inches by twenty-four (24) inches shall be furnished to the City and the county clerk at the subdivider's expense. The plat shall be drawn to a scale of one hundred (100) feet to one (1) inch. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. The plat shall show the following:

(1) The plat shall show the names and addresses of the subdivider, record owner, engineer and surveyor.

(2) The plat shall show the proposed name of the subdivision, which shall not have the same spelling as or be pronounced similarly to the name of any other subdivision located within the City or within the area of extraterritorial jurisdiction of the City or the county.

(3) The plat shall show the names of contiguous subdivisions and the owners of contiguous parcels of subdivided and unsubdivided land, and an indication of whether or not contiguous properties are platted.

(4) The plat shall show primary control points or descriptions, and ties to such control points, to which all dimensions, angles, bearings, block numbers and similar data shall be referred.

(5) The plat shall show subdivision boundary lines, indicated by heavy lines, and the computed acreage of the total subdivision and each lot therein.

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(f) Existing and Proposed Sites. The plat shall show existing and proposed sites as follows:

(1) The exact location, dimensions, name and description of all existing or recorded streets, alleys, reservations, easements or other public rights-of-way within the subdivision intersecting or contiguous with its boundary or forming such boundary, with accurate dimensions, bearing or deflecting angles and radii, area, central angle, degree of curvature, tangent distance and length of all curves where appropriate, and location of active on-site sewage drainfields.

(2) The exact location, dimensions, description and name of all proposed streets, alleys, drainage structures, parks, other public areas, reservations, easements or other rights of-way, blocks, lots, existing structures and other sites within the subdivision with accurate dimensions, bearing or deflecting angles with radii, area and central angles, degree of curvature, tangent distance and length of all curves where appropriate.

(3) The location and size of existing water lines and fire hydrants and one copy of plans and profiles of all proposed water lines greater than six (6) inches or greater in diameter and fire hydrants as, as required in this code.

(4) The plat shall show the 100-year flood plain limits of the flood way and elevation data bearing the seal of an engineer. All data shall bear the seal of an engineer. The Plat and development shall be compliant with all applicable provisions of the City's Flood Insurance Ordinance.

(5) Minimum setback lines shall be shown for all lots in the corporate limits and the City's extraterritorial jurisdiction.

(6) The date of preparation, scale of the plat and north arrow shall be shown.

(7) The plat shall show a number (*e.g.*, Lot I, Lot 2, etc.) to identify each lot or site and each block, and the exact (acreage) size of each lot.

(8) The plat shall show the location of the City Limits line, outer boundary of the City's extraterritorial jurisdiction, and zoning district boundaries, if they traverse the subdivision, form part of the boundary of the subdivision, or are contiguous to such boundary. Zoning district classification within the corporate limits of the City and for the City's extraterritorial jurisdiction, shall be designated on each lot.

(g) Vicinity. A vicinity sketch or map shall be included, which shall show existing subdivisions, streets, easements, rights-of-way, parks and public facilities in the vicinity. Such map shall be drawn at a scale in which such facilities can be clearly displayed.

(h) Drainage and Utilities. The general drainage plan and ultimate destination of water, and possible storm sewer, water, gas, electric and sanitary sewer connections, shall be shown by arrows. Such facilities shall be drawn at a scale in which such data can be clearly displayed.

(i) Residential Lots. Plats shall indicate that each residential lot is a minimum of one acre in area, including public utility easements but excluding public streets and drainage easements. All lots shall have direct access to a public street.

(j) On-Site Sewage Facilities. A statement shall be included covering all aspects of on-site sewage facilities.

(k) Recorded Restrictions. Applicants shall submit with plats copies of all deed restrictions, restrictive covenants, and declarations of covenants, conditions, and restrictions applicable to the land for City Council approval. Such documents are discouraged and must not conflict with the City Code. The plat shall include a statement indicating such documents, with provisions for the document number in deed records.

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(l) Lot Clearance and Tree Preservation. A statement shall be included as to the degree of lot clearance planned and the methods for maximum preservation of live trees and vegetation, including the applicable percentage of impervious cover for the anticipated land usage.

(m) Site Improvement Data. The proposed plat and planned site improvement data shall be submitted on all nonresidential land usage subdivisions and residential land usage subdivisions over three lots or five (5) acres for review and recommendation by the City staff and consultants. Planned site improvement data includes the following information:

(1) The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains and waterways;

(2) The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting and screening devices. All driveways are limited to undeveloped slopes below twenty-five percent (25%) gradient; and

(3) Any other information that may be reasonably required in order to determine whether the proposed development complies with the criteria and standards in this chapter, with the requirements of any other Code provisions, and other City ordinances.

(n) Topographic Map. The subdivider shall provide the City with a topographic map with contour lines at one-foot intervals for at least twenty-five (25) feet up slope and at least fifty (50) feet downslope of the proposed primary and alternate sewage disposal field areas as certified by a ground survey performed by a professional registered surveyor. The subdivider shall provide the City with a topographic map with contour lines at two (2) foot intervals for property not designated for the primary and alternate sewage disposal areas. New development on lots subdivided after July 1, 1991, shall not dispose of effluent on natural slopes in excess of thirty percent (30%), unless the method of disposal is approved by the City Council.

(o) Plat Certifications. The plat shall include the following applicable certification, executed by the appropriate person pertaining to:

- (1) Streets and roads (county or City, as applicable).
- (2) Water Control and Improvement Certification.
- (3) Feasibility certification of private on site sewage disposal facilities.
- (4) Sanitation certification.
- (5) Floodplain certification.
- (6) Lot clearance and cover limitations.
- (7) Edwards Aquifer Recharge Zone certification, as possible.
- (8) Owner's acknowledgment.
- (9) Certification by the surveyor.
- (10) Certificate by the engineer (if applicable).

(p) Technical Support Data. Technical support data shall be furnished, in an overlay format approved by the City administrator, for the following:

(1) Engineering plans and details for streets, drainage requirements and underground utility specifications.

(2) Twenty-five (25) year and 100-year flood and stormwater drainage easements and associated detention ponds and minimum flood elevations (MFE) for each affected lot.

(3) Location of critical water quality zones, water quality transitions zones, buffer zones, and significant recharge features.

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(4) The proposed primary and alternate sewage disposal field areas for each lot. A minimum of six thousand (6,000) square feet of area must be shown for both the primary and alternate sewage disposal field areas on natural slopes of less than thirty percent (30%) as certified by a ground survey. If a greater area is required by the most current version of Construction Standards For On-Site Sewerage Facilities, promulgated by the Texas Commission on Environmental Quality then that larger area must be shown for both the primary and alternate field areas. New development on lots subdivided after July 1, 1991, shall not dispose of effluent on natural slopes in excess of thirty percent (30%), unless the method of disposal is approved by the City Council.

(5) Existing effluent disposal areas known at the time of platting.

(6) Proposed driveway location for each lot on natural slopes of less than twenty-five percent (25%) grade.

(7) Map depicting topographic contour lines and highlighting the zero to fifteen percent (15%), fifteen percent (15%) to thirty percent (30%), and over thirty percent (30%) slope categories.

(8) Copy of the water pollution and abatement plan (WPAP) as submitted to Texas Commission on Environmental Quality, if applicable.

(q) Notice. The applicant shall provide written notice to owners, as they appear on the last approved tax roll of the City, of real property lying within two hundred (200) feet of the boundaries of tracts to be subdivided. The applicant shall also give written notice to all lot owners in an existing subdivision for which resubdivision, replatting, or vacation of all or part of the subdivision is proposed. The applicant shall give such notice not less than fifteen (15) days prior to the date set for hearings before the City Council.

(r) Means of Providing Notice. Every notice required by this subsection may be served by delivering a copy of the notice to the person to be served, or their duly authorized agent, either in person or by registered or certified mail to their last known address, or it may be given in such other manner reasonably calculated to give notice and approved by the City. Whenever the notice is served by mail, three days shall be added to the prescribed period.

(s) Applicant's Burden. The burden shall be upon the applicant to give notice as required in this section. A written statement by the applicant or any other person showing service of a notice shall be prima facie evidence of the fact of service. A copy of this statement shall be attached to the formal application letter. The application shall be deemed incomplete if proper notice has not been given of the public hearings as provided in this chapter. The City Council shall deem a public hearing tabled for lack of a complete application if the applicant does not produce sufficient proof of proper notice prior to the commencement of the public hearing.

(t) Contrary Proof. Nothing in this subsection shall preclude any person from offering proof that the notice or document was not received, or, if service was by mail, that it was not received within three days from the date of deposit in a post office or official depository under the care and custody of the United States Postal Service, and, upon so finding, the City Council may extend the time for taking the action required of such person or grant such other relief as it deems just.

(u) Form for Notice. The City Secretary shall provide applicants with a sample form of the notice.

(v) Notice by Sign. Fifteen (15) days prior to the hearing of any application for a vacation of all or a portion of an existing subdivision, the applicant shall place a sign on the property easily visible to the public for the purpose of advising the public of the subdivision proposed. All required signs shall remain on the property until after final disposition of the application is determined. The City Secretary shall furnish the applicant with the appropriate signs.

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(w) Newspaper Notice. In addition, notice shall be given by publication at least fifteen (15) days in advance of the hearings before the City Council in an official paper or a paper of general circulation in the county. (Section 10-5 of Ord. 110B, passed 7-5-06)

§92.042 Preliminary Conference and Conceptual Plan Filing Procedure

(a) Overview. The platting process below is described sequentially. However, relatively simple plats, in which all or most of the subdivision requirements are in place, may allow various phases of the process to be simplified/combined. The preliminary conference may be used to explore ways to shorten the platting process.

(b) Notice of intent. Subdividers shall file a notice of intent with the City, which shall include:

- (1) A description of the property proposed to be developed or subdivided;
- (2) The name of the current owner of record;
- (3) A statement of the subdivider's interest in the property, I. e. ownership or otherwise;
- (4) The intended use of the proposed development or subdivision; and
- (5) Payment of a filing fee as established by the council.

(c) Preliminary conference. Upon receipt of notice of intent, the City administrator will schedule a preliminary conference. In addition to the City administrator and subdividers or their representative(s), the mayor or a council member, and the City's consulting engineer should attend this conference, if possible. The purpose of this preliminary conference is to review or establish:

- (1) The subdivider's conceptual plans for the proposed property.
- (2) The zoning status of the property to be subdivided.
- (3) The availability of utilities for the property to be subdivided.
- (4) Plans or policies that might affect the property to be subdivided.
- (5) An approximate date at which the subdivider can present a conceptual plan of the proposed subdivision to the City.

(d) Conceptual plan. The conceptual plan may be in sketch form and shall be prepared at a scale no smaller than one inch to two hundred (200) feet. The plan shall contain:

- (1) A north arrow and location map showing the location of the proposed subdivision in relation to major roads and topographic features.
- (4) The approximate location of the property boundaries to be subdivided. If the proposed subdivision is a portion of a larger tract of land, the exterior boundary of the parent tract shall be shown on the conceptual plan and the future plans for the remaining property shall be noted.
- (5) The approximate location, width, and surfacing of streets; approximate width and depth of all lots, alleys, and easements.
- (6) Major topographic features, such as creeks, bluffs, etc., on or adjacent to the property, contour lines of the proposed property (U.S. Geological Survey topographic maps are acceptable), designation of flood prone areas, approximate drainage system, any proposed changes to the existing contour of the land, and other information deemed pertinent. Proposed approximate location of surrounding residences, businesses, industry, churches, park areas, and other land uses.

(7) A statement as to the ultimate jurisdiction for the maintenance of the roads and common areas within the subdivision.

(Section 10-5.1 of Ord. 110B, passed 7-5-06)

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§92.043 Preliminary Plat Filing Procedure

(a) General. After considering input received from the conceptual plan conference, the subdivider may file a preliminary plat and the following with the City:

- (1) A formal application for preliminary plat approval.
- (2) A fee established by the City Council.

(b) Zoning Change or Annexation Request. If a zoning change is required, or if the City desires annexation of the parcel to be platted, the subdivider shall also file an application for a zoning change or petition for annexation prior to filing the preliminary plat.

(c) Time for Filing and Copies Required. Eight legible copies of the preliminary plat shall be submitted to the City secretary not less than twenty (20) calendar days prior to the public hearing date. Two copies for the City; two copies for the City's consulting engineer; one copy for the Texas Department of Transportation.

(d) Preliminary Plat Contents. The preliminary plan shall be drawn on mylar, a maximum of twenty-four (24) inches long and thirty-six (36) inches wide. The plat shall be drawn to a scale of one (1) inch to one hundred (100) feet (or to a scale less than one (1) inch to one hundred (100) feet), provided that the scale is divisible by ten. When necessary, the scale may be reduced to one inch to five hundred (500) feet. If more than one sheet is needed to accommodate the entire plat, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plan. The plan shall show:

(1) The date of last revision, scale and north point, location map of the tract, the title under which the plat is to be recorded and the names and addresses of the owner and person designing the preliminary plan. The preliminary plan shall bear the seal and signature of a registered professional engineer and/or registered professional surveyor, certifying that all requirements have been fulfilled.

(2) Property lines, names of owners of adjacent properties, deed references to unsubdivided tracts, and lot, block, and recording information for adjacent subdivisions.

(3) The name, location, width, and centerline of existing streets, alleys, railroads, other similar transportation features, easements, lots, blocks, and public areas on or adjoining any part of the land being subdivided.

(4) Contour lines at two (2) foot intervals for areas with a slope of two percent (2%) or less and five (5) foot intervals for areas with a slope greater than two percent (2%) such contour lines to be not more than one hundred (100) horizontal feet apart, unless spot elevations are provided, and based on U.S. Geological Survey datum, which shall be specified on the plan.

(5) The centerline of existing watercourses, boundary of the 1~0-year frequency storm, and location, size and flow line of existing drainage structures on the land being subdivided and on adjoining tracts.

(6) The name, location, width and dimensions of proposed streets, alleys, easements, building lines, lots, blocks, parks and other public spaces, and uses for all sites.

(7) The location and size of existing utilities or roadways.

(8) The total number of lots and the approximate acreage of each lot or tract and the total acreage within the subdivision (accurate to two decimal places).

(9) A number or letter to identify each lot or site and each block.

(10) Location of City limits line, the outer boundary of the City's extraterritorial jurisdiction, school district boundaries, and zoning district boundaries, if they traverse the subdivision or are contiguous to the subdivision boundaries.

(e) Master Development Plan. When a subdivision is a portion of a larger area planned as a phased and related development, a master development plan of the entire area showing a schematic layout of the entire

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development shall be submitted with the preliminary plan of the first portion to be subdivided. After final approval of the first portion to be subdivided, all property covered by such master development plan must subsequently, prior to its development, be platted with due regard to the safe, healthful and orderly extension of roads, utilities, drainage and other public facilities as shown on the master development plan.

(f) Previously Approved Preliminary Plan. When a preliminary plan is submitted for property covered by a previously approved and still valid preliminary plan, the later preliminary plan shall include all the property, which had not been final platted but had been included previously. Approval of such later preliminary plan shall supersede and void the prior preliminary plan approval. The City Council may, however, allow the later preliminary plan to cover less than all the property covered by the previously approved preliminary plan. Also it may allow the previously approved preliminary plan to remain partially in effect, if the same does not substantially impair the orderly planning of roads, utilities, drainage and other public facilities.

(g) Data. Data to accompany the preliminary plat shall be based on the topography and location of the tract, as well as the purpose for which the tract is being developed. Generally, each preliminary plan shall be accompanied by detailed topographic and drainage information. Other data, such as utility and street information, may be submitted in less detail. The City's Engineer may require more detailed plans and backup information before the preliminary plan is considered for approval.

(h) Proposed Topography. Existing and proposed topographic and planimetric features within the subdivision, including a topographic map with contour lines at two (2) vertical feet in terrain less than two percent (2%), and five (5) vertical feet in terrain with a slope of two percent (2%) or more. This information shall be sufficient to plan water lines, sanitary sewer lines, storm drainage facilities, streets and other improvements.

(i) Drainage Plan. A drainage plan shall show the location, type, and size of all required drainage structures, and shall indicate the route of proposed drainage. When a lot is adjacent to a major drainage course or overflow channel, such that part or all of the lot lies within the regulatory 100-year flood boundary, or when proposed building sites are within the regulatory 100-year flood boundary, the drainage plan shall show building sites and elevations required to put the finished floor a minimum of one foot above the 100-year flood level of the drainage course or overflow channel.

(1) Drainage plans shall be drawn to the same scale as the preliminary plan. The scale of supplementary plans, profiles, and cross-sections shall be sufficient to show details clearly, if required to demonstrate the adequacy of existing or proposed facilities.

(2) Plans shall show storm (flood) water routing and all drainage structures with sizes of culverts, drainage easements with course and distance of centerlines and boundaries, lot lines, street layout, proposed inlets, culverts, roadside ditches, channel sections and slopes, bridges, channel improvements, levees, or beams, and fills necessary to elevate land above flood levels.

(3) The limits of the 100-year frequency storm area shall be shown for all waterways, including overflow of structures and related backwater effects. Storm water runoff resulting from a design storm of 100-year frequency shall be contained within the available right-of-way and/or drainage easement. All drainage facilities must be designed for a capacity to safely contain and convey storm water from a design storm of 25-year frequency and accommodate the 100-year frequency with no adverse effect on downstream property or infrastructure.

(4) The drainage plan shall be prepared by a registered professional engineer, whose seal and signature shall appear on the plan.

(5) An engineering report to support all drainage designs shall be submitted to the City's Engineer. Computations, for fully developed watersheds, shall be complete and orderly and shall clearly state all assumptions and design basis.

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(6) Profiles, cross-sections, or substantiating data may be required at the City's Engineer's request as necessary to support flood levels and backwater analysis.

(j) Utility Connections. In conjunction with the topographic information, water, natural gas, and sewer plans shall show electric and utility customer connections. Such facilities shall be drawn at a scale in which such data can be clearly displayed.

(k) Private Sewer. If lots in the proposed subdivision will use on-site sewage facilities, the subdivider shall submit a complete record of soil tests. These tests shall be the basis for determining minimum lot sizes in the subdivision. Private lift stations (grinder pumps) may be required in some cases.

(l) Streets. The subdivider shall submit preliminary street grades.

(m) Trees. The subdivider shall submit the location of existing trees whose trunks are over six (6) inches in diameter at fifty-four (54) inches above grade. These trees should be protected and preserved unless approved for removal. The protection and conservation of trees and wooded areas, in general, should be considered in the layout of streets, drainage improvements, underground utilities, and lots.

(n) Topographic Map. The subdivider shall submit a topographic map, with two (2) foot contour intervals, meeting national map accuracy standards, showing:

- (1) Each location of each major, intermediate and minor waterway, as defined herein; and each type of waterway shall be distinguished from others;
- (2) The one-hundred (100) year and twenty-five (25) year flood elevations and flood plain boundaries;
- (3) The two (2) year flood plain where needed to determine the critical water quality zone required by the provisions of this Code;
- (4) Critical water quality zones as required by the provisions of this Code;
- (5) Existing topographical features including but not limited to existing faults and fractures and significant recharge features along waterways, and sinkholes.

(o) Geological Features. A map or maps showing soil map units, surficial and bedrock geology, faults, sinkholes and other geologic units. Maps may be based on compiled data available from the Soil Conservation Service, U.T. Bureau of Economic Geology, City of Austin Environmental Resource Management Office and U.S. Geological Survey, and shall be complemented by an onsite geological survey conducted by a professional geologist.

(p) Report. A report that includes the following items:

- (1) A description of existing topography;
- (2) Geologic, soil, and vegetation characteristics, including site recharge features;
- (3) General description of the proposed changes to the site;
- (4) A general description of the temporary measures which shall be utilized for the control of erosion;
- (5) General sequencing of construction;
- (6) A description and calculation of all impervious cover on the site and for each commercial lot.

(q) Letters of Commitment. Letters of commitment from appropriate water, wastewater, electric and telephone utilities to serve to the proposed subdivision.

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(r) Additional requirements.

(1) *List of Property Owners.* The preliminary submittal shall contain a listing of all adjacent property owners and other property owners within two hundred (200) feet of the property proposed to be subdivided, with addresses as recorded by the Hays County Appraisal District.

(2) *Hearing Notice.* The applicant shall verify ownership and addresses of adjacent property owners and shall mail a notice, first class, to each.

(3) *Public Hearing.* Not fewer than fifteen (15) days, nor more than thirty (30) days, from the filing of preliminary plat with the City secretary, a public hearing on the conceptual plan and the preliminary plan shall be held by the City Council.

(4) *Texas Department of Transportation.* In those cases where the proposed subdivision affects access adjacent to right-of-way under control of the Texas Department of Transportation, the City secretary shall submit two copies of the preliminary plan to the department for comments, if any, to be forwarded to the City.

(s) City's Engineer Review. The City's consulting engineer shall:

(1) Review and confirm that the information required is on the filed preliminary plat.

(2) Notify the subdivider of any incomplete filings in writing.

(3) Advise the City administrator of deficiencies noted, and provide a copy of these deficiencies to the subdivider.

(4) Process the preliminary plat.

(t) Submission. The subdivider shall submit complete copies of the preliminary plat and accompanying data to the City secretary. The time periods for review and approval specified in this section shall not commence unless the plat and accompanying data are deemed administratively complete by the City secretary. The City Council shall not take any action, and may deny the application, if any fees are not paid.

(u) Review. The City Council and the City's Engineer shall review the preliminary plat as to its conformity with this chapter, traffic plan, zoning districts and the standards and specifications set forth in this subchapter.

(v) Recommendation of the City's Engineer. The City's Engineer shall return the preliminary plat data to the City Council and the subdivider with recommendations as to modifications, additions or alterations to such plat data.

(w) Council Action. Within thirty (30) days after the administratively complete preliminary plat is filed, the City Council shall:

(1) Approve the preliminary plat,

(2) Disapprove the preliminary plat,

(3) Disapprove the preliminary plat and specify conditions and modifications required for approval.

A preliminary plat, which has been disapproved pending modifications and conditions, shall not be approved until all conditions and modifications are submitted and accepted by the City Council.

(x) Approval. Approval of a preliminary plat by the council shall be deemed an expression of approval of the layout submitted on the preliminary plat as a guide to the final design and installation of streets, water, sewer and other required improvements and utilities and to the preparation of the final or record plat. Approval of a preliminary plat shall not constitute automatic approval of the final plat or construction plans.

(y) Term of Approval. Approval of a preliminary plat by the council shall be effective for twelve months. Any portion or all of the preliminary plat may be subject to modification or revision in light of information

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previously not brought to the attention of the council. If in the light of new or significant information the council should require revisions to a previously approved preliminary plat, the subdivider shall be so informed in writing.

(z) Extention. If the final plat has not been accepted and recorded within twelve months of preliminary plat approval, the City Council may, upon the application of the subdivider, extend the approval for an additional six months.

(aa) Copy Distribution. Following the City Council action, one of the three copies shall be returned to the subdivider, one shall be filed with the City secretary, and one shall be furnished to the City's Engineer.

(bb) Preliminary Plat Conditions. Approval of the preliminary plat does not constitute acceptance of the subdivision, but is authority to proceed with the preparation of the construction plans for the facility. Any development within the subdivision before the final plat is accepted and recorded is prohibited except as approved in construction plans. Approval of a preliminary plat expires at the end of 360 calendar days, unless the construction of internal facilities has been completed and a final plan of at least a portion of the tract has been submitted to the City. The City Council may, if a written request from the subdivider is received prior to the end of the 360 calendar day period, grant an extension for up to 180 calendar days. Only one such extension shall be granted. If any major changes are required by the City Council, the subdivider may be required to submit another preliminary plat. (Section 10-5.2 of Ord. 110B, passed 7-5-06)

§92.045 Construction Plans

(a) Purpose. Construction plans, based upon the approved preliminary plat, and consisting of detailed specifications and diagrams illustrating the location, design, and composition of all improvements identified in the preliminary plat phase and required by this chapter and other applicable City ordinances, codes and policies, shall be submitted to the City for approval. In addition, any project that necessitates the construction, reconstruction or modification of existing City infrastructure shall also be submitted to the City for approval. The plans shall be kept by the City as a permanent record of required improvements in order to:

- (1) Provide better records that facilitate the operation and maintenance of, and any future modifications to existing City infrastructure.
- (2) Provide data for evaluation of materials, methods of construction and design.
- (3) Provide documentation of approved public improvements to ensure that all such improvements are built to City standards and specifications.
- (4) The City will not certify any Final Plat, and a subdivider may not commence any construction activities, until such time as the City's Engineer has approved the Construction Plans completely describing the on-site and off-site improvements as being in compliance with the requirements of this chapter and other applicable City ordinances and codes.

(b) Format. Drawings shall be on twenty-four inch by thirty-six inch (24"x36") sheets at generally accepted horizontal and vertical engineering scales.

(c) Content. Construction plans shall include all on and off-site improvements required to serve the proposed development as indicated on the approved preliminary plat and in compliance with the chapter and with applicable ordinances, codes, standards, and policies of the City, and other applicable governmental entities. All Construction Plans shall be signed and sealed by a registered professional engineer, licensed to practice in the State of Texas, and shall contain or have attached:

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(1) *Cover Sheet.*

(A) The appropriate project name, date, and the name, addresses and phone numbers of the developer, engineer and surveyor, etc.

(B) A location map showing the relation of the subdivision to streets and other prominent features in all directions for a radius of at least one (1) mile using a scale of one inch equals two thousand feet (1" = 2,000'). The latest edition of the USGS 7.5 minute quadrangle map is recommended.

(2) *Street and Roadway Systems.*

(A) The horizontal layouts and alignments showing geometric data and other pertinent design details. The horizontal layout shall also show the direction of storm water flow and the location of manholes, inlets and special structures;

(B) Vertical layouts and alignments showing existing and proposed center line, right and left right-of-way line elevations along each proposed roadway.

(C) Typical right-of-way cross sections showing pertinent design details and elevations as prescribed in the City Standard Details and Specifications;

(D) Typical paving sections showing right-of-way width, lane widths, median widths, shoulder widths, and pavement recommendations;

(E) Attendant documents containing any additional information required to evaluate the proposed roadway improvements, including geotechnical information; and

(F) The location, size(where applicable), and type of speed limit signs and permanent traffic barricades according to City Standard Details and Specifications;

(3) *Drainage Improvements.*

(A) Detailed design of all drainage facilities as indicated in the Preliminary Plat phase, including typical channel or paving section, storm sewers and other storm water control facilities.

(B) Typical channel cross-sections, plan and profile drawings of every conduit/channel shall be shown.

(C) Existing and proposed topographic conditions indicating one (1) foot contour intervals for slopes less than five percent (5%), two (2) foot contour intervals for slopes between five percent (5%) and ten percent (10%), and five (5) foot contour intervals for slopes exceeding ten percent (10%), and referenced to a United States Geological Surveyor Coastal and Geodetic Survey bench mark or monument.

(D) Attendant documents containing design computations in accordance with this chapter, and any additional information required to evaluate the proposed drainage improvements.

(E) A copy of the complete application for flood plain map amendment or revision, as required by the Federal Emergency Management Agency (FEMA), if applicable.

(4) *Erosion and Sedimentation Controls.*

(A) Proposed fill or other structure elevating techniques, levees, channel modifications and detention facilities.

(B) Existing and proposed topographic conditions with vertical intervals not greater than one (1) foot referenced to a United States Geological Surveyor Coastal and Geodetic Survey bench mark or monument.

(C) The location, size, and character of all temporary and permanent erosion and sediment control facilities with specifications detailing all on-site erosion control measures which will be established and maintained during all periods of development and construction.

(D) Contractor staging areas, vehicle access areas, temporary and permanent spoil storage areas.

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(E) A plan for restoration for the mitigation of erosion in all areas disturbed during construction.

(5) *Water Distribution Systems.*

(A) The layout, size and specific location of the existing and proposed water mains, pump stations, storage tanks and other related structures sufficient to serve the proposed land uses and development as identified in the Preliminary Plat phase and in accordance with the City Standard Details and Specifications.

(B) The existing and proposed location of fire hydrants, valves, meters and other fittings.

(C) Design details showing the connection with the existing City water system.

(D) The specific location and size of all water service connections for each individual lot.

(E) Attendant documents containing any additional information required to evaluate the proposed water distribution system.

(6) *Wastewater Collection Systems.*

(A) The layout, size and specific location of the existing and proposed sewage disposal system and other related structures sufficient to serve the land uses and development as identified in the preliminary plat phase, in accordance with all current City standards, specifications, and criteria for construction of sewage disposal systems.

(B) Design details and special structures. Flow line elevations shall be shown at every point where the line enters or leaves a structure.

(C) Attendant documents containing any additional information required to evaluate the proposed sewage disposal system, and complete an application for Health Department approval.

(D) Plan and profile drawings for each line in public right-of-ways or public utility easements, showing existing ground level elevation at center line of pipe, pipe size and flow line elevation at all bends, drops, turns, and station numbers at fifty (50) foot intervals.

(7) *Street Lighting.* The location, size, type and description of street lights according to City Standard Details and Specifications.

(8) *Street Signs.* The location, size, type and description of street signs according to City Standard Details and Specifications.

(9) *Sidewalks.* The location, size and type of sidewalks and pedestrian ramps meeting ADA requirements and designed in accordance with provisions of this chapter (see Standard Details and Specifications).

(10) *Improvements for Parks and other Public and Common Areas* - as identified and/or approved on the Preliminary Plat.

(11) *Significant Trees.* The location, size and description of all Significant Trees (to remain and to be removed), and Replacement Trees to meet the requirements of this chapter.

(12) *Landscaping and Screening.* The location, size and description of all landscaping and screening materials as required by this subchapter.

(13) *Design Criteria.* Final design criteria, reports, calculations, and all other related computations, if not previously submitted with the preliminary plat.

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(14) *Cost Estimates.* A cost estimate of each required improvement, prepared, signed and sealed by a professional engineer licensed to practice in the State of Texas.

(d) *Procedure.* After all necessary approvals of the Preliminary Plat have been granted, Construction Plans, together with a completed application form and review fee, shall be submitted to the City's Engineer for approval.

(1) *Construction Plans.* Construction Plans may be submitted for review and approval simultaneously with a Final Plat, provided however that the Final Plat shall not be approved until the Construction Plans have been approved. If the Construction Plans and the Final Plat are to be reviewed simultaneously, a complete application for Construction Plans and a complete application for Final Plat must be submitted to the City simultaneously.

(2) *Staff's Review.* City staff shall review all Construction Plan submittals for completeness at the time of application. A minimum of ten (10) working days shall be permitted for review. If in the judgment of the City, the Construction Plan submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review.

(3) *Engineer's Review.* The City's Engineer shall review the Construction Plans to insure compliance with this chapter, and other applicable City ordinances, codes, standards and specifications, and good engineering practices.

(4) *County Review.* For projects located within the City's extraterritorial jurisdiction, the Construction Plans and attendant documents shall be provided to the County for review and approval. The applicant shall be responsible for any additional information required by the County for Construction Plan approval.

(e) *Approval.* Within thirty (30) days of the date on which all required information has been accepted for review, the City's Engineer shall either approve or disapprove the Construction Plans.

(1) *Disapproval.* If the Construction Plans are disapproved, the City's Engineer shall notify the applicant, in writing, of disapproval and indicate the requirements for bringing the Construction Plans into compliance.

(2) *Approval.* If Construction Plans are approved, then the City's Engineer shall sign the cover sheet of the Construction Plans, returning one (1) signed copy to the applicant and retaining the other signed copy for City records.

(3) *Specific Approvals Required.* The developer should be aware that specific approvals from other agencies may be required.

(4) *Construction in Pursuant to Approved Plans.* All improvements shown in the approved Construction Plans shall be constructed pursuant to and in compliance with the approved plans, except as otherwise specifically approved.

(f) *Revision.* Where it becomes necessary, due to unforeseen circumstances, for corrections to be made to Construction Plans for which approval has already been obtained, the City's Engineer shall have the authority to approve such corrections when, in his/her opinion, such changes are warranted and also in conformance with City requirements. Approval of such changes agreed to between the developer and City's Engineer shall be noted by initialing and dating by both parties on the two (2) original signed copies of the Construction Plans.

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(g) Responsibility. Notwithstanding the approval of any Construction Plans by the Council or the City's Engineer, the developer and the engineer that prepares and submits such plans and specifications shall be and remain responsible for the adequacy of the design of all such improvements; and nothing in this chapter shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any design, plans and specifications submitted.

(Section 10-5.3 of Ord. 110B, passed 7-5-06)

§92.046 Final Plat.

(a) Purpose. The Final Plat provides detailed graphic information and associated text indicating property boundaries, easements, streets, utilities, drainage, and other information required for the maintenance of public records of the subdivision of land.

(1) *Final Plat Required*. A Final Plat shall be required for all subdivisions of land.

(2) *Conformity*. The Final Plat shall conform to the approved Construction Plans and approved preliminary plat.

(b) Format. The Final Plat shall be drawn on eighteen inch by twenty-four inch (18"x24") mylar sheets at a scale of one (1) inch equals one hundred feet (1" = 100') with all dimensions labeled accurately to the nearest one tenth (1/10) of a foot. When more than one (1) sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at a scale of one (1) inch equals four hundred feet (1" = 400') shall be attached to the plat.

(c) Content. The Final Plat shall include the entire tract intended to be developed at one (1) time, and shall contain or have attached thereto:

(1) *General Information*.

(A) The proposed name of the subdivision, which shall not have the same spelling or be pronounced similarly to the name of any other subdivision located within the City or within the extra-territorial jurisdiction of the City; provided however, that use of the same base names for different sections or phases is required when the units are contiguous with their namesakes and individually identified by a section number.

(B) The date, scale, north point, addresses of the owner of record, developer, registered public surveyor, and registered professional engineer if required, platting the tract. The engineer and surveyor shall affix their seals to the plat in conjunction with the signing of the certification requirements.

(C) A location map showing the relation of the subdivision to streets and other prominent features in all directions for a radius of at least one (1) mile using a scale of one (1) inch equals two thousand feet (1" = 2,000'). The latest edition of the USGS 7.5 minute quadrangle map is recommended.

(D) Identification and location of proposed uses and reservations for all lots within the subdivision.

(E) Certification, signature and revision blocks, as required by the City and County, including but not limited to the following: the surveyor, engineer and property owner.

(F) Certification from a registered professional engineer and approval by the State Health Department (if applicable) that water satisfactory for human consumption is available in adequate supply at the time of submission, except that such certification is not required if the property will be served by the City water system.

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(G) Certification from Hays County Health Department that a subdivision is located in an area which can be reasonably served by use of septic tank or other means of disposal approved by the Hays County Health Department. Said certificate shall show the limitations, if any, of such approval.

(H) Lot area, width and depth, public utility and drainage easements, and setbacks shall conform to the requirements as established for the designated land use.

(I) All variances approved shall appear as a note on the final plat.

(J) Where new streets are being created and named, the applicant must have documentation from Hays County 911 Addressing demonstrating that the street names proposed on the Final Plat are not duplicated within the County.

(2) *Existing Conditions.*

(A) The existing property lines, including bearings and distances, of the land being subdivided. Property lines shall be drawn sufficiently wide to provide easy identification.

(B) Areas delineating the regulatory one-hundred year floodplain, if applicable. This information must be certified by a registered professional engineer.

(C) The location, dimensions, names and descriptions of all existing and recorded streets, alleys, reservations, railroads, easements or other public rights-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries, as determined from current deed and plat records. The existing right-of-way width of any boundary street to the proposed subdivision shall also be shown.

(D) Location of City limit lines and/or outer border of the City's extra-territorial jurisdiction, as depicted on the City's most recent base map, if either such line traverses the subdivision or is contiguous to the subdivision boundary.

(E) Location of critical water quality transition zones, water quality transition zones, water quality transition zones, and significant recharge features.

(3) *Survey Control Information.*

(A) True bearings and distances to the nearest established street lines, official monuments, or existing subdivision corner which shall be accurately described on the plat and rotated to the state plane coordinate system. Using said system, X and Y coordinates shall be identified for four (4) property corners.

(B) The description and location of all permanent monuments or benchmarks, standard monuments, survey control points and lot pins.

(C) Suitable primary control points to which all dimensions, bearings and similar data shall be referenced. At least one (1) corner of the subdivision shall be located with respect to a corner of the original survey of which it is a part.

(D) Sufficient data shall be shown on the plat for each lot to prove mathematical closure.

(4) *Improvements.*

(A) The location, bearings, distances, widths, purposes and approved names, of proposed streets, alleys, easements and rights-of-way to be dedicated to public use.

(B) Streets. Provide complete curve data (delta, arc length, radius, tangent, point of curve, point of reverse curve, point of tangent, long chord with bearing) between all lot corner pins.

(C) Water Courses and Easements. Provide distances to be provided along the side lot lines from the right-of-way line or the high bank of a stream. Traverse line to be provided along the edge of all major waterways in a convenient location, preferably along a utility easement if paralleling the drainage easement or stream.

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(D) The property lines and number designations of all proposed lots and blocks, with complete bearings, distances and dimensions for front, rear and side lot lines. The surveyor shall certify that all lots meet the City's minimum requirements set forth herein.

(E) The use, property dimensions, names and boundary lines of all special reservations to be dedicated for public use, including sites for schools, churches, parks and open spaces; common ownership; or subsequent development.

(F) The location of building setback lines, as required by the City's Zoning Code and indicated by dashed lines on the plat, and the location, dimensions, and descriptions of all required easements within the subdivision, intersecting, or contiguous with its boundaries or forming such boundaries.

(G) The proposed location of sidewalks for each street, to be shown as a dotted line inside the proposed right-of-way lines.

(5) *Support Documents.* The following supporting documents must accompany the Final Plat:

(A) Developer shall include a copy of the approved application for flood plain map amendment or revision, as required by the Federal Emergency Management Agency (FEMA), if applicable.

(B) If a subdivision is located in an area served by any utility other than the City, the developer shall furnish a letter from such utility certifying their approval of the location of the utility easements shown on the plat and indicating the utility's intent to serve the property, except that said letters are not required if the easements conform to those approved on the Preliminary Plat.

(C) Certification that all improvements necessary to service the subdivision have been completed and a maintenance warranty as provided in this chapter.

(6) *Accuracy.* The applicant shall be responsible for verifying the accuracy of all data submitted.

(d) Procedure. After approval of the preliminary plat and Construction Plans for a proposed subdivision, a Final Plat for that subdivision shall be submitted to the City for approval before Recondition.

(1) *Timing of Submissions.* A Final Plat may be submitted for review and approval simultaneously with Construction Plans. However, the Final Plat shall not be approved until the Construction Plans have been approved. If the Final Plat and Construction Plans are to be reviewed simultaneously, a complete application for Final Plat and a complete application for Construction Plans must be submitted to the City simultaneously.

(2) *Legible Prints.* Legible prints, as indicated on the application form, shall be submitted at least thirty (30) days prior to the regular meeting at which the Final Plat is to be heard, along with the following:

(A) Completed application forms and the payment of all applicable fees.

(B) Any materials or documents required by the City Council as a condition of Preliminary Plat approval.

(C) A letter requesting any variances from the provisions of this subchapter, if not previously approved as part of the Preliminary Plat, and posted pursuant to the requirements this chapter.

(D) Two (2) copies of the deed restrictions or covenants, if such documents are to be used. These shall be filed for record in conjunction with the filing of the Final Plat.

(E) Certification from all applicable taxing authorities that all taxes due on the property have been paid.

(F) Performance and maintenance guarantees as required by the City.

(G) Any attendant documents needed to supplement the information provided on the Final Plat.

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(3) *Projects in the ETJ.* For projects located within the City's extra-territorial jurisdiction, one (1) extra copy of the above referenced items must be provided to the County for review and approval. The applicant shall be responsible for any additional information required by the County for Final Plat approval.

(4) *Review for Completeness.* City staff shall review all Final Plat submittals for completeness at the time of application. A minimum of ten (10) working days shall be permitted for review. If, in the judgment of City staff, the Final Plat submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review.

(5) *Review for Consistency.* Prior to the City Council meeting at which the Final Plat is presented, City staff shall review the plat for consistency with City codes, policies and plans.

(6) *Staff Report.* City staff shall prepare a report analyzing the Final Plat submittal, as well as any comments received concerning the Preliminary Plat, and recommending either the approval or disapproval of the Final Plat. This report shall be available at least five (5) working days prior to the City Council meeting.

(7) *Plat Withdrawal.* If the developer chooses to withdraw the Final Plat, in writing, by noon of the third working day preceding the City Council meeting, the submittal may appear on the next City Council agenda after repayment of the applicable fees.

(e) Notification. Public notification of Final Plats filed as part of an approved Preliminary Plat shall not be required.

(f) Approval. The City Council, after holding a public hearing, shall act on the request for Final Plat approval.

(1) *Approval by Inaction.* The failure of the City Council to act within thirty (30) days of the Final Plat filing date shall be deemed an approval of the plat, except as otherwise agreed to by the developer in writing. Plats that are disapproved as submitted maybe resubmitted without charge within sixty (60) days of disapproval with correction.

(2) *Additional Approval by Inaction.* For Final Plats submitted simultaneously with a Construction Plans, the failure of the City Council to act within thirty (30) days of the later of the filing date or the Construction Plan approval date shall be deemed an approval of the Final Plat, except as otherwise agreed to in writing by the developer.

(3) *Commencement of Construction.* The developer shall begin construction of the required public improvements or file a financial surety instrument for the improvements within six (6) months after Final Plat approval by the City Council, or such approval of the Final Plat shall be void.

(4) *Voidance; Extension.* Unless the Final Plat is recorded in the Official County Records within twelve (12) months after approval by the City Council, such approval of the Final Plat shall be void, except that the developer may apply in writing to allow extension of approval prior to the end of such twelve (12) month period, stating just cause therefore, and the City Council may grant an extension not to exceed one (1) year.

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(5) *Zoning.* Zoning of the tract, if applicable, that shall permit the proposed use, or any pending zoning amendment necessary to permit the proposed use shall have been adopted by the City Council prior to approval of the Final Plat.

(6) *Specific Approvals Required.* The developer should be aware that specific approvals from other agencies may be required.

(7) *Engineer's Certification.* The City's Engineer and developer's engineer must certify that the design standards have been complied with and that the development and improvements meet sound engineering practices.

(g) Revision. If the City Council requires revision of the Final Plat, then the Final Plat shall not be recorded until the revised Final Plat has been resubmitted and approved by City staff for compliance with the City Council's requirements established by the City Council during its consideration of the Concept Plan.

(h) Recordation.

(1) *Submissions.* Prior to the recordation of the Final Plat, one (1) original copy of the Final Plat shall be submitted to the City for signatures, and

(A) The Final Plat shall have been approved by the City Council pursuant to the provisions of this chapter.

(B) All conditions of Final Plat approval established by the City Council shall have been determined to be complete by City staff.

(C) Construction plans for all required improvements shall have been approved by the City's Engineer and completion of the necessary improvements to service the subdivision certified.

(D) Performance and maintenance guarantees for all required improvements shall have been established pursuant to this chapter.

(E) Copies of any agreements required providing for the proper and continuous operation, maintenance, and supervision of any facilities that are of common use or benefit, which cannot be satisfactorily maintained, or which have been rejected for operation and/or maintenance, by an existing public agency shall be executed.

(F) Written acceptance of all improvements required by this chapter by the City's Engineer shall be received by the City.

(G) Applicable fees pursuant to the Code and City ordinances shall be paid.

(H) Notes shall be added to the plat describing any variances approved by the City Council.

(I) Three (3) copies of as-built plans which shall be submitted to and approved by the City's Engineer, along with a statement prepared by a licensed professional engineer that all improvements have been installed and constructed in accordance with the submitted, as-built plans.

(J) Copies of all inspection reports, shop drawings and certified test results of construction materials which shall be submitted to and approved by the City's Engineer.

(K) Diskette(s) containing computer generated drawings of all public improvements shown on the Construction Plans, and all lot lines shown on the Final Plat, which shall be submitted to the City's Engineer to update City record drawings.

(L) Three (3) copies of maintenance bonds meeting the requirements of this chapter that have been provided to the City by the applicant.

(M) An affidavit that all bills have been paid and a release of liens has been provided.

(N) Evidence that any and all other requirements identified in the Final Plat process have been satisfied.

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(2) *Signatures.* City staff shall, upon determination that all provisions of this chapter have been satisfied, and all the above conditions have been met, obtain signatures certifying Final Plat approval by the Mayor, as attested to by the City Secretary.

(3) *Notice of Final Plat Ready.* Once the original Final Plat has been certified by the Mayor, City staff shall notify the developer that the original Final Plat is ready for reproduction.

(4) *Mylar Copies.* The developer, at his/her own expense, shall make two (2) photographic mylar copies of the original, signed Final Plat, and return the photographic mylar copies and the original Final Plat to the City's Engineer for recordation.

(5) *County Approval of Plat.* If the land area represented by the subdivision is located outside the corporate limits of the City on the date of its filing for recordation with the Official County Records, then it must be approved by the Commissioners Court of the County prior to recordation. It shall be the responsibility of the developer to be familiar with the process, procedures, and requirements necessary to secure County approval. Such approval shall be evidenced by the signature of the statement of certification by the County Judge.

(6) *Return of Original Plat.* City staff shall, after the photographic mylar copies and the original Final Plat have been duly recorded in the Official County Records, return the original Final Plat to the developer within five (5) working days by notifying the developer that the original Final Plat is available for pick-up at the office of the City's Engineer.

(7) *Retention for Public Record.* The City shall keep one (1) photographic mylar copy of the original approved Final Plat on file as public record.

(I) Responsibility. Notwithstanding the approval of any Final Plat by the City Councilor the City's Engineer, the developer and the engineer that prepares and submits such plats shall be and remain responsible for the adequacy of the design and nothing in this chapter shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any plat submitted.

(Section 10-5.4 of Ord. 110B, passed 7-5-06)

§92.047 Short Form Final Plats

(a) Purpose. The provision of adequate data concerning land use, utility requirements, traffic impact, streets, easements and dedications is vital to ensure the continued health, safety and welfare of the City's residents. Recognizing that the significance of this data is reduced for the small scale projects that are most heavily impacted by the burden of producing this data, the City allows alternate procedures for simple resubdivisions, lot splits, and the platting of existing development and of land proposed for site development where public improvements are not required.

(1) Applicants for subdivisions or resubdivisions creating no more than two (2) new lots may follow the procedure set forth below provided that the subdivision meets all of the following criteria:

(A) The City shall certify that the proposed subdivision meets all the requirements of the Short Form Final Plat.

(B) No new public street shall be necessary for each lot to access a public street.

(C) Each of the lots is contiguous with at least one (1) of the other lots in the subdivision for a distance of at least fifty (50) feet.

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(D) No off-site improvements to the City's infrastructure are determined to be necessary by the City's Engineer.

(E) No off-site drainage improvements are determined to be necessary by the City's Engineer.

(2) The City Council may require the standard Final Plat procedures outlined in this chapter, if the City determines that the plat is inconsistent with any element of the Master Plan, or any established City ordinances, codes or policies.

(b) Format. The format of the Short Form Final Plat shall correspond with the format for Final Plats as required by this chapter.

(c) Content. The content of the Short Form Final Plat shall correspond with the content for Final Plats as required by this chapter, except that:

(1) Construction plans may not be required.

(2) The City may permit omission of any informational requirements that are determined by the City to place an excessive burden on the applicant, including, but not limited to contours, centerlines of existing watercourses, etc.

(3) The City shall require the following note on the Final Plat: This subdivision is subject to all general notes and restrictions appearing on the plat of , Lot(s)___ , recorded at Cabinet __ , Slide of Plat Records of County, Texas.

(d) Procedure. The procedure for review and approval of a Short Form Final Plat shall follow the procedure for Final Plats, except that:

(1) The Short Form Final Plat may be submitted without approval of a Preliminary Plat or Construction Plans. The plat, prepared by a surveyor, and engineer if required, and bearing their seals shall be submitted to the City Council for approval before recordation of the plat.

(2) Legible prints, as indicated on the application form shall be submitted at least thirty (30) days prior to the regular meeting of the City Council along with the following:

(A) Completed application forms and the payment of all required fees.

(B) Two (2) copies of the deed restrictions or covenants, if such documents are to be used.

These shall be filed for record in conjunction with the filing of the plat.

(C) Certification from all applicable taxing authorities that all taxes due on the property have been paid.

(D) Notification materials as required herein.

(E) A petition requesting annexation, if applicable.

(F) Any attendant documents needed to supplement the information provided on the plat.

(3) For projects located within the City's extra-territorial jurisdiction, one (1) extra copy of the above referenced items must be provided to the County for review and approval. The applicant shall be responsible for any additional information required by the County for Short Form Final Plat approval.

(e) Notification. Notification procedures for a Short Form Final Plat shall be the same as those identified for Concept Plan.

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(f) Approval. The approval process of a Short Form Final Plat shall be the same as the approval of a Final Plat.

(g) Revision. The revision process of a Short Form Final Plat shall be the same as the revision process described for a Final Plat.

(h) Recordation. The recordation procedures of a Short Form Final Plat shall be the same as the procedures for a Final Plat.

(i) Responsibility. Notwithstanding the approval of any Short Form Final Plat by the City Council or City's Engineer, the developer and the engineer who prepare and submit such plats shall be and remain responsible for the adequacy of the design and nothing in this chapter shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any plat submitted.
(Section 10-5.5 of Ord. 110B, passed 7-5-06)

§92.048 Vacation of Undeveloped Subdivision

(a) When no lots on a plat of subdivision have been sold, the developer may request the vacation of the plat prior to the time that the improvements covered by the guarantees are installed, and when such plat is vacated, all fiscal sureties shall be returned to the developer.

(b) Vacation of plan or plat; recording replat or resubdivision without vacation.

(1) Any subdivision plat or plan may be vacated by the proprietors of the land covered thereby at any time before the sale of any lot therein by a written instrument declaring the plat or plan to be vacated, duly executed, acknowledged and recorded in the same office as the plat to be vacated, provided the approval of the City Council shall have been obtained. The execution and recordation of the instrument authorizing the vacation approved by the City Council shall operate to destroy the force and effect of the recording of the subdivision plan, plat or replat so vacated.

(2) In cases where lots have been sold, the subdivision plan, plat or replat, or any part thereof, may be vacated upon the application of all the owners of lots in the subdivision plat and with the approval of the City Council. When the plat is vacated by the City Council, the City secretary shall deliver to the county clerk the appropriate instrument so that the county clerk may indicate that the subdivision plan, plat or replat was vacated.

(3) Any resubdivision or replatting of any existing subdivision or a portion thereof which cannot meet the criteria set out in subsections (1) and (2) of this subsection may be resubdivided and replatted without the vacation of the immediate previous plat after approval by the City Council provided that the applicant has met all of the requirements of state law. (see Texas Local Government Code §§ 212.014 and 212.016)
(Sections 10-5, 10-5.6 of Ord. 110B, passed 7-5-06)

§92.049 Design Standards and Regulations for Subdivisions

(a) Plat Standards and Specifications. No plat shall be accepted by the City Council unless the lots conform to the following standards and specifications:

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(1) *General standards.*

(A) Conformity with a Comprehensive Plan. The subdivision shall conform to any comprehensive plans, codes and ordinances of the City.

(B) Provision for Future Subdivisions. If a tract is subdivided into parcels larger than ordinary building lots, such parcels shall be arranged to allow the opening of future streets. A proposal of future subdivision layout shall be submitted along with the plan of the portion first to be subdivided.

(C) Applicability of County Street and Drainage standards. Unless otherwise provided for in this Code, all subdivisions shall comply with the sections of the most recent version of the Standards for Construction of Streets and Drainage in Subdivisions promulgated by Hays County.

(D) Landscape. Developers/subdividers shall leave existing vegetation undisturbed to the maximum extent possible. Site clearing, beyond what is necessary to provide for streets, drainage, or other public facilities, shall not be permitted. Anyone desiring to remove any live vegetation for any reason during the subdivision process shall schedule a vegetation inventory or "tree count" with the City Council and secure clearance to proceed before removing any vegetation.

(E) Reserve Strips Prohibited. There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use.

(b) Erosion-Sedimentation Control and Construction Sequencing.

(1) All developments shall submit erosion and sedimentation control plans and reports that include construction sequencing information.

(2) A general description of the control plan shall be submitted with the preliminary plat application.

(3) A comprehensive and detailed plan and report shall be submitted with the final plat application.

The report shall specify maintenance of controls. All items noted in the erosion control and construction sequencing plans shall also be included in the final plans. At least two (2) copies of the report and plan shall be made available for the City Council and City's Engineer. At least forty-eight (48) hours notice shall be given to same before actual construction begins.

(c) Erosion Control and Construction Sequencing Plan Requirements. The erosion control and construction sequencing plan shall include the following items:

(1) Construction sequencing as it relates to placement, maintenance, removal of temporary erosion controls, and restoration measures. The sequencing plan schedules these items in the overall scheme of development.

(2) A list of such temporary erosion controls and maintenance thereof.

(3) Slope stabilization techniques to be employed.

(4) Restoration plans including vegetation types and acceptability note for the City.

(5) Location of temporary erosion controls with maintenance note. The plan shall show the physical details of the controls.

(6) A construction sequencing list, including the timing of the use of various controls in relation to steps in the construction.

(7) Restoration techniques and acceptability note.

(d) City of Austin Manual. The development shall comply with the erosion control and restoration measures in the City of Austin Erosion and Sedimentation Control Manual.

(e) Modifications. Two (2) days after written notice has been given to the person holding approval of the plat or plan, modifications from the approved erosion control and construction sequencing plans may be made in the field if the Code Enforcement Officer deems the controls or sequencing inappropriate or inadequate and has confirmed his or her findings with the City's Engineer or designate, and has written approval.

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(f) Clearing. The clearing of land shall conform to the following criteria:

(1) No right-of-way clearing or rough cutting shall be permitted before final plat approval except for soil testing and surveying. Roadway clearing width within a subdivision shall not exceed twice the roadway surface width of the dedicated right-of-way, whichever is less.

(2) Vegetation within the critical water quality zone may not be disturbed except for purposes consistent with development activity permitted by this chapter.

(3) The length of time between rough-cutting and final surfacing of streets shall not exceed twelve (12) months. If an applicant does not meet this deadline, the City Council shall notify him in writing that the City may complete the streets or revegetate the disturbed area at his expense through prior fiscal arrangements unless he does so within sixty (60) days after the date on the notice, or unless he provides erosion and sedimentation controls and the continuing maintenance thereof acceptable to the City's Engineer.

(4) All constructed and altered drainage channels shall be stabilized and vegetated immediately after final grading.

(g) Water Quality Basins.

(1) The interpretation of the requirements set forth in this Section shall be made by the City's Engineer or designate, unless specified otherwise by the City Council. Water quality basins shall be designed and constructed in conformance with the criteria in this Section and be approved by the City's Engineer or another designate of the City Council.

(2) Detention-Sedimentation Basins Water quality detention sedimentation basins shall be situated and constructed to capture runoff from residential, commercial and multifamily developments, and associated streets (including boundary streets).

(A) The basins and drainage into the basins shall be designed to capture and isolate the first one-half ($\frac{1}{2}$) inch (first flush) of runoff. All subsequent runoff in excess of the design capacity of the basins shall bypass the basins and remain segregated from the contained runoff waters in a peak shaving basin up to the capacity specified in the City of Austin Drainage Criteria manual

(B) The design of all water quality basins shall allow an average residence time of twenty-four (24) hours for the first one-half ($\frac{1}{2}$) inch or runoff. All basins shall have impervious liners to prevent seepage to groundwater. Input to and release from detention basins shall utilize grass lined swales and/or overland flow dispersion. No portion of a water quality detention basin shall be located within two hundred (200) feet from the center line of an existing channel of a major waterway nor within fifty (50) feet from the center line of an intermediate waterway. In no case may a water quality basin be located within the 100-year flood plain regardless of the distance from the center line of an intermediate waterway. The City Council may grant variances from the terms of this subsection in special circumstances where topography dictates a lesser setback. Limited blasting shall be permitted for the excavation and construction of detention basins located within critical water quality zones, only after approval of such plans by the City's Engineer.

(C) No basins in the recharge zone shall allow direct infiltration into the ground.

(h) Maintenance and Compliance.

(1) *Maintenance*. All sedimentation facilities and their appurtenances required for commercial and multi-family residential property shall be maintained by the property owner.

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(2) *Dedication.* All sedimentation facilities and their appurtenances required except those in (a) above shall be dedicated to the City by easement or fee simple as the City may require. The City shall accept dedication of such facilities when constructed and installed to the standards required in this Section and other ordinances and resolutions of the City. The City shall maintain these facilities.

(i) *Flood Hazard Reduction.* Drainage of proposed subdivisions shall be designed to reduce exposure to flood hazards. Electrical, gas, sewer, water lines and other public utility facilities shall be located and constructed to minimize or eliminate the potential for flood damage. Base flood elevation data shall be generated for subdivision proposals and other proposed development which is greater than 50 lots or five acres, whichever is lesser.

(j) *Lots.*

(1) *Size.* The minimum sizes of lots shall be 1 acre. Where, as the result of the soil percolation and core tests, the City Council deems the minimum lot area insufficient, the City Council shall require additional area sufficient to safely accommodate the sanitary facilities as deemed necessary by the City's Engineer.

(2) *Width.* In case of irregularly shaped lots, the minimum width shall be measured at the front building setback line. Corner lots shall be at least one hundred (100) feet wide. Lots abutting on crosswalk ways shall be treated as corner lots.

(3) *Frontage.* Each single family lot shall front upon a public street. Lots of irregular shape shall not be allowed unless they have a street frontage of at least one hundred (100) feet. Lots on a cul-de-sac street shall have a minimum street frontage of sixty (60) feet.

(4) *Side Lot.* Lines Side lot lines shall be substantially at right angles to, straight street lines and radial to curved street lines.

(5) *Minimum Setback Lines.* The minimum front building setback line shall be required of at least fifty (50) feet from the front property line. Where a corner lot is a key lot (where lots face the frontage street and other lots face the side street), the corner lot shall have at least the minimum building setback line on both streets. Where a corner lot is not a key lot, it shall have a minimum building setback line from the side street of at least twenty (20) feet. Lots abutting a crosswalk way shall be treated as corner lots.

(6) *Rear Yards.* Minimum rear yard depths shall be thirty (30) feet from the rear lot line.

(7) *Side Yards.* The minimum side yard width on each side of buildings on interior lots and on the building side of corner lots shall be at least fifteen (15) feet. Lots abutting on crosswalk ways shall be treated as corner lots. Extra Depth and Width in Certain Cases. Where a lot in a residential area backs up to a railroad right-of-way, a high-pressure gasoline, oil or gas line, an arterial street, an industrial area, or other land use which has a depreciating effect on the residential use of property, and where no street is provided at the rear of such lot, additional depth shall be required by the Council. In no case shall a depth in excess of twenty (20) additional feet be required. Where a lot sides to any of the above, additional width shall be required by the Council, but in no event shall a width in excess of twenty (20) additional feet be required.

(8) *Setbacks Shown on Plat.* The minimum setback lines, minimum yard depths, side yard widths, and other such features as required by the City Council and by this chapter shall be clearly indicated on the final plat, either by delineation or by statement.

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(9) *Yards.* Yards are the open areas between building setback lines and lot lines. A structure shall not be permitted in yards except as otherwise provided in other ordinances and regulations.

(10) *Residential Lot Slope Requirement.* At least 50 percent (50%) of the area of all lots must be situated on land having a natural slope of less than 30 percent (30%).

(11) *Residential Lot Density.* The density of residential subdivisions of two (2) or more lots shall not exceed 0.5 times the net site area of the subdivision, rounded to the lowest integer. Effective the date of this amendment, lots or parcels of more than five acres in area cannot be subdivided or re-subdivided into lots that would result in a housing density less than that specified above when applied to the tract of origin.

(12) *Minimum Lot Width for Cul-de-Sac Lots.* For residential lots on cul-de-sac turnarounds, the minimum lot width at the front street property line shall be 33 feet measured along the chord of the arc.

(13) *Impervious Cover.* Where the natural slope gradient is zero (0) to twenty-five percent (25%), the maximum impervious cover is thirty percent (30%) to fifty-two percent (52%) as approved by the City. Where the natural slope gradient exceeds twenty-five percent (25%), nonresidential development is not permitted.

(14) *Credits for Land Dedications.* Lands dedicated to and accepted by the City shall be credited to subdivision lots for purposes of calculating lot area.

(k) Offsite Easements. When the Council finds that easements in areas adjoining a proposed subdivision are necessary to provide drainage thereof, or to serve such subdivision with utilities, the subdivider shall obtain such easements.

(l) Tree preservation.

(1) *Tree Survey.* The tree survey shall be submitted to the City administrator prior to approval of the preliminary plan.

(2) *Tree Replacement.* Removal of trees having a trunk diameter of 6 inches or greater must be replaced by double the caliper inches.

(3) *Required Approval.* Removal of trees with a trunk diameter of 6 inches or greater requires City Council approval.

(4) *Standards for Tree Replacement.* Each live tree removed as allowed by the Code with a trunk diameter greater than six inches measured at a point 54 inches above the ground must be replaced in an appropriate location to compensate for the loss of such trees with comparable species of trees. If a tree is removed thereby making the measurement of the diameter at 54 inches impossible, the diameter shall be measured at the widest portion of the exposed base of the trunk. Shrubs, bushes, grasses or ground cover shall not be used and will not be counted to satisfy any tree replacement requirement.

(m) Conservation Area.

(1) *Requirement.* A space equal to at least five percent (5%) of the total property to be subdivided shall be dedicated in fee simple to the City for recreational or conservation use. In lieu of land within the property to be subdivided, the City shall have the option to arrange for the acquisition and dedication of other land of similar market value if mutually agreeable to the subdivider and the City, or to accept a deposit

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of money in a trust account in the amount of the market value of the undeveloped land located within the proposed development required for recreational and conservation use to be used by the City for acquisition of park land or recreational facilities in another area. No area or facility shall be dedicated for such public purposes unless approved and accepted by the Council.

(2) *Perimeters*. Using plat notations and restrictive covenants, subdividers shall provide conservation areas of at least 100 feet in width around the perimeters of subdivisions.

(3) *Existing Foliage*. Existing foliage in conservation areas shall not be disturbed. However, additional native vegetation may be planted to more effectively screen improvements in the subdivision.

(4) *Certain Credits*. Conservation areas shall count toward the one (1) acre minimum lot size but shall not contain any improvements except necessary drainage controls, streets, and sole-access driveways.
(Sections 10-7 of Ord. 110B, passed 7-5-06)

§92.050 Residential Subdivisions of Five Acres or Greater

(a) Generally. Proposed subdivisions of five acres or greater using on-site sewage facilities shall comply with the provisions of this section and with the general rules and regulations of this Code.

(b) BSEACD. The subdivider must submit a report outlining the compliance with the Barton Springs/Edwards Aquifer Conservation District recommendations made for the subdivision.

(c) Process. Applicants for subdivision of a tract of five acres or greater shall use the preliminary conference and conceptual plan filing process, the preliminary platting procedure, and the construction procedures of section this chapter.
(Sections 10-7.1 of Ord. 110B, passed 7-5-06)

§92.051 Submission of Plan of Entire Subdivision Where Subdivision Is Unit of Larger Tract

When the subdivision is a portion of a tract later to be subdivided in its entirety, a general development plan of the entire subdivision, showing a schematic layout of the entire tract, shall be submitted with the plan of the portion first to be subdividing.
(Sections 10-10 of Ord. 110B, passed 7-5-06)

§92.052 Authority of the City Council

The City Council is hereby authorized and directed to promulgate rules, regulations, fees, standards and specifications for the construction, installation, design, location and arrangement of streets, curbs, street lights, street signs, alleys, utility layouts, utility easements, gates for utility easements, sidewalks, water supply and water distribution systems, fire hydrants, sewage disposal systems, septic tanks, water wells, monuments, criteria for drainage easement requirements, drainage facilities, and crosswalk ways. It shall file same with the City Clerk at least fourteen (14) days before it becomes effective. It may amend the same from time to time, provided that an amendment must be filed with the City Clerk at least fourteen (14) days before it becomes effective. No such rules, regulations, standards and specifications shall conflict with this or any other ordinances of the City. All such improvements shall be constructed, installed, designed, located and arranged by the subdivider in accordance with such rules, regulations, standards and specifications.
(Sec. 10-16 of Ord. 110B, passed 7-5-06)

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§ 92.053 Short Form Plat

(a) Applicable Requirements. A short form plat is not a subdivision within the meaning of that term in this Chapter, and the only requirements of this Chapter that are applicable to a short form plat are those in this section.

(b) Eligibility Criteria. A person may use a short form to:

(1) subdivide or to vacate and resubdivide of any lot or parcel of land for the purpose of increasing the size of the lot or parcel, but that does not create any additional building sites on that lot or parcel;

(2) combine any (2) or more contiguous lots into a single or two (2) or more lots; or

(3) amend any plat pursuant to and for the purposes set forth in § 92.043 (Plat Amendments), including without limitation, the relocation of one or more lot lines between one or more adjacent lots, if the amendment:

(A) is agreed to in writing by the owner or owners of all such lots,

(B) will not remove any recorded restrictions or covenants, and

(C) will not increase the number of lots.

(c) Dimensional Requirements; Exception. All lots and parcels created by or resulting from a short form plat must meet all dimensional requirements of this Chapter. However, a person or persons may combine contiguous nonconforming lots and may build structures for permitted uses on the resulting lot or lots, even if the resulting lot or lots do not meet the dimensional requirements of this Chapter, if the dimensions of such lots that this Chapter does not regulate are consistent with the provisions of § 94.050 of the Zoning Code (Dimensional Regulations).

(d) Approval of Short Form Plat Required. For the purpose of maintaining accurate City and County records, a person may not sale or transfer any property to which the actions authorized and described in this section apply until the person has submitted a short form plat showing the changes in lot to the Planning and Zoning Commission for a recommendation to the City Council and the Council has approved the short form plat.

(e) Form of Short Form Plat.

(1) *Legally Platted Land.* If the land that is the subject of the short form plat has been legally platted, then a surveyor shall prepare the short form plat, but the plat does not need to be certified and may be prepared from descriptions contained in subdivision plats filed of record in the Plat Records of the County rather than from an on-the-ground survey, provided that the property lines shown are correct.

(2) *Not Legally Platted Land.* If the land that is the subject of the short form plat has not been legally platted, then the plat shall contain a certification by a surveyor that the property lines shown are correct. The plat shall bear sufficient information that the Commission considers necessary to identify the property and that will enable the Commission to determine to its satisfaction that approval of the plat as a subdivision is not required.

(f) Notice. The applicant for any short form plat that requires the vacation of a subdivision plat or replat shall comply with the notice requirements of § 92.050 (Notice of Proposed Subdivision, Confirming Plat, Vacation, or Replating) before the Council approves the vacation. As provided for in § 92.043 (Plat Amendments), the Council may approve an amending plat without the issuance of notice, a hearing, or the approval of the other lot owners in the subdivision.

State Law Reference - Texas Local Government Code, § 212.0045.

Subdivision Regulations

§ 92.054 Confirming Plat

(a) Applicable Requirements. An approved confirming plat will not be an application for subdivision within the meaning of that term in this Chapter.

(b) Standards for Approval of Confirming Plat. The Planning and Zoning Commission and the City Council may approve the subdivision of a lot or lots or parcels of land if the lots or parcels:

- (1) were previously sold or conveyed by metes and bounds,
- (2) were legally recorded in the County Clerk's Office prior to August 11, 1984, and
- (3) after evaluation, the Commission and the Council determine that approval of the recordation of the confirming plat is in conformity with this Chapter, other applicable provisions of this Code, and the Master Plan for the City.

(c) Procedure. An applicant for the approval of a confirming plat shall deliver the proposed confirming plat to the City Secretary for filing with the Commission for recommendation to the Council accompanied by the fee(s) specified in Appendix 1 - Fee Schedules.

(d) Form of Confirming Plat. An applicant for the approval of a confirming plat shall submit to the Commission a proposed confirming plat that:

- (1) contains the certification of a registered engineer or surveyor that the property lines shown on the plat are the lines dividing existing ownership and that the plat does not include any other lines for the division of existing ownership other than those lines that were used to create the existing parcels prior to August 11, 1994,
- (2) bears all the information that this Chapter requires for a subdivision plat, and
- (3) such additional information that the Commission considers necessary to make an informed decision.

(e) Single, Joint Application. The Commission may at its discretion permit a single, joint application for approval under the provisions of § 92.040 (Short Form Plat) and of this section.

Cross-Reference - See Appendix 1 - Fee Schedules, Part 92.00 (Subdivision Fee Schedule).

§ 92.055 Vacation of Plat; Replatting Without Vacation of Preceding Plat

(a) Prior to Sale of Lots. The proprietors of the land covered by an approved plat may vacate the plat at any time before the sale of any lot in the plat by a written instrument that:

- (1) declares the plat to be vacated,
- (2) the proprietors have signed and acknowledged, and
- (3) the City Council has approved in the same manner that this Chapter requires for the approval of an original plat.

(b) Subsequent to Sale of Lots. If lots in the plat have been sold, the plat, or any part of the plat, may be vacated upon the application of all the owners of lots in the plat and with the approval of the Council, which approval is to be obtained in the same manner that this Chapter requires for the approval of an original plat.

(c) Replatting Without Vacating Preceding Plat. Any replatting of an existing subdivision or part of a subdivision that does not meet the criteria in subsections (a) and (b) of this section may be replatted without the

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vacation of the immediate preceding plat upon the Council's determination that the applicant has met all the requirements of §§ 212.014 - .015 of the Texas Local Government Code, as amended.

(d) Recordation. After the Council approves the vacation or replatting of a plat under this section, the City Secretary shall have delivered to the County Clerk the appropriate instrument so that the County Clerk may indicate that the plat was vacated or replatted.

(e) Date of Effectiveness. On the execution and recordation of the Council approved instrument authorizing the vacation, the vacated plat does not have any effect.

(f) Fees. An applicant for a vacation or replatting under this section shall pay the fee(s) specified in Appendix 1 - Fee Schedules to the City Secretary.

State Law Reference - Texas Local Government Code, §§ 212.013 - .015.

Cross-Reference - See Appendix 1 - Fee Schedules, Part 92.00 (Subdivision Fee Schedule).

§ 92.056 Plat Amendments

(a) Amended Plats. The City Council may approve and issue an amended plat that may be recorded and is controlling over the preceding plat without vacation of that plat, provided the plat is signed by the applicants, for anyone or more of the purposes set forth in the following subsections, and such approval and issuance shall not require notice, hearing or approval of other lot owners. This subsection applies only if the sole purpose of the amending plat is to:

- (1) Correct an error in a course or distance shown on the preceding plat;
- (2) Add any course or distance that was omitted on the preceding plat;
- (3) Correct an error in a real property description shown on the preceding plat;
- (4) Indicate monuments set after death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
- (5) Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
- (6) Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
- (7) Correct an error in courses and distances of lot lines between two (2) adjacent lots if:
 - (A) Both lot owners join in the application for amending the plat;
 - (B) Neither lot is abolished;
 - (C) The amendment does not attempt to remove recorded covenants or restrictions; and
 - (D) The amendment does not have a material adverse effect on the property rights of the other owners in the plat;
- (8) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
- (9) Relocate one or more lot lines between one or more adjacent lots if:
 - (A) The owners of all these lots join in the application for amending the plat;
 - (B) The amendment does not attempt to remove recorded covenants or restrictions; and
 - (C) The amendment does not increase the number of lots;
- (10) Make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - (A) The changes do not affect applicable zoning and other regulations of the City.
 - (B) The changes do not attempt to amend or remove any covenants or restrictions; and

Subdivision Regulations

(C) The area covered by the changes is located in the area that the appropriate governing body of the City has approved, after a public hearing, as a residential improvement area.

(b) Replat One or More Lots Fronting on an Existing Street. One or more lots fronting on an existing street may be replatted, if:

- (1) The owners of all those lots join in the application for amending the plat;
- (2) The amendment does not attempt to remove recorded covenants or restrictions;
- (3) The amendment does not increase the number of lots; and
- (4) The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

(c) Applicability of Chapter to Existing Lots. This chapter shall not be construed to limit the rights to building permits for subdivisions and lots previously approved as to lot size, provided that all other provisions and related ordinances are complied with.

(Section 10-5.7 of Ord. 110B, passed 7-5-06)

State Law Reference - Texas Local Government Code, §§ 212.016.

(d) Requirements for Approval of Amending Plat. The City Council may, upon the recommendation of the Planning and Zoning Commission, approve and issue an amended plat provided the plat complies with and is for any one or more of the purposes set forth in § 212.016 of the Texas Local Government Code, as amended.

(e) Notice, Hearing, and Approval of Other Lot Owners Not Required. The approval and issuance of an amending plat under this section shall not require notice, hearing, or approval of other lot owners.

(f) Recondition. After the Council approves the amending plat under this section, the City Secretary shall have the amended plat delivered to the County Clerk for Recondition.

State Law Reference - Texas Local Government Code, §§ 212.016.

SUBCHAPTER D. ENFORCEMENT

§ 92.060 Civil Enforcement of Provisions

When requested by the City Council, the City Attorney, on behalf of the City, shall institute an appropriate civil action in a court of the appropriate jurisdiction:

- (1) to enjoin any violation of the provisions of this Chapter that occurs within the City, within its extraterritorial jurisdiction, or within any area subject to all or a part of the provisions of this Chapter; or
- (2) to seek an injunction or to recover damages in a manner consistent with § 212.018 of the Texas Local Government Code, as amended.

State Law Reference - Texas Local Government Code, § 212.003, .018.

§92.061 Violations

Except as otherwise provided for in this chapter, it shall be unlawful for any person, firm or corporation to develop, improve, or sell any lot, parcel, tract or block of land within the City's territorial jurisdiction for other than

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agricultural purposes, regardless of the size or shape of said lot, parcel, tract or block, unless such lot, parcel, tract or block of land conforms with this chapter.

(Sections 10-14 of Ord. 110B, passed 7-5-06)

§92.062 Enforcement

(a) Penalty. Any person violating any provision of this Chapter within the corporate of the City of Hays, Texas, shall be guilty of a misdemeanor, and, upon conviction, shall be fined an amount not exceeding two thousand dollars (\$2,000.00). Any person violating any provision of this Chapter within the corporate or extraterritorial jurisdiction of the City of Hays, Texas, that relates to health or sanitation shall be guilty of a misdemeanor, and, upon conviction shall be fined an amount not exceeding two thousand (\$2,000.00) dollars. Each day that such violation continues shall be a separate offense. Such penalty shall be in addition to all the other remedies provided herein. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violations of this chapter.

(b) Administrative Action. The City's Engineer and/or the City Administrator shall enforce this chapter by appropriate administrative action, including but not limited to the rejection of plans, maps, plats, and specifications not found to be in compliance with this Chapter and good engineering practices, and the issuance of stop work orders.

(c) Court Proceedings. Upon the request of the City Council the City Attorney or other authorized attorney shall file an action in the district courts to enjoin the violation or threatened violation of this Chapter, or to obtain declaratory judgment, and to seek and recover court costs and attorney fees, and/or to recover damages in an amount sufficient for the City to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the property and established by this Chapter

(Section 10-14, 10-15 of Ord. 110B, passed 7-5-06)(Ord. No. 131-K, § 2, passed 2-23-94)

State Law Reference - Texas Local Government Code, Chapter 212, including § 212.003.

CHAPTER 94: ZONING CODE

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SUBCHAPTER A. GENERAL PROVISIONS

§ 94.001 Short Title

This Chapter shall be known and may be cited as the Zoning Code.
(Ord. 010614, passed 01-06-14)

§ 94.002 Purpose

The zoning districts and regulations adopted and established in this Chapter have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and general welfare of the community of the City. They have been designed to lessen congestion in the street; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, and other public requirements. They have been made with reasonable consideration, among other things, to the character of the district, and its peculiar suitability for the particular uses; and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community.
(Ord. 010614, passed 01-06-14)

§ 94.003 Interpretation and Applicability

In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare of the community. It is not intended by this Chapter to interfere with or abrogate any easements, covenants, or other agreements between parties. However, whenever this Chapter imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, covenants, and agreements, the provisions of this Chapter require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or fewer number of stories, or require a greater percentage of lot to be left unoccupied, or imposed higher standards than are required in any other law or ordinance, the provisions of this Chapter shall govern. Whenever the provisions of any other statute or ordinance requires a greater width of size of yards, courts or other open spaces, or requires a lower height of building or a fewer number of stories, or requires a greater percentage of lot be left unoccupied or imposes other higher standards than are required by this Chapter, the provisions of such statute or ordinance shall govern.
(Ord. 010614, passed 01-06-14)

§ 94.004 Compliance Generally

(a) Zoning District Requirements. No building shall be erected or altered, nor shall any building or land be used for any purpose, other than is permitted in the use district in which such building or land is located.

(b) Off-Street Parking. Requirements for off-street parking of motor vehicles shall be applicable to lands and buildings in each of the use districts enumerated in this Chapter.

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§ 94.005 Definitions

When used in this chapter, the following definitions shall apply unless the context clearly indicates otherwise:

“Accessory Building” means any building customarily incidental to the principal building, including among other things a garage, storage house, tool or work shed, and an apiary not over one hundred square feet in area.

“Accessory Structure” means a structure, the use of which is customarily incidental and subordinate to that of the main building on the same lot, such as a swimming pool, sports court, guest house, domestic quarters, greenhouse, woodshed, toolshed and the like. No accessory structure shall be permitted until and unless a principal structure is located on said lot.

“Accessory Use” means a use customarily incidental and subordinate to the primary use of the main building or to the primary use of the premises. No accessory use shall be permitted unless and until a primary or principal use is made of said main building on the premises.

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

“Aircraft” means any device that is used or intended to be used for fighting the air, including planes, gliders, ultra-light airplanes, hot air balloons, helicopters, and parachutes.

“Alcoholic Beverage” means any beverage containing more than one-half of one percent (1%) alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

“Alley” means a public thoroughfare not over twenty (20) feet nor less than twelve (12) feet wide.

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

“Bar” means any establishment engaged in the preparation and retail sale of s for consumption on the premises, including to taverns, pubs, and cocktail lounges, and similar uses, other than a restaurant as that term is defined in this chapter.

“Building” means a structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals, or chattels; and when supported by division walls from the ground up, and without openings, each portion of such building shall be deemed a separate building.

“Building, Main or Principal” means a building in which is conducted the principal use of the lot on which it is situated.

“Camper” means a structure designed to be mounted on a motor vehicle to provide facilities for human habitation.

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“*Child Day-Care Facility*” means any facility that is required to be licensed under Chapter 42 of the Texas Human Resources Code, §§ 42.001 - .210 (“Regulation of Certain Facilities, Homes, and Agencies That Provide Child-Care Services”) and that cares for children general daylight hours.

“*Code Enforcement Officer*” means a person who the City Council designates to inspect and evaluate matters pertaining to the Municipal Code.

“*Clinic*” means an institution or station for the examination and treatment of ill and afflicted out-patients by a group of physicians.

“*Comprehensive Plan*” means the plan that the City has adopted under Chapter 213 of the Texas Local Government Code, §§ 213.001-.005 (“Municipal Comprehensive Plans”). The comprehensive plan is an independent, long-term plan for use and development of land within the City and in the City’s extraterritorial jurisdiction. The City’s comprehensive plan is *The Master Plan for the City of Hays*.

“*Contour Map*” means a map or plat prepared by a registered engineer, architect or land surveyor which accurately reflects the surface of the area surveyed with contour intervals of two feet within the building site area and with contour intervals of five feet in all other areas where the slope exceeds fifteen percent (15%).

“*Curb Level*” means the mean level of the established curb in front of the building.

“*Depth of Lot*” means the horizontal distance between the front and rear lot lines measured along the median between the side lot lines.

“*Depth of Rear Yard*” means the mean horizontal distance between the rear line of a building other than an accessory building and the rear lot line.

“*Detached Garage*” means a garage wholly separated and independent of the principal building on a lot; or connected to the principal building by an unenclosed or latticed passageway, pergola, arbor or covered walk.

“*Development*” means any buildings, roads, and other structures, construction, and excavation, dredging, grading, filling and clearing or removing of vegetation.

“*Domestic Employee Quarters*” means an accessory dwelling located on the same lot as the principal dwelling and used for habitation of a person fully employed in domestic duties on the dwelling premises. The accessory dwelling shall not be permitted on lots of less than one acre. The domestic quarters shall not exceed six hundred (600) square feet in size and contain only one (1) bedroom.

“*Dwelling, Single-Family*” means a detached building designed and having facilities for year-round human habitation by one family only.

“*Dwelling, Two-Family*” means a detached building designed and having facilities for year-round human habitation by two families each in a separate dwelling unit.

“*Dwelling Unit*” means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

“*Easement*” means a reserved area over the property for water, sewer, gas and other utility lines.

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“*Family*” means an individual, or two (2) or more persons related by blood, marriage, or adoption, or a group of not to exceed three persons not all related by blood, marriage, or adoption, occupying the premises and living as a single nonprofit housekeeping unit.

“*Floor area, Residential*” means the sum of the horizontal areas of each story of building measured from the exterior faces of the exterior structural walls for the purpose of computing the minimum allowable floor area in a building unit. The floor area measurement is exclusive of areas of unfinished basements, unfinished attics, attached garages, breezeways and enclosed porches.

“*Floor Area, Non-Residential*” means the sum of the horizontal areas of each story of the building measured from the exterior faces of the exterior structural walls for the purpose of computing the maximum allowable floor area in a building unit.

“*Front Yard*” means an open unoccupied space on the same lot with the building between the building and the street line of the lot.

“*Gasoline Service Station*” means an establishment selling fuel for motor vehicles or performing any of the following services on motor vehicles:

- (1) Lubrication and oil change;
- (2) Installing parts and accessories, including tires, batteries, and mufflers;
- (3) Tune-ups; and
- (4) Any minor repair or adjustment work.

“*Grocery store*” means a retail establishment selling meats, fruit, vegetables, bakery products, dairy products and similar items for human consumption for off-premises consumption only.

“*Gross floor area*” means the gross floor area shall be measured by taking outside dimensions of the building at each floor level, excluding however, the floor area of attached garages, basements or attics not used for residence purposes, and open or screened porches.

“*Guest House*” means an accessory seasonal dwelling located on the same lot as the principal building and used occasionally for habitation for guests but not for remuneration. The accessory dwelling shall not be permitted on lots of less than one acre. The guest house shall not exceed six hundred (600) square feet in size and contain only one (1) bedroom.

“*Height of Structures*” means height of a structure as measured in Section § 94.060(g).

“*Height of Building*” means the height of a building, or portion of a building, shall be measured from the average established grade at the street lot line, or from the average natural ground level if higher, to the highest point of the roof’s surface, if a flat surface; or to the deck line of mansard roof; or to the mean height, level between eaves and the ridge for hip or gable roofs. In measuring the height of a building, the following structures shall be excluded: chimneys, tanks, water towers, radio towers, ornamental cupolas, domes or spires, and parapet walls not exceeding four (4) feet in height.

“*Home Occupation*” means an occupation customarily carried on in a dwelling unit, or in an accessory structure to a dwelling unit, by a resident of the premises, which occupation is clearly incidental and secondary to the use of the premises for residential purposes. A home occupation may also include an office for a professional or a studio for an artist or dressmaker. Home occupations must, in addition, meet the criteria contained in § 94.063(b).

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“*Impervious Cover*” means any structure (including roof outline exceeding five (5) feet from the exterior wall of the structure) or surface not permitting the absorption of water.

“*Kennel, Commercial*” means any premises on which dogs are kept for sale or are boarded, trained or bred for remuneration. See § 94.065(a)(1) and (10)(D).

“*Kennel, Private*” means any premises on which a maximum of three dogs and three cats over the age of four months are kept for the sole use and enjoyment of the owner or lessee of the premises and not for any commercial purpose. See § 94.065(a)(1) and (10)(D)

“*Lighting Source*” means any device that creates artificial illumination through the use of combustion, incandescence, or electrical discharge.

“*Lot*” means land used or to be occupied by a building and its accessory buildings, including such open spaces as are required under this Chapter, and having its principal frontage upon a public street or officially approved place.

“*Lot, corner*” means a lot situated at the junction of two or more streets, and having a width not greater than one hundred fifty (150) feet.

“*Lot, Interior*” means a lot other than a corner lot.

“*Lot, Through*” means an interior lot having a frontage on two streets.

“*Lot, Lines*” means the lines bounding a lot as defined in this Chapter.

“*Masonry*” means by this term is meant a building of which the exterior surfaces of the outside walls are constructed of brick veneer, solid brick, hollow tile, stone, concrete, marble, glass or a combination of any of these materials.

“*Mobile Home*” means a structure that is transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems.

“*Mobile Home or Recreational Vehicle Park*” means any area or tract of land where one or more mobile home or recreational vehicle lots or spaces are rented or held for rent.

“*Nonconforming Structure*” means a structure that does not comply with Section 94.065(b).

“*Nonconforming Use*” means an activity that was lawful and existing at a specific location prior to the adoption, revision, or amendment of this Zoning Code that fails to conform to the present requirements of this Chapter. A building or premises occupied by a use that does not conform to the regulations of the use district in which it is situated.

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“*Nuisance Factor*” means any offensive or unpleasant thing which annoys or disturbs a person of ordinary sensibility in the free use, possession, or enjoyment of his or her property or which endangers one’s health or life or property, such as:

- (1) Noise;
- (2) Dust;
- (3) Smoke;
- (4) Fumes;
- (5) Odor;
- (6) Glare;
- (7) Flashes;
- (8) Heat;
- (9) Electronic or atomic radiation;
- (10) Effluent;
- (11) Vibration;
- (12) Shock waves;
- (13) Gases;
- (14) Vicious, mischievous, and barking dog(s);
- (15) Unlawful diversion of drainage onto adjacent property; and
- (16) Unshielded yard or building lighting.

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

“*On-Site Sewage Facility*” means a facility for the disposal of wastewater approved by the County Health Department, and/or the City, whichever is applicable.

“*Open Space*” means any unoccupied space on the lot that is open and unobstructed to the sky and occupied by no building whatever.

“*Open-Air Commercial Amusements*” means any land, building, structure, devices or activities for amusement and profit conducted in an open or partially enclosed or screened facility, such as drive-in theaters, miniature golf courses, water slides, motor vehicle courses or tracts, and similar enterprises.

“*Park*” means a parcel of land dedicated and used as parkland, or city-owned land used for a park or recreational purpose that is under the administrative control of the City.

“*Parking Area, Public*” means any open area other than a street, alley or place, used for the temporary parking of more than four self-propelled vehicles and available for public use as an accommodation for clients or customers.

“*Parking Area, Semi-Public*” means any open area other than a street, alley or place used for temporary parking of more than four self-propelled vehicles as an accessory use to semi-public institutions, schools, churches, hospitals and non-commercial clubs.

“*Parking Lot*” means an area which contains four (4) or more off-street parking spaces.

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“*Parking Space*” means an area not on a public street or alley and having an all-weather surface; enclosed or unenclosed, together with an all-weather surface driveway connecting the parking space with a street or alley permitting free ingress and egress.

“*Pergola*” means a space open on three (3) sides and partially covered on top with beams, lattice or similar skeleton structure supported on posts, pillars or columns.

“*Place*” means an open unoccupied space reserved for purposes of access for abutting property.

“*Private Garage*” means a garage with capacity for not more than three (3) motor driven vehicles, for storage use only, for private use, and in which not more than one space shall be rented to persons not occupants of the premises. Of the vehicles allowed as necessary to a dwelling not more than one (1) shall be a commercial motor driven vehicle.

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

“*Rear Yard*” means a space, unoccupied, except by a building of accessory use as permitted extending for the full width of the lot between a building other than a building of accessory use and the rear lot line.

“*Recreational Vehicle*” means a vehicle designed for human habitation for recreational purposes and capable of being used on a highway. Recreational vehicles shall include a motor home, travel trailer, truck camper and camping trailer, but shall not include a mobile home.

“*Restaurant*” means an eating establishment at which food is sold exclusively for consumption at tables on the premises.

“*Restaurant or Café*” means a building or portion of a building, not operated as a dining room in connection with a hotel or boarding hotel, where the primary business is the on-premises sale of prepared food, with adequate kitchen facilities for the preparation of the food to be sold, the adequacy of said kitchen facilities to be based upon the seating capacity of the restaurant and the type of menu offered, and where s may be sold under the following conditions:

- (1) At least fifty-one (51) percent of the gross income shall be derived from the sale of prepared food.
- (2) 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.
- (3) Live entertainment may be permitted.
- (4) Whenever the Code Enforcement Officer on the basis of a sworn complaint from any credible person determines that a violation of this section exists, he or she may require any person, firm, corporation, or association of persons serving alcoholic beverages as an incidental use to provide the city, within thirty (30) days of notification, a verified audit for each quarter of the calendar year, showing the gross income derived from the sale of alcoholic beverages and the gross income derived from the sale of food.

“*Setback*” means the minimum horizontal distance between the front wall of any projection of the building, excluding steps and enclosed porch, and the street line.

“*Setback Distance*” means the minimum distance required between a structure and the front, side or rear boundary line of the parcel of land on which the structure is located.

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“*Side Yard*” means an open, unoccupied space on the same lot with a building between the building and the side line of the lot and extending from the street line to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

“*Signs*” means any device or surface on which letters, illustrations, designs, figures or symbols are painted, printed, stamped, raised, projected or in any manner outlined or attached and used for advertising purposes.

“*Single Family Dwelling*” means a detached building having accommodations for, and occupied by only one family.

“*Site Plan/Final Site Plan*” means a development plan of one or more lots on which is shown the following:

(1) The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, and waterways. In addition, the City may require a storm water detention and drainage plan;

(2) The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, tree survey, structures and signs, lighting and screening devices, storage structure for solid waste container, and architectural design; and

(3) The site plan shall illustrate the location of all trash receptacles, air conditioning and heating equipment, loading areas, parking areas, lighting and the methods to be used to screen all such areas from public view.

(4) The site plan shall illustrate the height calculations by showing the cross sections (a minimum of four are required) to demonstrate that each building complies with height limitations.

(5) Any other information that may be reasonably required in order to determine whether the proposed development complies with the criteria and standards in this Chapter and with the requirements of other city ordinances.

(6) Any site plan which is approved by a governing body of the City becomes a part of the permit application and the applicant is bound by said plan unless a modification is approved by the appropriate governing body of the City.

“*Special use*” means a use that may be authorized by the City Council if the applicant can show, to the satisfaction of the City Council, that the use requested meets all applicable conditions and standards contained in this Chapter. See § 94.053.

“*Stable*” means any premises on which horses are boarded or kept for training, renting, or for giving riding instructions.

“*Street*” means a public thoroughfare more than twenty (20) feet wide.

“*Structure*” means anything constructed, assembled, or erected, the use of which requires location on the ground or attachment to something having location on or in the ground.

“*Structural Alteration*” means any change in the supporting members of a building, such as bearing walls, columns, girders, or beams.

“*Square-Foot Dimension*” means the outside width of a dwelling multiplied by the outside length of the dwelling, excluding attached garages, attics, basements, opened or screened porches.

“*Story*” means that portion of a building included between the surface of the floor and the surface of the floor next above it, or if a floor is not above it, then the space between such floor and the ceiling next above it.

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“*Trailer*” means every vehicle designed for carrying persons or property and for being drawn by a motor vehicle on the highway.

“*Travel Trailer*” (included in recreational vehicle definition) means a vehicle, other than a motor vehicle, that is designed for human habitation for recreational purposes and that may be moved upon a public highway without a special permit or chauffeur’s license, or both, without violating any provision of the vehicle code.

“*Vehicle*” means every device by which any person or property may be propelled, moved or drawn upon a street, road, or highway.

“*Width of Side Yard*” means the mean horizontal distance between a side wall of a building and the side line of the lot.

(Ord. 010614, passed 01-06-14)

§ 94.006 Filing of Plats Prerequisite to Issuance of Building Permits

All applications for building permits from the City shall be accompanied by a plat, in duplicate drawn to scale, showing the actual dimensions of the lot to be built upon, the location and size of the proposed building, the location of proposed accessory buildings, all in relation to lot line, and such other information as may be necessary to provide for the enforcement of this Chapter. A complete and accurate record of such application and plats shall be kept in the City Hall.

(Ord. 010614, passed 01-06-14)

§ 94.007 Variances

(a) Variance Allowed. The City Council may grant a variance it finds that:

(1) The applicant has established that:

(A) Special circumstances or conditions apply to the land for which the variance is sought, also buildings, which circumstances or conditions are peculiar to such land or building and do not apply generally to lands or buildings in the same zone or neighborhood, and that those circumstances or conditions are such that the strict applications of the provisions of this Chapter would deprive the applicant of the reasonable use of such land or buildings, and

(B) The granting of the requested variance will not be detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located, and

(C) The granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the City Council is the minimum variance that will accomplish this purpose, and

(D) The literal enforcement and strict application of the provisions of this Chapter will result in an unnecessary hardship inconsistent with the general provisions and intent of this Chapter and that in granting the requested variance the spirit of the Chapter will be preserved and substantial justice done, and

(E) Conditions or circumstances relied on for a variance were not self-created by the person having an interest in the property in disregard of City regulations, and

(F) The applicant does not have a reasonable alternative to the requested variance that will alleviate the difficulty or hardship.

(2) The City Council certifies that:

(A) The variance will not violate the intent of the Zoning Code nor of the goals of the City’s comprehensive plan.

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(B) The variance will not have an adverse effect on neighborhood properties nor interfere with the owner's enjoyment thereof.

(b) Additional Considerations. In addition to considering the character and use of adjoining buildings and those of the vicinity, the City Council, in determining its findings shall take into account the number of persons residing or upon such land and traffic conditions in the vicinity.

(c) Council Action on Variance Application. The City Council may, after public notice and hearing and subject to the conditions and safeguards contained in this Chapter, vary or adapt the strict application of any of the terms of this Chapter under the powers and authority granted in this Chapter. However, the City Council may not grant a variance that authorizes a change of use.

(d) Conditions Imposed on Variance. In granting any variance under the provisions of this Chapter, the City Council may designate such conditions that in its opinion, will secure substantially the purpose and intent of this Chapter.

(e) Procedure.

(1) *Application.* An applicant for a variance shall submit an application in writing in a form prescribed by the City and shall be accompanied by a site plan and additional information as may be requested, in order to properly review the application. Such information may include plat plans, site and building plans, and contour maps.

(2) *Report by the Code Enforcement Officer.* The Code Enforcement Officer shall visit the site where the proposed variance will apply and the surrounding area and shall report his or her findings to the City Council.

(3) *Review by City Council at Public Hearing.* The City Council shall review each application for a variance at a public hearing after receiving findings and a recommendation from the Code Enforcement Officer.

(4) *Action by City Council.* The City Council shall not grant a variance unless it finds, based on competent evidence, that each of the conditions in division (a) of this section has been established.

(5) *Conditions Imposed by City Council.* The City Council may impose such conditions, limitations and safeguards as it deems appropriate upon the grant of any variance. Violation of any such condition, limitation or safeguard shall constitute a violation of this Chapter.

(6) *Variance May Lapse after Two Years.* Any rights authorized by a variance that the applicant does not exercise within two years from the date of granting such variance shall lapse and may be re-established only after notice and a new hearing pursuant to this section.

(7) *Professional and Consulting Fees and Filing Fees.* Each applicant must pay all Professional and Consulting Fees, if any, and Filing Fees, if any.

(Ord. 010614, passed 01-06-14)

Cross-Reference – See Part 94.00 (*Fee Schedule for Variances, Special Use Permits, and Zonings*)

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§ 94.008 Zoning Changes; Amendments

(a) General.

(1) *Amendments.* The City Council may make amendments to this Chapter in accordance with the provisions of this subsection.

(2) *Report Required.* The City Council shall not enact any amendment to this Chapter without first having held a public hearing on the proposed amendment.

(3) *Types.* Amendments to this Chapter shall be of two types:

(A) Those that change the zoning classification of particular parcels of land; and

(B) All others, which include amendments that supplement, change, or repeal general provisions of this Chapter.

(4) *Conformance.* All amendments shall conform to the goals, standards, and the land use map of the comprehensive plan of the City. Zoning classification changes that do not conform to the land use map in the comprehensive plan of the City are permitted only under the circumstances and conditions specified in this section.

(b) Procedure for Changing Zoning Classification of Particular Parcels of Land.

(1) *Who May Initiate Request to Change Zoning Classification.* A request to change the zoning classification of a particular parcel of land may be initiated by the owner of such parcel. The City Council, however, may initiate a proposed change on its own notion without such request.

(2) *Manner of Initiating Request.*

(A) *Application by Property Owner.* A property owner may file an application with the City Secretary requesting the City Council to consider changing the zoning classification of his or her property. Such application shall be accompanied by a fee set by the City Council and shall contain the following information:

(I) Legal description and address of the parcel affected;

(II) Present zoning classification of the parcel and of all contiguous parcel around it;

(III) Present use of the parcel and of all contiguous parcels around it;

(IV) Type and location of any structures on the applicant's parcel and on adjoining land;

(V) Site plan;

(VI) The zoning change requested and the proposed use;

(VII) A traffic impact analysis for any development that is proposed that would generate two hundred (200) or more trips per day with access to a collector street with less than 40 feet of pavement width and four hundred (400) or more trips per day with access to an arterial street with 40 or more feet of pavement width. Submission of the analysis shall occur simultaneously with the applications for zoning, special use permits, or building permit site plan approval; and

(VIII) Any other relevant information requested by the City Staff. The City Staff shall review each application for a zone change and prepare a brief report on whether the requested change conforms to the classification specified in the land use map of the comprehensive plan of the City for such parcel. When an application for a zoning change is made by the owner, the owner shall provide appropriate evidence of any significant and unanticipated changes that have occurred in the area affected that make it unlikely that such parcel can be developed or used for any use permitted under the zoning classification indicated for such parcel in the said plan. If the requested change does not conform to the said plan, the City Staff's report may indicate whether any significant and unanticipated changes have occurred in the area of the affected parcel since the

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classification on the land use map was adopted that make it unlikely that such parcel can be developed or used for any use permitted under the zoning classification indicated for such parcel in the said plan. The report shall also indicate whether the requested zoning classification is the most appropriate classification for the area affected.

(B) **On City Council's Own Motion.** The City Council, by motion, may initiate a proposal to change the zoning classification of particular parcels of land in order that such parcels will conform to the classification specified on the land use map of the comprehensive plan of the City.

(c) **Procedure for Amending General Provisions of this Chapter.** The City Council, by resolution, may request that certain general provisions of this Chapter be amended. The resolution shall contain the reasons for such request and indicate whether the proposed amendment conforms to the comprehensive plan of the City.

(d) **Review by City Council.**

(1) **Hearing.** The City Council shall hold a public hearing on all proposed zoning classification changes and general amendments to this Chapter before acting on any such item.

(2) **Notice.**

(A) **By Publication.** Notice of a public hearing before the City Council to consider a proposed zoning classification change or a proposed general amendment to this Chapter shall be published in the City's official newspaper or in a newspaper of general circulation in City of Hays at least fifteen (15) days prior to the date set for such hearing. The notice shall state the time and place of the hearing and contain a description of the matter to be considered.

(B) **Written Notice to Property Owners.**

(I) When the public hearing is to consider a proposed zoning classification change, written notice of such hearing shall be given to the owners of all real property located within two hundred (200) feet of the property on which the change in classification is proposed. Notice shall be given not less than thirty (30) days before the date set for the hearing before the City Council either by personal service or by depositing a copy of the notice in the mail addressed to each owner at the address shown on the last approved city tax roll. Such written notice shall be in addition to notice by publication and shall contain the substantially same information.

(II) If the request for a change in zoning classification is initiated by the owner of the affected property, such owner shall be responsible for drafting the notice and serving it, after the notice has been approved by the City Secretary for form and content. The owner shall file an affidavit of proof of service with the City Secretary at or prior to the hearing.

(3) **Council Action.**

(A) The City Council may enact a proposed general amendment or change of zoning classification by ordinance if it finds that such amendment or change is in the public interest and conforms to the comprehensive plan of the City.

(B) A change of zoning classification proposed by the owner of the parcel affected may be enacted, even though such proposed change does not conform to the land use map in the comprehensive plan of the City, provided the City Council finds that significant and unanticipated changes have occurred in the area of the affected parcel since the classification on the land use map was adopted that make it unlikely that such parcel can be developed or used for any use permitted under the zoning classification indicated for such parcel in the said plan and, provided further, that the City Council finds that the requested zoning classification is the most appropriate classification for the area affected.

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(C) If a written protest is submitted against a proposed change of zoning classification signed by all the owners of twenty (20) percent or more either of the area of the lots or land included in such proposed change, or of the lots of land immediately adjoining the same and/or extending two hundred (200) feet therefrom, such proposed change of zoning classification shall not become effective except by the favorable vote of three-fourths of all the members of the City Council, including the Mayor.

(D) The City Council shall approve a site plan at such time as the zoning change is granted. All representations, whether oral or written, made by the applicant or his or her agent(s) on behalf of the zoning change become a condition(s) upon which the zoning change is granted. It shall be unlawful for the applicant to vary from any such representations unless the applicant first obtains the approval of the City Council except building lines may be moved ten feet with the written approval of the Code Enforcement Officer. The zoning change shall be null and void in the event that the applicant for the change shall sell the above described property prior to construction of the structure or building presented to the City Council unless the new owner certifies in writing that he or she will comply with the approved site plan and permit requirements.

(E) If the construction described in the original application and site plan as approved by the City Council is not commenced within two (2) years from date of approval by the Council, the zoning change shall be null and void and the property shall revert to its zoning classification immediately prior to the repealed classification. *See* division (f) of this section.

(G) The City Council may postpone any action proposed under the provisions of this Chapter.

(e) Suspending Issuance of Permits and Approvals of Site Plans Pending Amendments. The City will not accept, filing, or process any application for site plan approval nor will it issue any building, site clearance, or grading permit for any work, other than in connection with a single-family residential use, on land for which an application has been submitted to the City to change its zoning classification, for a period not to exceed ninety (90) days prior to action of the City Council on the proposed zone change. Properties for which the City has issued a preliminary or final site plan approval prior to such date are excepted.

(f) Zoning Rollback If Parcel Is Not Developed Within Two Years.

(1) *Rollback.* A change in the zoning classification of any parcel of land shall be rolled back to a classification consistent with its actual use or to a classification of "A" if the parcel is undeveloped two (2) years after the change in zoning classification is granted.

(2) *Extension.* The City Council may grant one (1) year extensions upon written application if:

(A) The City Council finds the extension is in the public interest and zoning classification conforms to the comprehensive plan on the date the request for extension of time is filed with the City, and the owner certifies in writing that he or she will comply with the site plan and permit requirements.

(B) The applicant can demonstrate that commencement of the work will begin within ninety (90) days and that the project will be prosecuted with reasonable diligence.

(C) The application is filed prior to the two-year expiration date.

(3) *Public Hearing.* Any rollback in zoning classification shall require a public hearing and notice as prescribed in this section.

(g) Reconsideration. The City Council shall not consider an amendment, a supplement, a change, or a repeal of any section of this Chapter that the City Council has legally rejected on an appeal or petition by an appellant or applicant before the expiration of eighteen (18) months from the date of final action by the City Council

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that rejected the initial request. However, an application for an alteration or change in the use of, or height and area regulations for, lands and buildings that has been legally rejected as set forth in the preceding sentence may be considered again after the expiration of one (1) year but before the expiration of eighteen (18) months from the date of final action by the City Council if the applicant files with such application a petition, in writing, to the City Council, favoring such alteration or change, signed by the owners of at least twenty (20) percent of the lots or land immediately adjoining the lots or land included in such alteration or change and extending two hundred (200) feet from the lots or land.

§ 94.009 Completion of Buildings Existing at the Time of Amendments

If the City Council adopts any amendments to this Chapter that change the boundaries of districts, then the provisions of this Chapter that existed immediately prior to those amendments will continue to apply to the then existing buildings, buildings under construction, and land in the effected districts until the use of those buildings or land is changed, and the building permits issued prior to those amendments shall continue to apply to the then buildings under construction and land issued in the area affected those amendments.

(Ord. 010614, passed 01-06-14)

§ 94.010 General Administration

(a) Sign on Property Being Considered for a Special Use Permit, Variance, Zone Change, or Site Plan Approval.

(1) *Sign Erection.* The City shall cause one or more signs to be erected in conspicuous locations on property for which a special use permit, variance, change of zoning classification or site plan approval has been requested. Such signs shall be erected no later than ten (10) days before the request is to be considered at a public hearing before the City Council and shall remain until final disposition of the request by the City Council.

(2) *Content.* Each sign shall describe the nature of the proposed action, and indicate the time, date, and place of the public hearing before the City Council and the time and place for public inspection of the application or proposal.

(3) *Effect.* Any failure to comply with this subsection shall prevent the City Council from taking action on the subject application or adversely affect the action the City Council takes without its notice of the failure of compliance with this subsection.

(b) Fees. All applications required by this subchapter shall be accompanied by such fees and costs, including all Professional and Consulting Fees, if any, and all Filing Fees, if any, as the Code may require pursuant to the Schedule of Fees in Appendix 1.

Cross-Reference - See Part 94.00 (*Fee Schedule for Variances, Special Use Permits, and Zonings*)

(d) Minimum Requirements. The provisions of this Chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare. Wherever the requirements of this Chapter are at variance with the requirements of any other applicable law, the most restrictive, or that imposing the higher standard, shall apply. The provisions of this Chapter are not intended to repeal or interfere with private restrictions placed upon property by covenant, deed, easement, or other private agreement.

(Ord. 010614, passed 01-06-14)

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SUBCHAPTER B. ZONING DISTRICTS; ZONING MAPS

§ 94.020 Establishment and Classification of Districts

To regulate and restrict the location of trades and industries and the location of buildings erected or altered for specific uses, the City is hereby divided into the following “use districts” listed in descending order from the most restrictive to the least restrictive:

Abbreviated Designation	Zoning District
“A”	Single-Family Residential District
“R”	Retail District
“GUI”	Government, Utility, and Institutional

(Ord. 010614, passed 01-06-14)

§ 94.021 Continuation of Prior Zoning Classification of Particular Parcels of Land

Those portions of Ordinance 110A of the City, and the amendments to that ordinance, that specify the zoning district classification for particular parcels or areas of land in the City are continued in full force and effect.

(Ord. 010614, passed 01-06-14)

§ 94.022 Official Zoning Map

The Zoned Districts shall be those districts on the City’s Zoning Map and shall be within the present boundary limits of the City as the City Council has approved and established and will approve and establish from time-to-time. The city map as of the effective date of this ordinance shall also be known as the “Zoning Map,” which is adopted with and declared a part of this Chapter. Recording of this official map in the Official Public Records of Hays County, Texas, is not a prerequisite to the effectiveness of the establishment of or an amendment to any zoning district.

(1) *Identification.* The Official Zoning Map shall be identified by the signature of the Mayor attested by the City Secretary under the following words: “This is to certify that this is the Official Zoning Map of the City of City of Hays, Texas.”

(2) *Changes.* Changes in the zoning classification of particular parcels or areas of land, approved by the City Council in accordance with the provisions of this Chapter, shall be noted promptly on the Official Zoning Map with the following entry: “On (date), by official action of the City Council, the following changes were made in the Official Zoning Map: (brief description of the nature of the changes),” which entry shall be signed by the Mayor and attested by the City Secretary.

(3) *Conformance.* No changes of any nature shall be made in the Official Zoning Map except in conformity with the procedures in this Chapter.

(4) *Duplicate Map.* If the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret the City Council may by resolution adopt a new Official Zoning Map which shall exactly duplicate the original except for corrections of errors or omissions.

(Ord. 010614, passed 01-06-14)

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§ 94.023 Rules for Interpreting District Boundaries

When uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(1) *Geographical Features.* Boundaries that appear to follow streets, roads, or streams shall be construed to follow the centers of those geographical features;

(2) *Lot Lines.* Boundaries that appear to follow the lines of lots or other parcels of record shall be construed as following such lines;

(3) *City Limits.* Boundaries that appear to follow city limit lines shall be construed as following such lines; and

(4) *Council Determination.* In case of uncertainty as to the true location of a district boundary line not covered by the above rules, the City Council shall make a determination of the true location of such line.

(Ord. 010614, passed 01-06-14)

§ 94.024 Zoning of Newly Annexed Areas

(a) Automatic Zoning Classification. Any land annexed into the City after the effective date of this section shall immediately and automatically upon such annexation be classified to be in the “A” Single-Family Residential District, unless otherwise set forth in the subject annexation ordinance.

(b) Permanent Zoning Classification.

(1) *Process.* Within a reasonable amount of time after annexing the property, but not later than three months after the date the owner of newly annexed property files a written request with the City for a particular zoning classification, the City Council shall institute proceedings to give the newly annexed territory a permanent zoning classification.

(2) *Public Hearing.* The City Council must hold a public hearing on the proposed permanent zoning classification.

(3) *Notice of Hearing.* At least sixteen (16) days before the date set for the hearing, the City Council shall publish notice in the City’s official newspaper.

(Ord. 010614, passed 01-06-14)

§ 94.025 Construction Permits in Newly Annexed Areas

(a) Permit Required. Upon annexation, no existing building or structure within any territory newly annexed to the City shall be altered, remodeled, or constructed without a permit as required in this Code.

(b) Limitation. The City shall not issue a permit for the alteration, remodeling, or construction of a building or structure in a territory newly annexed to the City other than a permit that will allow the construction of a building permitted to be constructed in a “A” Single-Family Residential District. An application for any structure for any other use than that specified in this subsection shall be made to the City and referred to the City Council for consideration.

(c) Construction in Progress. Except as provided in subsection (b) of this section, the owner, lessee, or any other person, firm, or corporation owning, controlling, constructing, supervising, or directing the construction, alteration, or remodeling of any building or structure that is incomplete on the date the annexation petition is filed with the City or annexation proceedings begun by the City, before proceeding any further with the construction, alteration, or completion of that construction, shall apply to the City for a permit authorizing further work on the

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building or structure and shall attach to the application for a permit plans and specifications relating to the construction of said building, or structure, in accordance with the provisions of the Building Code of the City, as amended. The application for building permit shall be accompanied by a fee and be promptly referred, if required, to the City Council for consideration. Construction work shall be suspended until the City Council issues the permit provided for in this Chapter, or until the City Council has adopted permanent zoning regulations that permit the construction, use, and occupancy of the structure or building.

(d) Waiver. The requirements of division (c) of this section may be waived or satisfied by action of the City Council at the time the City Council takes final action to annex the subject land.
(Ord. 010614, passed 01-06-14)

SUBCHAPTER C. USE REGULATIONS

§ 94.030 Certificates of Occupancy and Compliance.

(a) Certificate of Occupancy and Compliance Required. No existing building, and no building erected or structurally altered, shall be occupied, used, or changed in use until the Code Enforcement Officer has issued a Certificate of Occupancy and Compliance, stating that the building and proposed use of building and complies with all provisions of this Chapter, with all other applicable building and health laws, with the provisions of this Code and all other laws relating to electrical and plumbing installation, and with all other relevant provisions of this Code.

(b) Application and Issuance. The responsible party shall apply for a Certificates of Occupancy and Compliance coincident with an application for a building permit. The City shall issue a Certificate of Occupancy and Compliance within five days after the erection or structural alteration of the subject building has been completed in conformity with the provisions of this Code and the other laws and provisions referred to in this Chapter.

(c) Records; Copies. The City shall keep on file a record of all certificates in the City Hall and shall furnish copies of certificates on the request of persons having a proprietary or tenancy interest in the building affected. The City will not charge a fee for an original certificate, but will charge a fee of one dollar (\$1.00) for copies of any original certificate.

(d) Change of Use. The use of a building already erected prior to March 5, 1985, shall not be changed from one class of use to another, unless and until the responsible party has obtained a Certificate of Occupancy and Compliance with the provisions of this Chapter from the Code Enforcement Officer.

(e) No Joint Use of Open Space for Compliance. No yard, court, of other open spaces provided about any buildings for the purpose of complying with the provisions of this Chapter shall again be used as a yard, court, or open spaces for another building.

(f) Buildings Used for the Sale of Beer or Wine. Before the Code Enforcement Officer may issue a Certificate of Occupancy and Compliance, including that the applicant has complied with all provisions of the Code applicable to the sale of beer and wine, and permit the sale of beer or wine in connection with a restaurant or café, the applicant shall file with the City Clerk a certificate from the health department showing that it has complied with all sanitary and health laws, ordinances, and regulations of the State and the City.

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(g) Temporary Use Prohibited. No trailer, tent, or shack shall be erected or permitted to remain on any property (except during construction, guest house, and bona fide servants quarters), nor shall any structure of a temporary character be used at any time as a residence.
(Ord. 010614, passed 01-06-14)

§ 94.031 “A” Single-Family Residential District

(a) Purpose. This district is intended to establish and preserve peaceful, attractive, and safe low-density residential neighborhoods of single-family detached dwelling units and to protect the integrity of such areas by prohibiting the intermixture of residential and incompatible nonresidential uses.

(b) Permitted Uses. A buildings or premises shall not be used, and a building shall not be erected or structurally altered that is arranged or designed to be used for other than one or more of the following uses; except at otherwise specifically provided for in this Chapter:

(1) Single-family dwelling, but not any trailer houses (mobile homes) of any kind.

(2) Accessory buildings, including a private garage and servants quarters, when located not less than seventy-five (75) feet from the front lot line, nor less than ten (10) feet from the rear lot line, nor less than ten (10) feet from either side lot line, except that a garage attached to the dwelling may be located less than seventy-five (75) feet from the front lot line.

(3) Incidental uses. Uses customarily incident to any of the above uses, when situated in the same dwelling and not involved in the conduct of a business, including customary home occupations, when engaged in by the occupants of the dwelling; such as dressmaker, the office of physician, surgeon, dentist, musician or artist, when used as his or her private dwelling. However, such incidental use shall never be permitted as a principal use, but only as a secondary use when indispensably necessary to the enjoyment of the premises for any of the uses permitted by this section, and actually made of the premises but not otherwise.

(4) Temporary buildings. When they are to be used only for construction purposes or a field office for sale of real estate of the immediate addition. Such temporary construction building must be removed immediately upon completion or abandonment of construction. The field office must be removed immediately upon request of the Mayor for the City of Hays.

(5) Additional Uses and Buildings. One or more of the following special uses are permitted within is district, but none other:

(A) Uses permitted in the section.

(B) Public or private parks, public or private playgrounds, public or private recreation buildings and public or private golf courses.

(C) Public or private buildings, water supply reservoir, filter beds, surface or below surface tank, artesian well, pumping plant, municipal building, City Hall, and Fire Station.

(Ord. 010614, passed 01-06-14)

§ 94.032 “R” Retail District

(a) Purpose. This district is intended to provide sites for quiet, low-density, retail businesses providing goods and services, with merchandise contained within the building or enclosure approved for such use except paragraph (19) of subsection (b) of this section, where live vegetation may be kept outdoors, to meet the needs of the residents of City of Hays in a manner and on a scale that is in harmony with the semi-rural character of the community.

(b) Permitted Uses. In an “R” Retail District, a building or land shall not be used, and a building shall not be erected or structurally altered, unless otherwise provided in this Chapter, except for one or more of the uses

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enumerated in this section. The "R" Retail District is designed for retail businesses of a local character, and wholesale establishments are not to be located within this district. Permitted uses are enumerated as follows:

- (1) A bakery;
- (2) Banks, offices, wholesale sales offices and sample rooms;
- (3) Barbershops, beauty shops and any other personal service shops;
- (4) Camera shops and photographic supplies;
- (5) Catering and wedding services;
- (6) Craft and hobby shops;
- (7) Department stores; sporting goods, novelty, or toy shops;
- (8) Drugstores, soda fountains, soft drink stands and candy and tobacco shops.
- (9) Electrical goods:
 - (A) Electronic wholesale distributors subject to the following limitations:
 - (I) The distributor's place of business shall have no more than ten thousand square feet of floor area.
 - (II) Sales by such distributor of household merchandise (as opposed to industrial merchandise) shall constitute at least eighty (80) percent of the business of such establishment;
- (10) Furniture repairs and upholstery, with all storage and display within a building;
- (11) Frozen food lockers;
- (12) Gasoline service stations when a permit has been secured from the City Council;
- (13) Grocery stores or grocery stores including the sale of beer and wine, as defined by state law, in unopened containers for off-premises consumption;
- (14) Hardware, paints, wall paper;
- (15) Household and office furniture, furnishings and appliances;
- (16) Ice vending stations;
- (17) Jewelry and optical goods;
- (18) Meat markets;
- (19) Nurseries and greenhouses;
- (20) Office buildings;
- (21) Piano and musical instruments;
- (22) Pickup stations for receiving and delivering of articles to be dyed or laundered, but actual work shall not be done on the premises;
- (23) Plumbing shops without warehouse facilities (to include store for ordinary repairs but not storage of materials for contracting work);
- (24) Shoe repair shops;
- (25) Signs, as approved under the Code; provided, that:
 - (A) A permanent sign shall not be permitted except that pertaining to the occupancy of the building.
 - (B) All permanent signs shall be placed flatwise against the building, and flashing or intermittently lighted type signs shall not be erected;
- (26) Variety stores;
- (27) Washaterias or self-service laundries equipped with automatic washing machines, dryers and ironers of type customarily found in a home, and where the customer may personally supervise the handling of his or her laundry;
- (28) Wearing apparel shops; and
- (29) Any other retail use supplying the everyday shopping needs of the immediate neighborhood with the approval of the City Council.

(Ord. 010614, passed 01-06-14)

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§ 94.033 “GUI” Governmental, Utility, and Institutional District

(a) Purpose. This district is intended to provide appropriate areas for uses that provide important community services often requiring large amounts of land. Uses permitted in the GUI District may generate a large amount of traffic. Therefore, only land abutting a major street that can be used for access should be considered appropriate for GUI classification. An appropriate site should also contain adequate space for required off-street parking and buffering.

(b) Permitted Uses.

- (1) Those uses permitted in “A” Districts;
- (2) Church;
- (3) Facility owned and operated by the federal government, the State, or political subdivisions of the State;
- (4) Fire station;
- (5) School, either public or private non-profit;
- (6) Uses required by public utilities; and
- (7) Accessory uses customarily incidental to any of the foregoing permitted uses.

(c) Special Uses Permitted Upon Authorization of City Council.

- (1) Proprietary or for-profit school; and
- (2) Child day-care facility.

(Ord. 010614, passed 01-06-14)

SUBCHAPTER D. SPECIAL PROVISIONS

§ 94.060 Dimensional Regulations

(a) Minimum Lot Dimensions. Except as expressly authorized, a lot shall not have an area, depth, or frontage less than that shown on the schedule of regulations as being required in this section for the district in which the lot is located, and a lot shall not be less in width than the minimum lot width shown on such schedule.

(b) Nonconforming Lots of Record and Combined Lots.

(1) Date. As used in this section, any lot existing of record on March 5, 1985, that does not meet the area, width, and depth requirements of this Chapter, shall be referred to as a nonconforming lot.

(2) Allowance. A structure for a permitted use may be constructed on a nonconforming lot provided that each of the following conditions is met:

- (A) Such nonconforming lot must be able to properly support a private on-site sewage facility adequate to handle the anticipated needs of the proposed use.
- (B) Any structure proposed to be built on such lot must comply with all the remaining dimensional regulations. A deviation from such remaining regulations shall not be permitted except through the variance procedure in this Code.

(3) Combining Lots. The owner of two or more contiguous nonconforming lots may combine two or more of the lots into a single lot or two or more lots, and structures for permitted uses may be built on that combination of lot, even if such resulting lot or lots do not meet the area, depth, and width requirements of this Chapter. However, a lot or lots created by or resulting from the combination cannot be smaller than

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the smallest of the nonconforming lots so combined. Additionally, each of the following conditions must be met:

(A) Each resulting lot must be able to properly support a private on-site sewage facility adequate to handle the anticipated needs of the proposed use.

(B) Any structure proposed to be built on each resulting lot must comply with all remaining dimensional regulations. A deviation from such remaining regulations shall not be permitted except through the variance procedure in this Code. However, the interior boundaries between the nonconforming lots combined to create a resulting lot and the setback requirements based on said interior boundaries may be disregarded.

(C) Whenever a resulting lot is sold or title to the lot is otherwise conveyed, the owner of any nonconforming lot or lots that have been combined as authorized by this section shall file a short form subdivision plat with the City in accordance with the applicable provisions of the Subdivision Code, which plat shall include all lots whose boundary lines were affected by the combination.

(c) Lot Area, Width, Depth.

(1) *Area.* In computing the area of a lot, no part of a street shall be included.

(2) *Width.* The width of a lot shall be measured along the front building setback line.

(3) *Depth.* The depth of a lot shall be the horizontal distance between the front and rear lot lines measured along the median between the side lot lines.

(d) Building Setback Distances.

(1) *Setbacks.*

(A) A principal building shall not have any front, side, or rear setback distance less than that shown on the schedule of regulations as being required in the district in which the building is located.

(B) Unroofed steps and ramps shall not be considered as part of the principal building when measuring the setback distance of such building.

(2) *Yards; How to Measure.* Yards are the open areas between building setback lines and lot lines. Structures shall not be permitted in yards except as otherwise provided in this section.

(A) *Front Yards.* Front yards extend the full width of the lot. Their depth is measured from the edge of the right-of-way line of the street to the minimum front setback line.

(B) *Rear Yards.* Rear yards extend the full width of the lot. Their depth is measured as the horizontal distance between the rear line of a building other than an accessory building and the rear lot line.

(C) *Side Yards.* Side yards extend from the front yard to the rear yard. Their depth is measured from the side lot line to the nearest minimum side setback line.

(3) *Lots Abutting on More than One Street.* In the case of lots abutting on more than one street, the full width of the front yard shall be provided from each street.

(e) Setbacks for Accessory Structures Other Than Fences, Walls, Solid Waste Containers and Mailboxes.

The minimum setback distances for an accessory structure, other than unroofed steps, ramps, fences, walls, walks,

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driveways, solid waste container enclosures and mailboxes shall be as set forth in the appropriate category in subsection (j) of this section.

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

(g) Height of Structures.

(1) *Maximum Height*. A structure shall not have a height greater than that shown on the schedule of regulations as being permitted in the district in which the structure is located.

(2) *Measurement*. Height shall be measured vertically from the undisturbed natural grade to the highest point of the building or structure, excluding spires, antennas, ventilators, chimneys, or other similar appurtenances. Undisturbed natural grade elevations shall be certified by a registered architect, surveyor or engineer.

(i) Minimum Floor Area for Dwellings.

(1) *Minimums*. A dwelling unit shall not have an enclosed living area smaller than that shown on the schedule of regulations.

(2) *Computation*. The minimum floor area shall be computed exclusive of breezeways, garages, open porches, carports, or accessory buildings not designed and used directly and specifically for dwelling purposes.

(j) Schedule of Regulations.

(1) *Dimensional Regulations*.

<i>Districts</i>			
<i>Dimensional Regulations</i>	<i>A</i>	<i>R</i>	<i>GUI</i>
Lot area (minimum acre)	1	1½	2
Lot width (minimum feet)	150	150	150
Lot depth (minimum feet)	150	200	200
Building setback lines for lots of one acre or more			
Front (minimum feet)	30	30	30
Side (minimum feet)	25	(I)	(I)
Rear (minimum feet)	30	40	40
Building setback lines for lots of less than one acre			
Front (minimum feet)	20	30	30

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<i>Districts</i>			
<i>Dimensional Regulations</i>	<i>A</i>	<i>R</i>	<i>GUI</i>
Side (minimum feet) (each) (II)	7½	(II)	(II)
Rear (minimum feet)	20	30	30
Minimum setback lines for accessory structures for lots of one acre or more			
Front (minimum feet)	30	30	30
Side (minimum feet) (each)	5	(I)	(I)
Rear (minimum feet)	7½	40	40
Minimum setback lines for accessory structures for lots of less than one acre			
Front (minimum feet)	20	30	30
Side (minimum feet) (each)	5	(II)	(II)
Rear (minimum feet)	7½	30	30
Lot coverage-impervious cover (maximum percentage)	40%	(III)	(III)
Height of buildings (maximum feet)	28	30	30
Minimum floor area of each dwelling unit in building (square feet)	975	1000	1000
Minimum off-street parking of each dwelling unit (square feet) Excluding the garage and with no clearance to property line	360	N/A	N/A

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<i>Districts</i>			
<i>Dimensional Regulations</i>	<i>A</i>	<i>R</i>	<i>GUI</i>
(I)	The sum of 50 feet with neither side less than 20 feet, except a minimum of 40 feet for any side(s) that adjoins an “A” district.		
(II)	The sum of 40 feet with neither side less than 10 feet except a minimum of 25 for any side(s) that adjoins an “A” district.		
(III)	Where the slope gradient is zero to fifteen percent the maximum impervious cover is forty (40%) percent.		

(2) *Additional Dimensional Regulations for Non-Residential District (“GUI” - Government, Utility, and Institutional).*

<i>DIMENSIONAL REGULATIONS</i>		
	<i>R</i>	<i>GUI</i>
Maximum floor area (square feet) per building	20,000	20,000
Minimum separation between buildings (linear feet)	30	30

(Ord. 010614, passed 01-06-14)

§ 94.061 Environmental Regulations for All Districts

(a) Landscape.

(1) *Natural State.* Landscape shall be preserved in its natural state to the greatest extent feasible. Structures, driveways, and parking areas shall be designed and located to fit harmoniously with the natural terrain and to minimize the necessity for removing trees, native vegetation, and soil, or the addition of fill. Site clearing, beyond what is necessary to provide locations for structures, driveways, parking, or small yard areas shall not be permitted.

(2) *Minimize Disturbance.* The project developer shall leave undisturbed native vegetation to the maximum extent feasible. In addition, with the exception of ash/Mountain Juniper (cedar), each tree removed with a trunk greater than six (6) inches measured at a point four and one-half feet above ground must be replaced with comparable mature species in an appropriate location to compensate for the loss of such trees.

(3) *Physical Barriers.* To preserve the required mandatory areas of natural vegetation landscape from inadvertent damage during construction, a physical barrier shall be erected around the perimeter of these inviolate areas. The barriers will be in place and approved by the Code Enforcement Officer before any site clearance can commence. The barrier may consist of a temporary chain link fence, wooden stake (snow) fence, one-half inch white rope with orange streamers every five feet or other devices as approved by the Code Enforcement Officer. Minimum height for all types of barriers is four feet. Barriers shall

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remain in place until the final building and landscape site inspections are satisfactorily completed for the issuance of the Certificate of Occupancy. Only after this time can the barriers be removed.

(4) *Tree Survey*. When tree surveys are submitted they will show all trees over six inches in diameter. Tree size is measured at a point four and one-half feet above the ground level.

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

(c) Ecological Considerations. Development shall insofar as practicable:

(1) Result in minimal impairment of the regenerative capacity of aquifers and other groundwater and surface water supplies;

(2) Result in minimal degradation of unique or irreplaceable land types and in minimal adverse impact upon critical areas, such as streams, highly erodible soils, and mature stands of native vegetation; and

(3) Conform with existing geologic and topographic features, to the end that the most appropriate use of land is encouraged.

(Ord. 010614, passed 01-06-14)

§ 94.062 General Regulations

(a) Uses Prohibited In City. All uses not expressly permitted or authorized by this Chapter are prohibited in the City, including the following:

- (1) Commercial kennels, except by Special Use Permit;
- (2) Open-air commercial amusements;
- (3) Junk yards, salvage yards, and all open-air storage of junk, waste products and salvage materials;
- (4) All open-air storage of building materials, equipment, and merchandise (except live vegetation) except that necessary to a construction project, provided that the materials and equipment are located on the site of the construction and are removed immediately upon completion or discontinuance of work;
- (5) Placing, locating, or erecting a mobile home;
- (6) Mobile home or recreational vehicle parks;
- (7) All signs except as expressly permitted in this Code;
- (8) Quarrying;
- (9) Heavy industrial, mining, or extractive uses of all descriptions;
- (10) Adult entertainment activity;
- (11) The sale of fireworks;
- (12) Uses attended by substantial nuisance factors as defined in this Code.

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

(c) Structures to Have Access.

(1) *Access to Public Street*. Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street.

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(2) *Driveways*. Driveway entrances with gates shall be designed so that any vehicle entering the gates will be completely off the right-of-way when stopped to open gates (the gate shall be set back a minimum twenty (20) feet from the right-of-way).

(d) Accessory Use. The uses of land, buildings, and other structures permitted in each of the districts established in this Chapter are designated by listing the principal uses. In addition to such principal uses, accessory uses are also permitted in each district. Each accessory use shall:

- (1) Be customarily incidental to the principal use established on the same lot;
- (2) Be subordinate to and serve such principal use;
- (3) Be intended for the comfort, convenience, or necessity of users of such principal use;
- (4) Not be designed nor used for human habitation except for guest house and domestic employee quarters as provided in this Chapter; and
- (5) Not be attended by nuisance factors.

(e) Visibility Along Streets and at Street Corners. A structure shall not be erected, and vegetation shall not be maintained in the area of a corner lot between the sidelines of the intersecting streets and a straight line joining points on such sidelines ten (10) feet distant from their point of intersection, which materially obstructs safe visibility for vehicular traffic. A structure shall not be erected, and vegetation shall not be maintained along sinuous streets that materially obstructs safe visibility for vehicular traffic.

(f) Screening of Nonresidential Uses From Residential District or Use.

(1) *Required Landscaped Buffer Strips*. All lots, or parts of lots, which are improved with a predominantly nonresidential use and whose side or rear lines are adjacent to a residential district or use, shall be screened from such residential district or use by landscaped buffer strips or other such screening in such lots and along such side or rear lines of the lots as the City Council shall approve.

(2) *Screen Planting Generally*. Within required buffer areas, a solid and continuous landscape screen shall be planted and maintained. Such landscaping shall consist of massed evergreen and deciduous trees and shrubs of such species and size as will produce a screen at least five (5) feet in height within two growing seasons, so as continually to restrict a clear view beyond such buffer strip.

(3) *Height of Planting*. The required height of the screen shall be measured from the elevation of the edge of the adjacent area to be screened. In cases where the elevation of the planting location is less than the elevation of the edge of adjacent area, the required height of the screen shall be increased in an amount equal to such difference in elevation. In cases where the elevation of the planting location is greater than that at the edge of the adjacent area, the required height of the screen may be reduced in an amount equal to such difference in elevation: provided, that in no case shall the required height be reduced more than two (2) feet.

(4) *Width; Maintenance*. The buffer strip shall be at least five (5) feet in width at all points and shall be graded and furnished with appropriate ground cover and such other shrubbery or trees as may be desired by the owner. It shall be maintained and kept clean of all debris and rubbish.

(5) *Replacement of Dead Plantings*. Required buffer plantings shall be replaced from time to time as they die and within one year after they die.

(6) *Installation of Plantings or Performance Guarantee Prerequisite for Certificate of Occupancy*.

(A) No Certificate of Occupancy. For premises upon which such screening is required shall be issued until such time as the landscaping requirements as set forth in this subsection are installed,

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or, in the event that the season is not appropriate for such installation, until a performance guarantee is posted with the City in an amount equal to the estimated cost of such landscaping installation.

(B) **Suspension or Revocation.** The Certificate of Occupancy is subject to suspension or revocation if required landscaping is not maintained in accordance with the approved site plan or previous agreements with the City.

(7) *Substitution of Fence or Wall for Plantings.* In required buffer areas where a natural buffer strip is deemed impracticable or inappropriate, a suitable screening wall or fence may be substituted, as approved by the City Council.

(g) **Solar Energy Devices.**

(1) *Purpose.* To help alleviate the growing energy shortage and lessen the reliance on increasingly uncertain power sources, it is the purpose of this section to encourage the use of solar energy for space heating and cooling in buildings and for heating water.

(2) *Permitted Uses.* The use of solar energy devices for the purpose of providing energy is a permitted use within all zones, either as a part of a structure, or an independent structure. Solar energy devices shall be subject to the setback and height limitation, affecting dwellings, garages, and other major improvements.

(3) *VariANCES.* VariANCES shall be granted from restrictions such as heights, setback and lot density where such variANCES are reasonable and necessary to assure unobstructed access to direct sunlight. VariANCES shall not be granted that would cause an unreasonable obstruction of direct sunlight to adjacent property if it is reasonable probable that passive or active solar radiation will be used on the adjacent property.

(h) **Signs.** The only signs permitted in the City are those which meet the requirements of the City's sign ordinance and/or the sign chapter in the Code (Chapter 91), and which have received the necessary approval. A sign shall not be permitted in a residential district except the following categories of signs which comply with the provisions of the City's sign ordinance and/or the sign chapter in the Code (Chapter 91) and have received approval when necessary: political sign, real estate sign, temporary site development sign, and residential nameplate sign.

(i) **Structures in the City's Right-of-Way.** A structure shall not intrude upon the City's right-of-way in any form or fashion.

(1) *Mailboxes.* Mailboxes approved by the United States Postal Service may be placed in the City's right-of-way at locations approved by the Code Enforcement Officer so long as the stand or stanchion upon which the mailbox is placed is a post not exceeding four (4) inches by four (4) inches in width and that would be of wood or light metal that would collapse upon impact.

(2) *Stands or Stanchions.* Masonry stands or stanchions upon which mailboxes may be affixed may be placed in the right-of-way of the public streets, provided that such be constructed so as to be collapsible upon impact and that their location, construction and design not be in conflict or violation of state, county or United States Postal Service regulations or laws, nor create a hazardous and nuisance situation to the public's use of the City's streets or highways.

(j) **Solid Waste Containers in Setback Area.** The property owner or occupant is responsible for providing rigid tamper-proof garbage containers and trash shall be confined within these containers.

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(k) Television Dish Antennas. Television dish antennas are permitted within the City provided that said antennas do not exceed twelve (12) feet in diameter and are located within the setback lines.

(l) Mirrored Glass. Mirrored glass shall be used on structures only with the prior approval of the City Council.

(m) Exterior Surfaces of Commercial Structures. The surface of commercial structures shall not exceed forty (40) percent glass. At least twenty-five (25) percent of the surface of each commercial structure shall consist of natural materials such as rock or solid wood. A building shall not use corrugated iron (unfinished metal) or corrugated fiberglass, except on roofs.

(n) Underground Utilities For Nonresidential. All on-site utilities shall be located underground for nonresidential development.

(o) Regulation of Aircraft in the City. A person shall not ascend or land with any aircraft, or permit the ascending or landing of any aircraft within City. This proscription shall not apply to any medical helicopter nor shall it apply to emergency landings or to military or national guard aircraft.
(Ord. 010614, passed 01-06-14)

§ 94.063 Special Uses

(a) Special Uses; Authorization Required. The following special uses may be authorized by the City Council in the district in which they are allowed:

Special Use	District Where Allowed
Child day-care facility	GUI
Fire Station	A
Golf Courses	A
Governmental Buildings, Facilities, Water Supplies, Etc.	A
Parks, Private or Public	A
Playgrounds, Private or Public	A
Recreation Buildings, Private or Public	A
School, Proprietary of For-Profit	GUI

(b) Criteria Applicable to Individual Special Uses.

(1) Home Occupation Use. A proposed home occupation must comply with all the following specific criteria as well as the foregoing general criteria:

(A) The occupation shall not produce any alteration or change in the character or exterior appearance of the principal building from that of a dwelling;

(B) Such use shall be incidental and secondary to the use of the premises for residential purposes and shall not utilize an area exceeding twenty (20) percent of the gross floor area of the dwelling unit;

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- (C) The occupation use shall be carried on by a member of the family residing on the premises and not more than one nonresident assistant; and
- (D) Adequate off-street parking is available on the property where the use is located.

(2) *Employee Dining Facilities.*

- (A) The employee dining facility must be operated within the office buildings and only in projects that total over fifty thousand (50,000) total surface feet of building floor area within one lot.
- (B) The employee dining facility shall be limited in size so as to serve the employee population of the office complex. Advertising of said facility shall not be permitted outside the complex.
- (C) The permit shall be reviewed annually.

(3) *Minor Emergency Clinic.* For Districts R, an applicant must comply with the following specific criteria and conditions, as well as the foregoing general criteria:

- (A) The parcel must have direct access to a public street.
- (B) The clinic shall be operated by a physician licensed to practice medicine in the State and currently in good standing with the Texas Medical Board; and
- (C) The on-site sewage facility for the clinic shall be specifically designed by a licensed engineer for water consumption or capacity typically associated with minor emergency medical clinics.

(c) General Requirements for all Special Uses.

(1) *Adherence to Approved Plans, Regulations.* A special use shall be established, operated and maintained in accordance with the plans, terms, conditions, and limitations contained in the permit approved by the City Council.

(2) *Duration.* Special Use Permits may be granted for a definite or an indefinite period of time.

(3) *Revocation.* The City Council, after notice and public hearing, may revoke any Special Use Permit for one or more of the following reasons:

- (A) A substantial violation of any of the plans, terms, conditions, and limitations applicable to the special use;
- (B) A substantial violation of any applicable ordinance or regulation;
- (C) Operation or maintenance of the special use in a manner that is detrimental to the public's health or safety, or so as to constitute a nuisance; and/or
- (D) Discontinuance of the use.

(4) *Lapse of Permit.* A Special Use Permit shall lapse if the use has not been commenced, or, in the case of construction, if construction has not been commenced, within one year of the date the permit was issued.

(5) *Transfer.* A Special Use Permit is not transferable and shall cease upon transfer of the land for which the City issued the permit.

(6) *Professional and Consulting Fees and Filing Fees.* Each applicant for a Special Use Permit must pay all Professional and Consulting Fees of the City, if any, and Filing Fees, if any.

(Ord. 010614, passed 01-06-14)

Cross-Reference – See Part 94.00 (*Fee Schedule for Variances, Special Use Permits, and Zonings*)

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§ 94.064 Procedures for Obtaining Special Use Permits

Whenever under this Chapter a Special Use Permit is required, the following rules shall govern the granting or amending of such permit:

(1) *Application for Special Use Permit.* Application for a special use permit shall be filed in the City Hall, in writing, on forms provided by the City and shall be accompanied by a site plan showing the intended development of the property involved. Applications for a special use permit for any use shall be accompanied by a fee of fifty dollars (\$50.00). Within not less than thirty (30) days nor more than sixty (60) days after the date of filing an application, the City Council hearings under the Texas Local Government Code, shall hold a public hearing and adopt an order granting or refusing same.

(2) *Hearing Procedure.* The City Council at its hearing on a special use permit shall consider the formal application and the accompanying site plan, and shall impose only such conditions as are necessary to secure and protect the public health, safety, morals and general welfare. The decision of the City Council shall be announced in open hearing. At the time of the announcement of the City Council on an application for a special use permit, the Mayor of the City Council shall orally advise all parties present of their right of appeal to the City Council and the method of perfecting such appeal. Any interested party aggrieved by a decision of the City Council on a special use permit may appeal to the City Council for a review of the council's decision upon giving notice in writing, to the City Council within fifteen (15) days following the decision of the City Council.

(3) *Site Plan.* The site plan accompanying an application for a special use permit shall show existing improvements on the land and proposed development of the property. The plan shall be submitted on tracing paper or tracing linen twenty-four by thirty-six (24x36) inches in size. The plot plan shall give the following information:

- (A) The date, scale, north point, title, name of owner and name of person preparing the plan.
- (B) The location of existing boundary lines and dimensions of tract.
- (C) The center line of existing water courses, drainage features and location and size of existing and proposed streets and alleys.
- (D) The location and size to the nearest one-half foot of all proposed buildings and land improvements.
- (E) The clear designation of areas reserved for off-street parking and for off-street loading; the location and size of points of ingress and egress; and the ratio of parking space to floor space.

(4) *Factors to Be Considered.* In granting or denying an application for a special use permit, the City Council shall take into consideration the following factors:

- (A) Safety of the motoring public and of pedestrians using the facility and the area immediately surrounding the site.
- (B) Safety from fire hazard, and measure of fire control.
- (C) Protection of adjacent property from flood or water damage.
- (D) Noise producing elements; and glare of vehicular and stationary lights and effect of such lights on established character of the neighborhood.
- (E) Location, lighting, and type of signs; and relation of signs to traffic control and adverse effect on adjacent properties.
- (F) Street size and adequacy of pavement width for traffic and reasonably expected to be generated by the proposed use around the site and in the immediate neighborhood.
- (G) Adequacy of parking, as determined by requirements of this Chapter for off-street parking facilities in the use district in which the site is located; location on ingress and egress points for parking

City of Hays - Land Use

and off-street loading spaces; and protection of the public health by surfacing on all parking areas to control dust.

(H) Such other measures as will secure and protect the public health, safety, morals and general welfare.

(5) *Expiration of Special Use Permit.* Authority to issue construction or occupancy permits pursuant to the granting of a special use permit shall expire two years after the granting of the special use permit. The City Council may grant a one year extension of the special use permit when one or more of the following conditions have been met:

(A) Construction permits have been issued, materials have been acquired and the foundation of at least one building has been placed on the site.

(B) Where no construction is required an occupancy permit has been issued and actual operation of the use has been started.

(C) The developer has made application to the City Council stating his or her reasons, prior to the expiration date of his or her special use permit. The Code Enforcement Officer shall report to the City Council the actual development accomplished at it relates to the approved special use permit. The council, before acting, shall hold a public hearing on the application in the same manner as required in subsections (a) and (b) of this section. After authority for the issuance of construction or occupancy permits, pursuant to the granting of a special use permit has expired by default, no construction or occupancy permit shall be issued, except under a special use permit granted upon a new application.

(6) *Modification of Site Plan.*

(A) The site plan as finally approved may be adjusted or altered subsequently when such modification is required by provisions of city ordinances or state statutes which are more restrictive than the zoning regulations, or when the holder of the permit deems a revision in the site plan will provide more appropriate development of the site; provided, that such proposed change is consistent with the express conditions contained in the permit granted by the City Council and the change will be consistent with the provisions of this Chapter.

(B) A proposed change shall be presented, in writing, to the Code Enforcement Officer, and if written specifications are inadequate to describe the proposed revision, a supplementary site plan shall be attached to the application for revision. Such application and site plan shall be forwarded by the Code Enforcement Officer to the City Council which, within five (5) working days after receipt thereof, shall furnish the Code Enforcement Officer a decision, in writing, either approving the proposed revision or approving the revision subject to specific conditions and safeguards, or by advising the Code Enforcement Officer that the proposed revision exceeds the scope of the special use permit provisions of this Chapter and should be referred to the City Council.

(C) If the proposed revision is approved by the mayor of the City Council, the Code Enforcement Officer shall make necessary adjustments in construction permits and shall authorize the holder of the permit to alter construction in accordance with such revision. The holder of a permit aggrieved by any finding of fact pertaining to an application for revision of a site plan may appeal to the City Council for review.

(Ord. 010614, passed 01-06-14)

Zoning Code

§ 94.065 Nonconforming Uses and Structures; Noncomplying Structures

(a) Nonconforming Uses of Land and Structures. Any use of land or structures lawfully existing on the March 5, 1985, or any amendment to this Chapter that would make an existing use a non-conforming use, that is not permitted in the district in which the use is located may be continued, subject to the following conditions:

(1) A nonconforming use of land shall not be extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Chapter;

(2) A nonconforming use of land shall not be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Chapter;

(3) When a nonconforming use of land is discontinued for a period of more than ninety (90) consecutive days, it shall be deemed to be abandoned and subsequent use of such land shall conform to the regulations specified by this Chapter for the district in which the land is located;

(4) An existing structure devoted to a use not permitted by this Chapter in the district in which it is located shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

(5) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Chapter, but such use shall not be extended to occupy any land outside such building;

(6) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;

(7) When a nonconforming use of a structure, or structure and premises in combination, is discontinued for three (3) consecutive months, except for repairs covered by an approved building permit, not exceeding six (6) months, it shall be deemed to be abandoned and the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located;

(8) Where nonconforming use status applies to a structure and premises in combination, removal, or destruction of the structure shall eliminate the nonconforming status of the land. "Destruction" for the purpose of this subsection is defined as damage to an extent of more than fifty (50) percent of the replacement cost at time of destruction;

(9) The City Council, after notice and hearing, may require that a nonconforming use be screened from view of the street or surrounding property, or may require the elimination of any nuisance factor caused by a nonconforming use;

(10) The following nonconforming uses of land shall be entirely discontinued in all districts within one year from March 5, 1985 or the effective date of adoption or amendment of this Chapter that would make the existing use a nonconforming use, or from the date of annexation of land containing such uses, whichever date is earlier:

(A) Wrecking, junk, scrap, or salvage yards;

(B) Outdoor storage yards for lumber, building materials, and contractor's equipment;

(C) Extraction or removal of stone, sand, gravel, caliche, minerals, earth, topsoil, or other natural material for commercial purposes;

(D) Kennels and stables; and

(E) Shooting ranges.

(11) The following nonconforming uses of structures, or of structures and land in combination, shall be entirely discontinued within eight years after their inception, or within five (5) years after becoming nonconforming under this Chapter, or amendment to this Chapter, whichever is later:

(A) All commercial uses in "A" districts; and

(B) All industrial uses in any district.

City of Hays - Land Use

(b) Nonconforming Structures. Any structure lawfully existing on the effective date of this Chapter, or any amendment to this Chapter, that is designed for a use not permitted in the district where the structure is located shall be designated a nonconforming structure.

(1) *Enlargement and Alternation Generally Prohibited*. A such nonconforming structure may not be enlarged or altered except to redesign it for a use permitted in the district where the structure is located. Ordinary maintenance and repair are permitted.

(2) *Destruction*. Should such nonconforming structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Chapter.

(3) *Movement of Structure*. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(4) *Schedule for Complete Removal*. All nonconforming structures shall be completely removed from the district where they are located in accordance with the following schedule:

<u>Assessed Value of Structure At Time It Became Nonconforming</u>	<u>After Becoming Non-Conforming, To Be Removed Within</u>
Less than \$ 2,000	1 year
\$ 2,001 to \$20,000	8 years
\$20,001 to \$40,000	10 years
\$40,001 to \$100,000	15 years
\$100,001 and over	20 years

(5) *Special Circumstances*. When special circumstances apply to any nonconforming structure, which do not apply generally to others affected hereby, the City Council may grant extensions of time under the variance procedure for cases of unnecessary hardship.

(Ord. 010614, passed 01-06-14)

§ 94.066 Off-Street Parking Requirements (Nonresidential)

(a) Parking Spaces Required Generally. In all areas, in all use and area districts, off-street parking shall be provided in accordance with the requirements of subsections (b), (c) and (d) of this section.

(b) Schedule.

(1) *Group One Uses*. For each of the following uses or for any like use, one off-street parking space shall be provided for each one thousand square feet of gross floor space:

- (A) Business service establishments.
- (B) Printing and engraving.
- (C) Public utility buildings.
- (D) Research laboratories.

Zoning Code

(2) *Group Two Uses*. For each of the following uses, or for any like uses, one off-street parking space shall be provided for each bedroom, with one additional space being required for each fraction of half space or over:

(A) Transient accommodations.

(3) *Group Three Uses*. For each of the following uses, or for any like use, one off-street parking space shall be provided for each two hundred square feet of gross floor area:

(A) Banks and other financial and lending institutions.

(B) Beauty shops and barber shops.

(C) Retail establishments, including all retail stores, food and catering services.

(D) Sales, display, customer or office areas in wholesale establishments.

(E) All office buildings, medical and dental clinics and laboratories.

(c) Measurement and Computation.

(1) *Mixed Uses*. Where more than one use exists on the same site or in the same building, the portion of such site or building devoted to each use shall be used in computing the number of off-street parking spaces required for such use. For such site or building the total requirements for off-street parking spaces shall be the sum of the requirements of the various uses computed separately. The off-street parking space for one use shall not be considered as providing the required off-street parking space for another use.

(2) *Fractional Measurement*. When units or measurements determining the number of required off-street parking spaces result in a requirement of a fractional space any fraction less than one-half shall be disregarded. Any fraction of one-half or over shall require one off-street parking space. When the requirement computed for each use is a fraction less than one-half, one parking space shall be required.

(d) General Provisions.

(1) *Location and Variance*. The off-street parking facilities required for the uses mentioned in this Chapter and for other similar uses shall be on the same lot or parcel of land as the structures they are intended to serve, or when practical difficulties, as determined by parcel, such facilities shall be located within two hundred feet of the premises which they are to serve, measured along a public street or alley.

(2) *Continuing Character of Obligation*. The schedule of requirements for off-street parking applicable to newly erected or substantially altered structures shall be a continuing obligation of the owner of the real estate on which such structure is located so long as the structure is in existence or its use requiring vehicle parking continues. An owner of any building affected by these regulations shall not discontinue, change or dispense with, or cause the discontinuance or change of, the required vehicle parking spaces apart from the discontinuance or transfer of such structure without establishing adequate parking spaces which meet with the requirements of and are in compliance with these provisions. A person shall not use such building without acquiring such land for vehicle parking which meets the requirements.

(3) *Improvement of Parking Area*. All parking areas shall be surfaced in accordance with the provisions of the definition of the term "parking space" as defined in this Chapter, and shall conform to the following requirements:

(A) The area shall be designed and constructed to protect adjacent residents from the direct glare of headlights of vehicles using the parking area.

(B) Where the area is adjacent to property developed for residential use, a wall of fence not less than four (4) feet in height measured from the finished grade of such parking area, shall be provided for the length of the common boundary.

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(4) *Application to Existing and Future Uses.* The parking space requirements prescribed in this section shall apply to all buildings erected or altered after March 5, 1985, to all changes in use thereafter made, and to all expansions of present uses. Existing uses not meeting the requirements of this section may be continued and such uses shall be considered as nonconforming uses.

(Ord. 010614, passed 01-06-14)

§ 94.067 Off-Street Parking Requirements (Residential)

(a) Driveway Entrances. Driveway entrances shall be set back at least thirty-five (35) feet from the point of tangency of the curb at any intersecting street.

(b) Culverts. Adequate culverts shall be provided under driveway entrances to prevent obstruction of drainage ways.

(c) Safety. All driveways shall be designed so as to provide safe vehicular entrance and exit.

(d) Grade Level. Every driveway entrance and exit shall be at roadway grade level where the driveway intersects the City's right-of-way.

(1) *Access.* Each dwelling shall be on a lot abutting a public street or having access to an improved public street, and all structures shall be so located on lots as to provide safe, convenient access for servicing, police protection, fire protection, and required off-street parking. All driveways are limited to undeveloped slopes below twenty-five (25) percent gradient. They shall not exceed a maximum of twenty (20) percent grade after construction.

(2) *One Driveway Entrance.* Each dwelling shall have not more than one driveway entrance per lot, and such driveway entrance shall not exceed twenty (20) feet in width except as otherwise approved by the Code Enforcement Officer. The location of all driveways shall be approved by the Code Enforcement Officer. The parking spaces and driveway surfaces shall be those required in divisions (a), (b) and (e) of this section. An additional driveway entrance to lots exceeding one hundred (100) feet in width may be approved by the City Council in accordance with the provisions of division (h) of this section.

(3) *Increase in Off-Street Parking Spaces Required.* A residential structure shall not be erected or enlarged by an increase in floor area unless the minimum number of off-street parking spaces specified in the following schedule are provided. Adequate aisles and driveways shall also be provided to permit proper maneuvering within the parking area and for safe and orderly entry and exit. Parking area design is included as an integral part of the site plan development.

(Ord. 010614, passed 01-06-14)

§ 94.068 Exterior Lighting (All Districts)

(a) Exterior Lighting Throughout all Districts. Exterior lighting sources that shine directly into the eyes of any occupant of any vehicle on any public or private road or onto adjacent property, or where the illumination interferes with the visibility or readability of any traffic signs or devices are not permitted.

(b) Street Lighting. It is the policy of City to discourage street lighting in the "A" District. Street lighting shall not be permitted except that authorized by the City and only where it is properly shielded from adjacent private and public property.

Zoning Code

(c) Perimeter Lighting in R Districts. Lighting sources are permitted on lot lines adjacent to a public street under the following conditions:

- (1) The lighting source fixture shall not exceed sixty (60) watts;
- (2) More than two lighting source fixtures on either side of two driveways are not permitted per lot;
- (3) All other perimeter lighting sources are permitted;
- (4) All lighting sources shall be shielded by a translucent material;
- (5) All lighting sources shall be focused so as to shine the light toward the ground.

(d) Private Walk Way Lighting in R Districts. Private walk way lighting source fixtures shall be focused so as to shine the light toward the ground. A private walk way lighting source fixture shall not exceed sixty (60) watts.

(e) Flood Lights in R Districts. Flood lighting source fixtures on residential structures shall be shielded so that the lighting source shall not be visible from adjacent property. A flood lighting source fixture shall exceed one hundred and fifty (150) watts, except two hundred and fifty (250) watt Mercury Vapor lights.

(f) Yard Lighting in Districts. The lighting source fixtures for illuminating the canopies of trees or conversely the base of trees shall not be visible from adjacent properties. Such lighting source fixture shall not exceed one hundred and fifty (150) watts.

(g) Artificial Lighting For Parking Lots in R and GUI Districts. Lighting source fixtures for parking lots in O, R, and GUI districts are permitted under the following conditions:

- (1) Such lighting source fixture shall not exceed a height of twenty (20) feet above the ground;
- (2) Only one fixture shall be permitted per pole;
- (3) Such lighting source fixture shall not exceed two hundred and fifty (250) watts;
- (4) Lighting source fixtures shall be either mercury vapor or high pressure sodium lamps;
- (5) The lighting source fixture housed in a box-type enclosure masking the lighting source so as not be visible from public streets or adjacent private property;
- (6) All lighting plans for parking lots shall be approved in advance by the City Council.

(Ord. 010614, passed 01-06-14)

§ 94.069 Signs and Billboards

It shall be unlawful for any person to place, erect, construct or use any sign, except as in a “R” retail or less restricted district, only one sign of any character, not exceeding six square feet in area visible from the outside of the building, shall be displayed indicating the sale or dispensing of wine or beer, and such sign shall not be placed on the sidewalk or other public property. In any use district, signs shall conform to the height limitations for buildings and shall be set back from the front and side street lines the same distance buildings and walls are required to set back by the height and area requirements for the district in which the sign is located, except as follows:

- (1) Signs required under Section 94.070 and Section 94.071;
- (2) Signs pertaining to the occupancy of “A” residence shall be no window displays, no name plate exceeding two (2) square feet in area, no temporary bulletin board or sign board exceeding twelve (12) square feet, appertaining to the lease, hire, or sale or const ruction of a building or premises, no advertising sign of any other character shall be permitted.

(Ord. 010614, passed 01-06-14)

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§ 94.070 Signs Providing Notice of “Approved Zoning” Required

Within ten (10) days after approval of a zoning application in connection with which the applicant has made a request for deferral of the passage of the zoning ordinance, the owner of the tract, parcel or lot covered by the application shall place signs on said tract, parcel or lot indicating the zoning approved by the City Council. Each sign shall contain an outline showing the dimensions of the tract, parcel, or lot and the following message in lettering of the size specified:

APPROVED BY CITY COUNCIL (6’’)
“R” RETAIL (12’’)
(or other zoning classification)

All signs required in this section shall be placed at not more than three hundred (300) foot intervals across the property line fronting on existing or proposed streets. Each sign shall be no less than twelve square feet in size. All signs required in this section shall be properly maintained until the tract, parcel, or lot is developed. The City Council may require fewer signs than those set forth in this section in instances in which adequate notice can be afforded in such manner.

(Ord. 010614, passed 01-06-14)

§ 94.071 Signs Required for Proposed Zoning Changes and Special Use Permits

Within ten (10) days of the filing of any application for a zoning change or special use permit, the City shall place, if determined necessary by the City Council, a sign to be erected on the property under application for the purpose of advertising proposed zoning changes and special use permits. If required, the signs shall meet the following requirements: each sign shall be no smaller than eighteen (18) inches by thirty (30) inches and shall include the words, “Proposed Zoning Change” or “Proposed Special Use Permit,” plus such other information as may be determined necessary by the City Council. Signs placed on the property involved must be within ten (10) feet of any property line paralleling any established or proposed city street, must be visible from that street and must be spaced at not more than three hundred (300) foot intervals. All required signs shall remain on the property until final disposition of the zoning or special use permit request is determined.

(Ord. 010614, passed 01-06-14)

SUBCHAPTER E. ENFORCEMENT

§ 94.080 Enforcement

(a) Code Enforcement Officer. The Code Enforcement Officer shall administer and enforce the provisions of this Chapter.

(b) Violation. A person shall not violate any of the provisions of this Chapter or fail to comply with this Chapter or with any of its requirements, shall not build or alter any building in violation of any detailed statement or plan submitted and approved under this Chapter, and shall not use any building or land contrary to the provisions and requirements of this Chapter.

(c) Responsible Party. The owner of any building or land, or part of a building or land, where anything in violation of this Chapter shall be placed or used, and any architect, builder, contractor, agent, or any other person employed in connection with that activity, who may have assisted or contributed to the commission of any such violation, shall each be deemed guilty of a violation of this Chapter.

Zoning Code

(d) Injunctive Relief. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of the general law or the terms of this Chapter, then the City, in addition to imposing any penalties provided for such violation, may institute any appropriate action or proceedings in court to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct, or abate such violation, or to prevent any illegal act, conduct, business, or use in or about such land. Moreover, the definition of “any violation of the terms of this Chapter” shall not preclude the City from invoking the civil remedies given it by law in such cases, but the same shall be accumulative of and in addition to the penalties prescribed for such violation.

(e) Stop Work Order. The Code Enforcement Officer may order all works, including site clearing or other site preparation, stopped on any site where a significant violation of this Chapter or a final site plan is found. Any person, including a workman on the site, who fails to comply with a stop work order shall be guilty of a misdemeanor punishable as provided in the penalty section hereof.

(f) Revocation of Final Site Plan Approval. If the City Council finds, after notice and hearing, that a significant violation of final site plan has occurred, the Council may revoke its approval of such site plan. It shall be unlawful for any person to do any work on the site covered by the site plan unless and until a new application for site plan approval has been filed and processed in accordance with the provisions of this Chapter and the City Council grants approval to a new final site plan which corrects the violations of the original site plan.
(Ord. 010614, passed 01-06-14)

§ 94.081 Offense; Penalty

Any person or corporation who shall violate any of the provisions of this Chapter or fail to comply with this Chapter or with any of the requirements of this Chapter, or who shall build or alter any buildings in violation of any detailed statement or plan submitted and approved under this Chapter, shall be guilty of a misdemeanor, and shall be subject to fine of not more than one hundred dollars (\$200.00). Each day such violation shall be permitted to continue shall constitute a separate offense. The owner or owners of any building or premises or any part of a building or premise, where anything in violation of this Chapter shall be placed, or shall exist, and any architect, builder, contractor, agent, person, or corporation, employed in connection with such activity and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction of that offense shall be fined as provided above. However, any vendor or mortgages who forecloses or otherwise regains possession of such property upon which anything in violation of this Chapter has been placed or exists, during such period of time as such vendor or mortgages has been out of possession, shall have ten (10) days from the date that it, he, or she regains possession of such property in which to remove the violation, after which time he or she shall be deemed guilty of a separate offense and upon conviction shall be fined as provided above.

(Ord. 010614, passed 01-06-14)

TITLE XIII: PUBLIC WORKS AND UTILITIES

Chapter

130. WATER AND SEWER SERVICES

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CHAPTER 130. WATER AND SEWER SERVICES

Section

Subchapter A. Sewage Facility Regulations

130.020	Short Title
130.021	Purpose
130.022	Definitions
130.023	Certain Conditions Declared a Nuisance; Abatement Procedure
130.024	Permit Required for Construction; Modification of On-Site Sewage Facility

Subchapter B. Specific Provisions

130.010	Cesspools Prohibited
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SUBCHAPTER A. SEWAGE FACILITY REGULATIONS

§ 130.001 Short Title

This subchapter may be cited as the City of Hays Sewage Facility Regulations

§ 130.002 Purpose

This subchapter is enacted to promote and preserve the health, safety, and general welfare of the citizens of the City by regulating the quality, design, construction, modification, location, and uses of on-site sewage facilities within the City.

§ 130.003 Definitions

For the purpose of this subchapter, the following definitions shall apply unless the context indicates otherwise.

“Hays County Rules” refers to the construction and design standards for on-site sewage facilities of Hay County, Texas entitled “Rules of Hays County, Texas for On-Site Sewage Facilities,” and approved by the Texas Commission on Environmental Quality, as amended.

“Permit” means a permit to construct, modify, or replace a on-site sewage facility issued by Hay County, Texas.

“On-Site Sewage Facility” means any septic system, or other facility, system, or method for the storage, treatment, or disposal of sewage (other than a disposal system regulated by the Texas Commission on Environmental Quality) that serves only an individual household, multiple unit residential structure, or commercial establishment within a designated area.

§ 130.004 Certain Conditions Declared a Nuisance; Abatement Procedure

- (a) Nuisances. Any and all of the following conditions are nuisances dangerous to public health:

City of Hays - Public Works and Utilities

(1) All sewage, human excreta, wastewater, garbage, or other organic wastes deposited, stored, discharged, or exposed in such a way as to be a potential instrument or medium in the transmission of disease to or between any person or persons;

(2) The leakage or spilling of the contents of any vehicle or container used in the transportation of human excreta or other organic material;

(3) The deposit, storage, discharge, or exposure of sewage in a manner as to be a potential medium in the transmission of disease;

(4) The maintenance of any open or over-flowing on-site sewage facility that permits access to waste by insects or other possible carriers of disease; and

(5) The deposit, storage, discharge, or disposal of sewage in a manner that emits noxious odors.

(b) Abatement. Every person owning or in possession of any property on which a nuisance is occurring shall abate that nuisance.

§ 130.005 On-Site Sewage Facility Required

On each lot on which permanent improvements are placed, a on-site sewage system must be constructed that meets the standards of and that is approved by Hays County and appropriate State Health Officers. It shall be the responsibility of the builder to furnish written evidence of such approved system upon demand of the City. (Section 6 of Ord. 110, passed 5-4-82)

SUBCHAPTER B. SPECIFIC PROVISIONS

§ 130.010 Cesspools Prohibited

It shall be unlawful for any person to dig or install any cesspool within the City or repair any existing cesspool.

TITLE XV: TRAFFIC REGULATIONS

Chapter

150. TRAFFIC REGULATIONS

151. TRAFFIC SCHEDULES

152. PARKING

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CHAPTER 150: TRAFFIC REGULATIONS

Section

Subchapter A.	General Provisions
150.001	State Traffic Regulations Adopted
150.002	Definitions
150.003	Enforcement Officers
Subchapter B.	Traffic Control Devices [Reserved]
Subchapter C.	Traffic Obstructions [Reserved]
Subchapter D.	Speed Limits
150.040	General Speed Limits
Subchapter E.	Truck Routes [Reserved]
Subchapter F.	Parades and Processions [Reserved]

SUBCHAPTER A. GENERAL PROVISIONS

§ 150.001 State Traffic Regulations Adopted

(a) Adoption by Reference. For the purpose of regulating traffic on the streets, alleys, and thoroughfares of the City, the City adopts by reference Subtitle C of Title 7 of the Texas Transportation Code (Chapters 541-600; §§541.001-600.004), and all other state motor vehicle laws, as amended, along with the provisions that may be contained in this chapter, to control the regulation of traffic in the City.

(b) Enforcement. The City may punish a person who violates state traffic regulations for which the municipal court has jurisdiction for a violation of this Code.

(c) Exceptions. The exceptions provided for emergency vehicles in Subtitle C of Title 7 of the Texas Transportation Code (Chapters 541-600; §§541.001-600.004) apply to the traffic regulations in this Chapter.

§ 150.002 Definitions

All words and phrases in this chapter shall have the same meanings and definitions ascribed to them in Subtitle C of Title 7 of the Texas Transportation Code (Chapters 541-600; §§541.001-600.004), or any other state motor vehicle law, this Code, or city ordinance as may be provided.

State Law Reference - General powers of municipalities relative to regulating traffic on streets and highways, Subtitle C of Title 7 of the Texas Transportation Code (Chapters 541-600; §§541.001-600.004).

§ 150.003 Enforcement Officers

Authorized law enforcement officers are empowered to enforce all traffic laws within the City Limits.

City of Hays - Traffic Regulations

SUBCHAPTER B. TRAFFIC CONTROL DEVICES [Reserved]

SUBCHAPTER C. TRAFFIC OBSTRUCTIONS [Reserved]

SUBCHAPTER D. SPEED LIMITS

§ 150.040 General Speed Limits

Except on Farm-to-Market Road 1626, no person shall operate or drive any vehicle:

(1) on any street within the City Limits at a speed greater than twenty-five (25) miles per hour, or
(2) or in any alley within the City Limits at a speed greater than fifteen (15) miles per hour,
unless the City, or authorized official, erects signs designating another speed limit.
(Ord. 100, passed 2-12-80)

SUBCHAPTER E. TRUCK ROUTES [Reserved]

SUBCHAPTER F. PARADES AND PROCESSIONS [Reserved]

TITLE XVII: GENERAL REGULATIONS

Chapter

170. ANIMALS

171. UNSERVICEABLE, ABANDONED, AND JUNKED MOTOR VEHICLES

172. PARKS AND RECREATION [Reserved]

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CHAPTER 170. ANIMALS

Section

Subchapter A. General Provisions

170.001	Authority
170.002	Intent; Authority; Scope
170.003	Definitions
170.004	Limitations on Number of Animals
170.005	Special Permits
170.006	Animal Care
170.007	Prohibitions and Limitations

Subchapter B. Administration

170.010	Animal Control Officer
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Subchapter C. Enforcement

170.020	Enforcement Procedures
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SUBCHAPTER A. GENERAL PROVISIONS

§ 170.001 Authority

The City Council of the City of Hays, Texas, acting in its capacity as the governing body of the City of Hays, Texas, adopts this chapter as authorized by Chapters 822 and 826 of the Texas Health & Safety Code and Chapter 54 of the Texas Local Government Code.

(§1.001, Ord. 100713, passed 10-07-13)

§ 170.002 Intent; Authority; Scope

(a) Intent. It is the intent of the City Council to enact this chapter to protect the public health and safety of the citizens of the City of Hays, Texas, and the City Council declares that this ordinance is necessary for the preservation of the public peace, health, and safety. This ordinance is further intended to encourage the humane treatment of animals and prevent cruelty to animals.

(b) Authority of Hays County. Under Chapters 822 and 826 of the Texas Health & Safety Code, counties have the authority to regulate and restrain animals and to require the vaccination of animals and other measures to prevent and control the spread of rabies within their geographical boundaries. The Commissioners Court of Hays County, Texas has adopted an ordinance pursuant to those chapters for those animal control purposes within Hays County, which includes all of the geographical area of the City. The City has entered into an agreement with Hays County for the County to administer and enforce the County's ordinances for the regulation, licensing, and control of animals; the control of rabies; the control of dangerous and nuisance animals; and the enforcement of those ordinances within the city limits of the City.

Cross-Reference - *Hays County Animal Control Ordinance No. 20893. Appendix A*

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(c) Scope. The scope of this ordinance is to supplement and supercede the Hays County Animal Control Ordinance only in the specific areas that this ordinance addresses and is not to affect the administration and enforcement of the Hays County Animal Control Ordinance for which the City has an agreement for Hays County to administer and enforce with the city limits of the City of Hays, Texas.

(d) Conflict. While it is the intent of the City Council that this ordinance not conflict with the Hays County Animal Control Ordinance, if any provision of this ordinance conflicts with any provision of the Hays County Animal Control Ordinance, then the more restrictive provision shall control, supercede, and take precedence over the less restrictive provision.

(§1.002, Ord. 100713, passed 10-07-13)

§ 170.003 Definitions

(a) Adoption by Reference. The definitions of the words and terms in the Hays County Animal Control Ordinance, as amended, are adopted by reference.

Cross-Reference - See *Hays County Animal Control Ordinance No. 20893. Appendix A*

(b) Definitions. When used in this Chapter, the following definitions shall apply unless the context clearly indicates otherwise:

“*ACO*” means the Hays County Animal Control Officer or his or her designated agent.

“*Adult Animal*” means any animal which is more than six months of age.

“*Animal*” means any living non-human creature, including dogs, cats, reptiles, amphibians, fowl, and livestock.

“*Bird*” means a feathered, winged, bipedal, warm-blooded, egg-laying, vertebrae animal and member of the Aves family.

“*Cat*” means a male, female, or neutered felis catus.

“*Dangerous Animal*” means:

(1) Any animal that, without provocation, inflicts bites on or attacks a human being or domesticated animal on either public or private property; or

(2) Any animal that, in a vicious or terrorizing manner, approaches a human being in an apparent attitude of attack upon the streets, sidewalks, or any public or private grounds or places; or

(3) Any animal with a known propensity, tendency, or disposition to attack without provocation, that causes injury or otherwise threatens or endangers the safety of a human being or a domesticated animal; or

(4) Any animal suspected of being a dangerous animal if the owner, keeper, or harbinger of such animal fails to refuse to make such animal available for inspection to an animal control officer; or

(5) Any animal owned or harbored primarily or in part for the purpose of fighting, or any animal trained for fighting; or

(6) Any animal that has behaved in such a manner that the owner of that animal knows or should reasonably know that the animal is possessed of tendencies to attack or to bite human beings or domesticated animals.

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“*Dog*” means a male, female, or neutered canine familiaris, but does not include a wolf, jackal, coyote, fox, or other Wild Animal of this family or hybrid of such excluded animal.

“*Domesticated Animal*” means an animal that is not wild and is kept as farm animal or pet.

“*Exotic Animals*” means non-native species of animal, including nonpoisonous reptiles that, when mature are over six-feet in length, ostriches, any member of the Ratite family, or exotic livestock as defined by the Texas Animal Health Commission.

“*Fish*” means a cold-blooded vertebrae animal that lives in water.

“*Fowl*” means all of those birds commonly called poultry including chickens, ducks, geese, guinea fowl, turkeys, pigeons, and all the relatives of those birds that can be housed in pens, coops, cages, or enclosures of any kind.

“*Goat*” means a horned animal related to sheep with backward curving horns, straight hair, and a short tail and member of the Bovidae family.

“*Hays County Animal Control Ordinance*” means Ordinance No. 20893 that the Commissioner Court of Hays County adopted on March 18, 2003. *Appendix A*.

“*Large Animals*” means animals roughly larger than a human adult and any animals in the family *Megafauna*.

“*Large Livestock*” means horses, mules, donkeys, cattle, and similarly-sized livestock regardless of age, sex, size, or breed, but does not include pot-bellied pigs, miniature horses, or pygmy goats.

“*Litter*” means one or more newborn animal(s) under six months of age.

“*Medium Livestock*” means pigs, hogs, swine, pot-bellied pigs, miniature horses, sheep, goats, pygmy goats, and similarly-sized livestock regardless of age, sex, size, or breed.

“*Owner*” means any person having title to any animal or a person who has, harbors, keeps, or causes or permits to be harbored or kept, any animal in his or her care, custody, or control.

“*Pet*” means dogs, cats, ferrets, rabbits, rodents, birds, reptiles, and any other species of animal that are purchase or retained as household animals for companionship, interest, or amusement, but does not include any species of dangerous animals.

“*Pig/Hog/Swine*” means a wild or domesticated swine; any of the animals in the genus *Sus* within the Suidae family of even-toed hoofed animals.

“*Poultry*” means a domesticated fowl kept for eggs or meat.

“*Premises*” means real estate improved with residential buildings.

“*Sheep*” means a four-legged ruminant mammal within the *Ovis* genus of the even-toed hoofed animals.

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“*Small Livestock*” means poultry, rabbits, and similarly-sized livestock regardless of age, sex, size, or breed.

“*Veterinarian*” means a doctor of veterinary medicine who holds a valid license to practice the profession.

“*Vicious Animal*” shall have the same meaning as “dangerous animal.”

(§1.003, Ord. 100713, passed 10-07-13)

§ 170.004 Limitations on Number of Animals

(a) General Standard for Number of Adult Animals in Possession. For all animals not listed in subsection (b) below, a person may not own, control, or otherwise possess adult animals in a number that exceeds the corresponding number of adult animals on the subject amount of land within the City, as follows:

<i>Type of Animal</i>	<i>Minimum Number of Square Feet of Lot Per Animal</i>	<i>Special Permit Required</i>
Large Livestock	40,000	Yes
Medium Livestock	5,000	Yes
Small Livestock	2,175	No

(b) Number of Adult Animals in Possession. A person may not own, control, or otherwise possess any of a particular type of animal in a number that exceeds the corresponding number of adult animals on the subject amount of land within the City, as follows:

<i>Type of Animal</i>	<i>Number of Animals per 22,000 Square Feet of Lot</i>	<i>Number of Additional Animals per Additional 10,000 Square Feet of Lot</i>	<i>Special Permit Required</i>
Pet Dogs with proper license tag	5	2	No
Pet Cats with proper license tag	5	2	No
Pet Fish	No Numerical Limit	No Numerical Limit	Not Applicable
Other Pet Animals	8	4	No
Poultry or Fowl	10	8	No
Goats & Sheep (combined number)	6	2	Yes
Pigs, Hogs, or Swine	None	None	Not Applicable
Exotic Animals	None	None	Not Applicable
Wild Animals	None	None	Not Applicable

Animals

<i>Type of Animal</i>	<i>Number of Animals per 22,000 Square Feet of Lot</i>	<i>Number of Additional Animals per Additional 10,000 Square Feet of Lot</i>	<i>Special Permit Required</i>
All other animals not listed above	By Special Permit	By Special Permit	Yes

(c) Litters. A person may own, control, or otherwise possess one litter of the animals allowed in this section at any given time within the City.

(§1.004, Ord. 100713, passed 10-07-13)

§ 170.005 Special Permits

(a) Special Animal Permit. A resident or property owner who desires to own, control, or otherwise possess animals for which Section 1.004 requires a special permit, must obtain a Special Animal Permit from the City prior to possessing the subject animal(s) on any one lot or tract of land within the City.

(b) Special Animal Permit by Variance. A resident or property owner who desires to own, control, or possess, animals on land within the City in a number exceeding the limitations in Section 1.004, may apply to the City for a Special Animal Permit by Variance.

(c) Non-Conforming Special Animal Permit. A resident or property owner who owned, controlled, or was otherwise in possession of a particular type of animal on any one lot or tract of land within the City on May 1, 2013, that would be a violation of Section 1.004 and may apply for a Non-Conforming Special Animal Permit if the person files the application with the City no later than sixty (60) days of the effective date of this ordinance.

(d) Application. To file an application for any of the above special animal permits, the applicant must file with the City secretary the following information:

- (1) Name, address, and contact information of the applicant;
- (2) The address or other lot or tract identifier of the lot or tract on which the animals are or will be located and the amount of acreage or square footage the lot or tract encompassess;
- (3) The number of animals;
- (4) A description of the animals (*i.e.*, species, sub-species, breed, color, markings, tattoos, microchips, unique color patterns, name, etc.);
- (5) A description on how the animals will be confined to the subject property; photos and drawings are acceptable;
- (6) The name of the veterinarian that applicant uses or will use for the subject animal(s).

(d) Issuance Required. Other than for a Non-Conforming Special Animal permit, an applicant may not locate an animal for which they have applied for a special animal permit within the City until they are in possession of the special animal permit that the City issues.

(e) Term. All special animal permits will expire five (5) years from the date of issuance.
(§1.005, Ord. 100713, passed 10-07-13)

§ 170.006 Animal Care

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(a) Proper Care. An owner of animals within the City shall provide his or her animals with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.

(b) Proper Enclosures. An owner of animals within the City shall keep yards, pens, and enclosures in which such animals are confined in such a manner so as not to give off odors offensive to persons of ordinary sensibilities residing in the vicinity, or to breed or attract flies, mosquitoes, or other noxious insects, or, in any manner, to endanger the public health or safety, or create a public nuisance.

(c) Sanitary Requirements. All owners of animals within the City shall comply with the following sanitary requirements:

(1) *Droppings*. Manure and feces droppings shall be removed from pens, yards, cages, and other enclosures at a minimum of one time per week and handled or disposed of in such manner as to keep the premises free of any nuisance.

(2) *Insect Breeding*. Watering troughs or tanks, if utilized, shall be equipped with adequate facilities for draining the overflow so as to prevent the breeding of flies, mosquitoes, or other insects.

(3) *Putrescible Matter*. No putrescible matter shall be allowed to accumulate on the premises, and all such matter used to feed that is unconsumed shall be removed and disposed of by burial or other sanitary means.

(d) Tethering. An owner shall not use a chain, rope, tether, leash, cable, or other device to attach a dog to a stationary object in violation of state law.
(§1.006, Ord. 100713, passed 10-07-13)

§ 170.007 Prohibitions and Limitations

(a) No Commercial Purposes. No resident shall keep any animal or animals for commercial purposes (*i.e.*, sale of animals or animal products).

(b) Prohibition of Certain Nuisances. An owner of an animal shall not maintain any of the following conditions within the City, which are declared to be public nuisances:

(1) *Urination, Defecation*. Either willfully or through failure to exercise care and control, allowing a dog or other domesticated or pet animal to urinate or defecate upon the sidewalk or parkway or any public street, or upon the floor of any common hall in any entranceway or stairway, or upon any wall of any public place or building or public park and any private property not of the owner, if the owner of the offending animal fails to remediate or clean-up the waste deposited by the animal.

(2) *Unsanitary Conditions*. Allowing any house, building, business, lot, pen, enclosure, yard, or similar place used for the keeping of animals to become unsanitary, offensive by reason of odor, or disagreeable to persons of ordinary sensibilities residing in the vicinity or to the public at large. Any condition injurious to public health caused by improper waste disposal will be considered a violation of this provision.

(3) *Unreasonable Cats at Large*. Allowing cats to run at large to such a degree that it causes an unreasonable disturbance to a person of ordinary sensibilities.

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(4) *Slaughtering, Etc.* Slaughtering, skinning, or defeathering an animal, unless for the purposes of promoting the public health and safety. Butchering or displaying the carcass of an animal on residential property whereby it is in the view of the public, except an animal carcass actually cooking over a barbeque pit.

(5) *Carcass Removal.* Permitting the carcass of any dead animal to be, or remain, on the owner's property for more than 24 hours after the death of the animal.

(c) Loose Animals. It shall be unlawful for person who own, controls, or otherwise possesses an animal within the City to allow that animal to roam at large outside of the property of that person without the effective control of a human.

(d) Proper Control or Enclosure. It shall be unlawful for a resident or property owner who owns, controls, or otherwise possesses an animal within the City not to provide effective means of control that animal while on that person's property through fences, enclosures, or other means.
(§1.007, Ord. 100713, passed 10-07-13)

SUBCHAPTER B. ADMINISTRATION

§ 170.010 Animal Control Officer

For purposes of this chapter, the Animal Control Officer is designated as the local health authority that the Commissioner Court of Hays County designates. The ACO may delegate such authority to persons that he or she finds appropriate as needed to effectuate the provisions of this chapter.

(§1.010, Ord. 100713, passed 10-07-13)

Authority - Texas Health & Safety Code § 826.017.

SUBCHAPTER C. ENFORCEMENT

§ 170.020 Enforcement Procedures

(a) Contents of Complaints. When a person files a written complaint alleging a violation of Section 170.004, the complaint should contain:

- (1) the name of the owner/keeper of animal(s) in question.
- (2) the address or location of such animal(s).
- (3) a description of the animal(s), including approximate size, color, and breed, if known.

(b) Action on Complaints.

(1) *Notice.* The City will notify the owners/keepers of objectional animals of the complaint in writing and include a copy of this ordinance.

(2) *Council Meeting.* The City Council will act upon a complaint at the next council meeting that will be held at least thirty (30) days after the receipt of the filed complaint.

(3) *Action.* The City Council will hear from the complainant, the owners/keepers, and any other witness desiring to present testimony. Thereafter, the Council may (A) dismiss the complaint, (B) continue the hearing to a future date for any purpose, including the opportunity to present additional testimony, or (C) find that a violation has occurred, is occurring, or both and punish such violation this public health and

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sanitation ordinance by a fine not to exceed \$2,000 per violation or revocation of a special animal permit or both.

(c) Opportunity to Respond. Owners/keepers of objectionable animals may present proof of compliance with the provisions of this section within thirty (30) days of the date of the notice of complaint. (§1.020, Ord. 100713, passed 10-07-13)

CHAPTER 171: UNSERVICEABLE, ABANDONED, AND JUNKED MOTOR VEHICLES

Section

Subchapter A. General Provisions

- 171.001 Definitions
- 171.002 [Reserved]
- 171.003 Effect on Other Statutes or Ordinances

Subchapter B. Specific Provisions

- 171.010 Abandoned and Junked Motor Vehicles on Public Property
- 171.011 Authority and Procedure to Take Possession of Abandoned Motor Vehicles

SUBCHAPTER A. GENERAL PROVISIONS

§ 171.001 Definitions

When used in this chapter, the following definitions shall apply unless the context clearly indicates otherwise:

“*Law Enforcement Agency*” means the Texas Department of Public Safety, any police department of that the City may have, the Hays County Sheriff’s or Constable’s office, or any authorized law enforcement agent.

“*Unserviceable motor vehicle*” means a motor vehicle with safety sticker or license tags expired by one (1) year or more.
(Ord. 106; passed 11-3-81)

§ 171.002 [Reserved]

§ 171.003 Effect on Other Statutes or Ordinances

Nothing in this chapter shall affect statutes that permit immediate removal of vehicles left on public property that obstruct traffic.

SUBCHAPTER B. SPECIFIC PROVISIONS

§ 171.010 Abandoned and Junked Motor Vehicles on Public Property

(a) Prohibition. It is unlawful for any person to park or place an unserviceable motor vehicle or junked vehicle, or to allow an abandoned motor vehicle or junked vehicle to remain on any public street, alley, sidewalk, highway, or public property within the City.

(b) Exception. By petition to the City Council, a resident may request an exception to the prohibition of subsection (a) of this section, other than for an abandoned vehicle, for a reasonable purpose (*e.g.*, the refurbishing/

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restoring of an antique automobile, or repair to create a serviceable vehicle.). The City Council will review each petition for exception on its own merits.
(Section 3 of Ord. 106, passed 11-3-81)

§ 171.011 Authority and Procedure to Take Possession of Abandoned Motor Vehicles

A law enforcement agency shall take into custody any abandoned motor vehicle found on public or private property. In connection with this taking of possession of an abandoned vehicle, the City may employ its own personnel, equipment, and facilities or hire persons, equipment, and facilities for the purpose of removing, preserving, and storing abandoned motor vehicles.