



AGENDA

Regular Meeting

Planning and Zoning Commission

Tuesday, November 7, 2023

6:00 PM, City Hall

4000 Galleria Parkway

Bee Cave, Texas 78738-3104

A quorum of the Bee Cave City Council may be present.

THE CITY OF BEE CAVE COUNCIL MEETINGS ARE AVAILABLE TO ALL PERSONS REGARDLESS OF DISABILITY. IF YOU REQUIRE SPECIAL ASSISTANCE, PLEASE CONTACT KAYLYNN HOLLOWAY AT (512) 767-6641 AT LEAST 48 HOURS IN ADVANCE OF THE MEETING. THANK YOU.

1. Call meeting to order
2. Roll Call
3. Pledge of Allegiance
4. Consider approval of minutes of the regular meeting conducted on August 15, 2023
5. Public hearing, discussion, and possible action on Ordinance 522 amending the City of Bee Cave Unified Development Code (UDC) regulations including but not limited to Signs, Landscaping and Screening Standards, Tree Preservation, Drainage and Water Quality, and Lighting.
6. Public hearing, discussion, and possible action on Ordinance 521 designating a zoning classification of Public District for an approximately eleven-acre tract located on W State Highway 71 that is anticipated to be annexed into City Limits via Ordinance 520 on November 14, 2023
7. Adjournment

The Commission may go into closed session at any time when permitted by Chapters 418 or 551, Texas Government Code, or Section 321.3022 of the Texas Tax Code. Before going into closed session a quorum of the Commission must be present, the meeting must be convened as an open meeting pursuant to proper notice, and the

presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code, or Section 321.3022 of the Texas Tax Code authorizing the closed session.



***Planning and Zoning Commission Meeting
11/7/2023
Agenda Item Transmittal***

Agenda Item: 3.

Agenda Title: Consider approval of minutes of the regular meeting conducted on August 15, 2023

Commission Action:

Department: Admin Assistant

Staff Contact: Thomas Hatfield-Admin Coordinator

1. INTRODUCTION/PURPOSE

2. DESCRIPTION/JUSTIFICATION

a) Background

b) Issues and Analysis

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

ATTACHMENTS:

Description	Type
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MINUTES OF THE MEETING OF THE
PLANNING AND ZONING COMMISSION
CITY OF BEE CAVE
4000 Galleria Parkway
Bee Cave, Texas 78738
August 15, 2023

STATE OF TEXAS §

COUNTY OF TRAVIS §

Present:

Lori Wakefield, Vice Chair
Steven Schmidt, Commissioner
Petra Reynolds, Commissioner
Eric McKee, Commissioner
Kirk Wright, Commissioner
Julie DaSilva, Commissioner

Absent:

Kit Crumbley, Chair

City Staff:

Megan Will, Director of Planning and Development
Kevin Sawtelle, City Engineer
Amanda Padilla, Senior City Planner
Logan Maurer, Staff Engineer
Sean Lapano, City Planner
Thomas Hatfield, Administrative Coordinator

Call to Order and Announce a Quorum is Present

With a quorum present, the meeting of the Bee Cave Planning and Zoning Commission was called to order by Vice Chair Wakefield at 6:00 p.m. on Tuesday August 15, 2023, in the Council Chambers of Bee Cave City Hall.

The Pledge of Allegiance.

Minutes of August 1, 2023

MOTION: A motion was made by Commissioner McKee, seconded by Commissioner Wright, to recommend approval on the minutes of August 1, 2023.

The vote was taken on the motion with the following result:

Voting Aye: Vice Chair Wakefield, Commissioners DaSilva, McKee, Reynolds, Schmidt, & Wright

Voting Nay: None

Abstained: None

Absent: Chair Crumbley

The motion carried.

Discuss and consider action on Site and NPS plans for the Pearl multi-family development located at 13400 Bee Cave Parkway, Bee Cave, TX including the following plans:

a. The Pearl at Bee Cave

MOTION: A motion was made by Commissioner Wright, seconded by Commissioner Reynolds to recommend approval of the Site and NPS plan with staff's recommended conditions.

The vote was taken on the motion with the following result:

Voting Aye: Vice Chair Wakefield, Commissioners DaSilva, McKee, Reynolds, Schmidt, & Wright

Voting Nay: None

Abstained: None

Absent: Chair Crumbley

The motion carried.

b. Lot 3 Hill Country Galleria – Cross access driveway Improvements

MOTION: A motion was made by Commissioner DaSilva, seconded by Commissioner Wright to recommend approval of the Site and NPS plan with staff's recommended conditions.

The vote was taken on the motion with the following result:

Voting Aye: Vice Chair Wakefield, Commissioners DaSilva, McKee, Reynolds, Schmidt, & Wright

Voting Nay: None

Abstained: None

Absent: Chair Crumbley

The motion carried.

c. Bee Cave Parkway Improvements

MOTION: A motion was made by Commissioner McKee, seconded by Commissioner Reynolds to recommend approval of the Site and NPS plan with staff's recommended conditions.

The vote was taken on the motion with the following result:

Voting Aye: Vice Chair Wakefield, Commissioners DaSilva, McKee, Reynolds, Schmidt, & Wright
Voting Nay: None
Abstained: None
Absent: Chair Crumbley

The motion carried.

d. Crescent Tract Improvements

MOTION: A motion was made by Commissioner Schmidt, seconded by Commissioner Reynolds to recommend approval of the Site and NPS plan with staff's recommended conditions.

The vote was taken on the motion with the following result:

Voting Aye: Vice Chair Wakefield, Commissioners DaSilva, McKee, Reynolds, Schmidt, & Wright
Voting Nay: None
Abstained: None
Absent: Chair Crumbley

The motion carried.

Agenda Planning

There are no items on the agenda for the next regular meeting on Tuesday September 5, 2023.

Motion: A motion was made by Commissioner Wright, seconded by Commissioner Schmidt to adjourn the meeting.

The Planning and Zoning Commission adjourned the meeting at 6:25 p.m.

PASSED AND APPROVED THIS _____ DAY OF _____, 2023.

Kit Crumbley, Chair

ATTEST

Thomas Hatfield, Administrative Coordinator



Planning and Zoning Commission Meeting

11/7/2023

Agenda Item Transmittal

Agenda Item: 4.

Agenda Title: Public hearing, discussion, and possible action on Ordinance 522 amending the City of Bee Cave Unified Development Code (UDC) regulations including but not limited to Signs, Landscaping and Screening Standards, Tree Preservation, Drainage and Water Quality, and Lighting.

Commission Action:

Department: Planning and Development

Staff Contact: E. Megan Will, Director of Planning & Development

1. INTRODUCTION/PURPOSE

2. DESCRIPTION/JUSTIFICATION

a) Background

In June 2022 Bee Cave adopted a Unified Development Code (UDC) that consolidated the city's planning and development regulations in a single ordinance. The UDC was also the City first comprehensive update of the development regulations in over 15 years.

In the year since adoption, staff has been monitoring implementation of the UDC and keeping track of instances where concepts and processes described in the UDC could be clarified, elements of previous ordinances inadvertently left out of the UDC, and changes that would alleviate unnecessary difficulties or conflicts that have been encountered when applying the code as written. Staff worked with the City Attorney's office to craft amendments to the UDC to address these issues.

b) Issues and Analysis

See attached Summary of Recommended Amendments.

3. FINANCIAL/BUDGET

Amount Requested

Cert. Obligation

Other source

Fund/Account No.

GO Funds

Grant title

Addtl tracking info

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

Staff recommends approval of Ordinance 522.

ATTACHMENTS:

Description		Type
<input type="checkbox"/>	UDC Amendments Nov. 2023	Backup Material
<input type="checkbox"/>	Ord. 522 UDC Amendments Nov. 2023	Ordinance
<input type="checkbox"/>	Revised Ord. 522 UDC Amendments	Ordinance
<input type="checkbox"/>	Revised Ord. 522 UDC Amendments (2)	Ordinance

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Procedure for Amending Technical Manuals	1.1.16	<p>§ 1.1.16 Technical manuals.</p> <p>A. Unless differentiated, "UDC" also refers to any Technical Manual adopted by the City but maintained separately from the UDC. Unless specifically exempted, a Technical Manual adopted by the City applies to all development in the City Limits and Extraterritorial Jurisdiction (ETJ). These are policy documents adopted by reference and may be amended at any time by the City.</p> <p>B. Other criteria manuals which are included by reference in the UDC under the term "Technical Manual" are: Engineering Criteria Manual, Transportation Criteria Manual, Drainage Criteria Manual, Technical Construction Standards, & Specifications (TCSS) [and] Technical Manual Amendments. Where the UDC refers to manuals adopted or propagated by a state or federal agency, it will use the full title of the manual.</p> <p>C. The Planning Director, City Engineer, Fire Marshal and Building Official are responsible for interpreting, developing, and processing updates to departmental technical manuals as necessary to carry out the intent of the UDC. A public hearing will be conducted before City Council to allow public input before updates are approved by the Council.</p>	Resolve conflict between parts A and C clarifying that Technical Manuals may be amended by staff and do not require a CC action or a public hearing.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Notice Requirements	1.2.5	<p>§ 1.2.5 Summary of approval authorities and public notice. Table 1.2-1: Summary of Approval Authorities, Public Notice provides a summary of the review and approval procedures discussed in the UDC. <u>See Section 1.4.3 for procedures related to required public notices.</u></p> <p>§ 1.4.3 General notification requirements. <u>In accordance with the requirements shown in Table 12-1 Summary of approval authorities and public notice , public hearing notice shall be made as follows:</u></p> <p>A. Mailed property owner notice. 1. <u>When mailed property owner notice is required</u>, written notice of public hearings shall be sent to all owners of real property within two hundred (200) feet of the subject property of the Application. 2. Such notice shall be given not fewer than eleven (11) calendar days before the date of the <u>public</u> hearing by posting such notice, properly addressed and postage paid, to each taxpayer as the ownership appears on the last approved City tax roll or County tax roll for the area affected.</p> <p>(i) The City Council shall conduct a public hearing before adopting any proposed rezoning or text amendment.</p> <p>B. <u>When</u> newspaper published notice <u>is required</u>, notice of the time and place of the public hearing for the Application-based</p>	<p>1.2.5 needs to cross reference to 1.4.3 so there's direction on how mail and newspaper notice is made; 1.4.3 needs to be amended to incorporate ZBOA notices ZV notice to all owners 10 days prior, newspaper 10 days prior to ZBOA mtg RZ notice to owners 10 days prior to PZ mtg; notice in newspaper 16 days prior to CC mtg</p>

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Temporary Banners for Residential Districts (i.e. neighborhood garage sale signs)	4.2.2.C.5	<p>New section 4.2.2.C.5</p> <p><u>5. Temporary ground banners in residential districts.</u></p> <p><u>(i) In a single-family residential district (R-1, R-2, R-3) or property developed for single-family residential use, one (1) temporary ground banner per road frontage for a period not to exceed fifteen (15) days once per six (6) month period in compliance with this Subsection 4.2.2.C.5. Temporary ground banners are prohibited in all other circumstances.</u></p> <p><u>(ii) A temporary ground banner shall not be used as a substitute for a permanent sign.</u></p> <p><u>(iii) All temporary ground banners must resist folding or twisting and be anchored or fastened to the ground.</u></p> <p><u>(iv) The property owner must remove, replace, or repair any torn or frayed banner, or re-set a temporary ground banner that twists or deflects more than three (3) degrees off center.</u></p> <p><u>(v) Temporary ground banners are prohibited in the public Right-of-Way or on private property without the consent of the property owner.</u></p> <p><u>(vi) Temporary ground banners must be located outside of the sight visibility zone (see subsection 6.4).</u></p> <p><u>(vii) The size of a temporary ground banner shall not exceed twenty-four (24) square feet.</u></p>	At the request of many HOAs that use banners to advertise yard sales. However the city want to retain the prohibition in commercial areas/uses.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Application of landscaping standards	5.1.1	<p>§ 5.1.1 Landscaping standards.</p> <p>A. Landscaping requirements applicable to all development <u>within city limits.</u></p> <p>1. Landscaping plan required. Construction of a Multi-Family, Mixed-Use, or Non-Residential development may not commence until a Landscape Plan is approved as a component of the required Site Plan (see subsection 3.5.4) that demonstrates conformance with this subsection 5.1.1 and contains any technical information required by the Planning Director.</p>	To clarify where these standards apply. This can be inferred by references to zoning districts in subsequent sections of the article, but stating it explicitly here matches formatting in other sections
Tree Preservation Requirements	5.1.1.A.3	<p>3. Credit for preservation of existing trees and trees planted to fulfill mitigation requirements. All development must preserve or replace at least sixty percent (60%) of, according to an approved Tree Survey, the caliper inches of all Celtis Occidentalis (Hackberry), Juniperus Virginiana (Eastern Red Cedar), Melia Azedarach (Chinaberry), and Juniperus Ashei (Common Cedar) twelve (12) caliper inches and larger <u>The caliper inches of tree species listed in Table 6.1-1 Exempted Trees when measuring twelve (12) inches caliper or larger</u> and all other trees four (4) inches caliper or larger <u>shall be counted towards the required sixty percent (60%).</u></p>	5.1.1A.3 is meant to, but does not include all exempted trees as listed in 6.1.4. 5.1.1A.3 should reference the Table in 6.1.4.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Parking Lot Shading	5.1.1B.3(i)2	<p>(2) The shaded area is calculated based on the trees listed in the Criteria Manual Shading shall be required for parking lots subject to this section. Canopy trees shall be provided to shade a minimum of twenty-five (25) percent of the parking lot or vehicular use area. <u>The shade area provided by each tree shall be based on the area that the tree's mature canopy will encompass, as indicated in the Tree Canopy List in the Environmental Criteria Manual. Tree types not listed may be considered but shall be accompanied by a calculation of mature canopy area prepared by a registered landscape architect based on standard landscaping references. The shade area provided shall be calculated at 100% for preserved trees and 75% for newly planted trees.</u></p>	Standard from Old Code inadvertently left out of UDC, table moved to ECM

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Parking Lot Screening	5.1.1B.3	<p>add the following section</p> <p><u>(iii) Parking lot screening.</u></p> <p><u>All parking areas adjacent to roadways, all off-street loading areas and off-street parking areas containing three or more parking spaces shall have effective buffering from the street view and from adjacent properties. Landscaped buffers or landscaped berms at least three feet (3') in height shall be appropriate for screening these areas. Vegetation selected for the three-foot (3') height screen shall be of evergreen plant species, and they shall be spaced and massed so as to provide a solid screen within two (2) years, or two growing seasons, from the planting date. Plantings should include a variety of plant species with low maintenance requirements, selected from the plant materials listed in the Preferred Tree List in ECM. A combination of shrub and tree plantings is preferred; but in any case, a minimum of one (1) tree of a minimum four-inch (4") and a minimum eight feet (8') in height, and ten (10) shrubs of a minimum five (5) gallon size, are required for each thirty feet (30'). Ground cover should be planted on landscaped berms with appropriate plant container size and spacing that will provide full coverage within one (1) year of installation in order to prevent erosion. Berms shall be designed to transition to existing grades, and shall not exceed a slope of 3:1. A slope greater than this is generally difficult to mow and maintain.</u></p>	Standard from Old Code inadvertently left out of UDC

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Building Perimeter Landscaping	5.1.1B4(i)	<p>(i) Site Landscaping shall be provided at the primary building entrance(s), along building perimeter except for areas directly abutting a door, loading bays, or garage bays along the entire building perimeter except for areas directly abutting doors, loading bays, or garage bays. The width of the strip shall be measured according to the following schedule: [keep table as is].</p> <p>(ii) - shifts a level to (1), (ii)(1)-(3) become (1)a., b, c</p> <p>(iii) - shifts a level to (2), (iii)(1)-(4), become (2)a,b,c,d etc.</p> <p>New (3) In the case that a side of a building is not viewable from a roadway, access easement, or adjacent building/use, the Director may waive the requirements of this section.</p>	Need to clarify that perimeter landscaping is required along all building sides and add a way for Director to waive the requirement in the case a particular building side is not viewable from an adjacent ROW or property.
Detention and Retention Pond Screening	5.1.1B.4(ii)	<p>ADD new section 5.1.1B4 (ii)</p> <p>(ii) Retention and Detention Ponds.</p> <p>(1) All retention and detention ponds shall have effective buffering from the street view and from adjacent properties. Screening shall be provided in the same manner as for parking areas, see Section 5.1.1B.3(iii).</p> <p>(2) Stormwater detention areas should be designed as freeform shapes to blend with the natural landscape and use natural rocks and boulders with spillways of natural rock to create visual appeal.</p> <p>(3) Detention ponds shall not be allowed within a required buffer zone or setback unless a waiver is granted at Site Plan.</p>	Standard from Old Code inadvertently left out of UDC

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Retaining Walls	5.1.1(D)(4)	<p>4. A Retaining Wall shall be maintained by the owner of the property where the Retaining Wall is located. If a Retaining Wall crosses one or more properties, it shall be maintained by a Property Owners' Association and placed within a <u>retaining wall</u> maintenance easement (<u>See Section 2.5.13(I)</u>) or common lot with sufficient width to provide access to the Retaining Wall.</p> <p>(i) A <u>retaining wall</u> maintenance easement is required for any retaining wall within five feet (5') of a property line.</p> <p>(ii) Retaining walls shall not straddle property lines unless approved by the City Engineer.</p> <p>(iii) The City will not assume maintenance responsibility for a retaining wall outside of City property or right-of-way.</p>	Change maintenance easement to retaining wall easement since a retaining wall easement is defined in Section 2 of UDC.
Fences	5.1.2	See this document for changes.	Clarify that fences require permits and generally clean up confusing fence standards
Fences	5.1.2.A.4	<p>Add NEW Section</p> <p>Temporary Fencing. Temporary construction site/security fencing may be permitted by the Building Official in accordance with Section 108 of the IBC. Signage on or attached to fencing is prohibited, see UDC 4.2.1.D.</p>	Clarification of construction fencing standards and prohibition on signage attached to fences.
Waivers to Landscaping & Screening Standards	New Section 5.1.3	<p>Add NEW section 5.1.3</p> <p>Same process/requirements as 7.3.3.I waivers for NPS regulations</p>	Provides a process and criteria for City Council to grant waivers to requirements in Art. 5 (Landscaping) at Site Plan. Mirrors the process and criteria outlined in Art. 7 for NPS waivers. Site Plans with Waiver requests go to P&Z for recommendation and CC for approval.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Specimen & Cluster Trees vs. Exempt Trees	6.1.5 definitions of Specimen Tree and Tree Cluster definitions	<p>Tree, Specimen Any tree of a species other than those listed in Section 6.1.4 that measures twelve (12) inches or greater, but less than twenty-four (24) inches in caliper at a point measuring four and one-half (4-1/2) feet above ground level.</p> <p>Tree Cluster Three or more trees of a species other than those listed in Section 6.1.4 where any portion of the trunk or trunks of the trees are located less than ten (10) feet apart from one another and where each tree has a trunk measuring at least four (4) inches caliper at a point measuring four and one-half (4-1/2) feet above ground level.</p>	<p>As written there's a conflict between exempt trees listed in 6.1.4 (trash trees less than 12") and these definitions. There are a lot of cedars in the 75' highway buffer and the intent is to keep that area in a "natural" state, so it's appropriate that a large or multi-trunked cedar would count (not be exempt under 6.1.4) once it measures 12" or greater. This is consistent with the allowance in 5.1.1B1(ii)(4) for cedars & other exempted trees 12" and greater in that area to be used to fulfill the planting requirements on a 1:1 basis.</p>

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Tree Mitigation	6.1.9	<p>§ 6.1.9 Tree mitigation.</p> <p>A. Any Trees that are removed or damaged as a result of the approval of a Tree Removal Permit issued pursuant to Section 6.1.6.E must be mitigated on the same property or development area, unless the City Manager approves a fee in lieu.</p> <p>1. The fee in lieu will be paid directly to the City to fund placement of trees at public parks or other approved public facilities throughout the City.</p> <p>B. Any Trees that are removed or damaged as a result of the approval of a Tree Removal Permit issued pursuant to Section 6.1.6.F must be mitigated pursuant to the ratios provided in Section 5.1.1</p> <p>Table 32,</p> <p><u>C. Fee In Lieu of Tree Mitigation.</u></p> <p><u>1.</u> The City Manager may approve payment of a fee in lieu of replacement trees.</p> <p><u>2.</u> The fee shall be per the adopted fee schedule.</p> <p><u>3.</u> The fee in lieu option is available for only the following cases:</p> <p><u>(i)</u> If the property or development area is heavily treed and the existing tree canopy would prohibit the growth of the replacement trees, or</p> <p><u>(ii)</u> If the required replacement trees were to be installed, then the replacement trees would be planted under the canopy of an existing tree.</p> <p><u>D.</u> Limitations of species and placement. Replacement Trees</p>	Clean up of typos and mis formatting

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Lighting in public ROW	6.2.1.C.2(i)	<p>2. Exemptions.</p> <p>(i) Lighting within public or private right-of-way or easement a <u>state-owned right-of-way</u> for the principal purpose of illuminating streets or roads. No exemption shall apply to any lighting within the public or private right-of-way or easement when the purpose of the luminaire is to illuminate areas outside the public or private right-of-way or easement, unless otherwise stated in separate regulation.</p>	<p>As written, 6.2.1.C.2.(i) exempts all street lighting. As a Dark Sky Community the city has no public street lights and does not intend to install street lights in the future. However, the City cannot restrict lighting on TxDOT ROW, so the exemption should be limited to State-owned lights in the right of way. This specific amendment was requested by IDA as part of the city's Dark Sky Community certification.</p>
Performance Standards	New Section 6.8	<p><u>Performance Standards.</u></p> <p><u>In all zoning districts, any use indicated in the permitted use list shall conform in operation, location, and construction to the performance standards as administered by County, State and Federal agencies. All uses, including those which may be allowed by PDD or SUP, shall conform in operation, location, and construction to appropriate performance standards for noise, smoke, and particulate matter, odorous matter, fire, or explosive hazard material, toxic and noxious matter, vibration, and glare.</u></p> <p><u>All Federal and State pollution, noise, and requirements for toxic waste disposal shall be observed.</u></p>	<p>Sections of Old Code not included in the UDC because it was anticipated they would be integrated into Ch. 14 Offenses and Additional Provisions, specifically Art. 14.02 Nuisances. It was decided the standards are better located within the UDC.</p>
Impervious Cover Transfers	7.3.2C.4(ii)	<p><u>See this document for changes.</u></p>	<p>Provide standards for granting an impervious cover transfer, allow administrative transfers, and specify when Council approval is required. Also provides details of the process for requesting/obtaining approval of an IC transfer.</p>

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Impervious Cover Transfers	7.3.2C.4(i)(2)(b)	(b) The maximum impervious cover limit may be increased by <u>no</u> more than ten (10) percentage points for transfer of development intensity, except as permitted in Section 7.3.2.C.3(i)(2)(b).	The NO is missing
WQBZ	7.3.2(5)(i)(3)	3. Calculation of peak flood level. The two-year peak flood level shall be calculated in accordance with the <u>Engineering Technical Manual</u> TCSS manual.	Change TCSS to Engineering Technical Manual
Functionality Inspection	7.3.3(E)(3)	<u>3. Functionality inspections shall be conducted during or within (72 hours) following a 1 year storm event which has produced or is producing a depth of precipitation of 1.33 inches during six hours or 0.22 inches/hour.</u> The following, if present, must be inspected and evaluated at each water quality facility in accordance with the Design Manual, including but not limited to:	Adding what type of rain event should precede a functionality inspection.
Definitions	Article 9	New Section 9.1 added as preamble to definitions.	A statement to clarify that definitions listed in Article 9 there are generally applicable throughout the UDC and that any definitions within specific Articles/Chapters/Sections are specific to that Article/Chapter/Section to account for any conflicts.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Definition of Artisan Space	9.1.1 Terms beginning with "A."	<p>Artisan Studio A work space not more than 1,500 square feet in size used by one or more painters, sculptors, graphic artists, illustrators, photographers, jewelers, or other artists using a medium that is not a including Ceramic, Pottery, or Glass Studio, <u>that</u> is not food production, <u>is not the manufacture of large quantities of a standardized article</u>, does not endanger the health, safety, and welfare of the artist or the general public, and that does not cause a nuisance to abutting property owners.</p>	<p>After reviewing the UDC definition of artisan studio / limitation on pottery, ceramics, glass blowing with LTFR staff is satisfied there aren't specific safety concerns that LTFR pre-occupancy review of a such a business wouldn't address. Additionally, the FNI staff that drafted the Code indicated the prohibition was something they intended to delete from the definition, but unfortunately didn't make the final edit prior to adoption. The size limitation was to differentiate a small-scale versus larger-scale operations that could be considered manufacturing. There's not a compelling reason to maintain the limitation if the amended definition includes a prohibition on manufacturing.</p>
Definition of Community Center	9.1.3 Terms beginning with "C."	<p>Community Center A building dedicated to social or recreational activities that serves the City or a Subdivision and is owned and operated by the City, a Property Owners' Association, or a non-profit organization dedicated to promoting the health, safety, and general welfare of the City.</p> <p><u>Community Center</u> A multipurpose meeting and recreational facility typically consisting of one or more meeting or multipurpose rooms, kitchens, and/or outdoor barbecue facilities that are available for use by various groups for such activities as meetings, parties, receptions, dances, etc. <u>The facility is owned and operated by the City or a non-profit organization dedicated to promoting the health, safety, and general welfare of the City.</u></p>	Resolve duplicate definitions by combining.

ORDINANCE NO. 522

AN ORDINANCE AMENDING ARTICLE 1, ARTICLES 4 – 7, AND ARTICLE 9 OF THE UNIFIED DEVELOPMENT CODE OF THE CITY OF BEE CAVE.

WHEREAS, the City of Bee Cave is lawfully incorporated as a Home Rule municipality and the City Council is the governing body of the City; and,

WHEREAS, it is the intent of the City of Bee Cave to protect the public health, safety, and welfare of its citizens; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety, and welfare of their citizens; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or policy regulation that is for the good government, peace, or order of the municipality; and

WHEREAS, the Bee Cave City Council may regulate the development of property within Bee Cave's city limits and extraterritorial jurisdiction; and

WHEREAS, the Bee Cave City Council, in compliance with the laws of the State of Texas and the City's municipal code, and in the exercise of its legislative discretion, has determined it is appropriate, for good government and for the welfare and benefit of the public, to amend the Unified Development Code to update its provisions to keep up with the growth and development of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS that Article 1, Article 4, Article 5, Article 6, Article 7 and Article 9 of the City of Bee Cave Unified Development Code shall be amended with strike-through text being deletions and underlined text being additions and all other provisions not addressed remain untouched and in full force and effect and shall read as follows:

* * *

1.1.16 TECHNICAL MANUALS

A. Unless differentiated, "UDC" also refers to any Technical Manual adopted by the City but maintained separately from the UDC. Unless specifically exempted, a Technical Manual adopted by the City applies to all development in the City Limits and Extraterritorial Jurisdiction (ETJ). These are policy documents adopted by reference and may be amended at any time by the City.

B. Other criteria manuals which are included by reference in the UDC under the term "Technical Manual" are: Engineering Criteria Manual, Transportation Criteria Manual, Drainage Criteria Manual, Technical Construction Standards, & Specifications (TCSS) Technical Manual Amendments. Where the UDC refers to manuals adopted or propagated by a state or federal agency, it will use the full title of the manual.

C. The Planning Director, City Engineer, Fire Marshal and Building Official are responsible for interpreting, developing, and processing updates to departmental technical manuals as

necessary to carry out the intent of the UDC. ~~A public hearing will be conducted before City Council to allow public input before updates are approved by the Council.~~

* * *

1.2.5 SUMMARY OF APPROVAL AUTHORITIES AND PUBLIC NOTICE

Table 1.2 1: Summary of Approval Authorities, Public Notice provides a summary of the review and approval procedures discussed in the UDC. See Section 1.4.3 for procedures related to required public notices.

* * *

1.4.3 GENERAL NOTIFICATION REQUIREMENTS

In accordance with the requirements shown in Table 12-1 Summary of approval authorities and public notice, public hearing notice shall be made as follows:

A. Mailed Property Owner Notice

1. When mailed property owner notice is required, written notice of all public hearings before the Planning and Zoning Commission and City Council shall be sent to all owners of real property within two hundred (200) feet of the subject property of the Application based on Table 1.2 1: Summary of Approval Authorities, Public Notice, and Appeals, as may be modified by the Section Reference listed in the Table.

2. Such notice shall be given not fewer than eleven (11) calendar days before the date of the Board or Commission public hearing by posting such notice, properly addressed and postage paid, to each taxpayer as the ownership appears on the last approved City tax roll or County tax roll for the area affected.

~~(i) The City Council shall conduct a public hearing before adopting any proposed rezoning or text amendment.~~

B. Newspaper Published Notice

~~N~~When newspaper public notice is required, notice of the time and place of the public hearing for an Application based on Table 1.2 1: Summary of Approval Authorities, Public Notice, and Appeals must be published in a newspaper of general circulation in the City at least sixteen (16) days before the date of the public hearing before City Council and not fewer than eleven (11) calendar days before the date of the public hearing before the Zoning Board of Adjustment.

* * *

4.2.2 Permitted Signs

* * *

C. Temporary Signs

1. General Provisions

(i) The regulations of this subsection 4.2.2C apply to all uses equally. They are not intended to regulate or make any distinction regarding religious or political speech, or to impose restrictions on seasonal or religious decorations or symbols.

(ii) A reflective surface is prohibited on any temporary sign.

2. Temporary Wall Banner Signs

In all Non-Residential and Mixed-Use districts, each non-residential building or non-residential tenant space within a building with a valid Certificate of Occupancy may install one (1) banner meeting the following:

(i) No banner shall exceed twenty-four (24) square feet in size or fifteen percent (15%) of the building façade or tenant space, whichever is greater;

- (ii) The property owner or business must securely affix the banner to the side of the building. The property owner or business must remove, replace, or repair any torn or frayed banner, or any banner that is detached from the side of the building;
- (iii) Banners are prohibited in the public Right-of-Way, on the side of a temporary building, trailer, fence, freestanding wall, or retaining wall;
- (iv) Each building or tenant space is allowed no more than one (1) banner per calendar year for a period not to exceed fifteen (15) days;
- (v) In addition to subsection 4.2.2C.2(iv), a tenant may display a banner for up to thirty (30) days at the time a Certificate of Occupancy is issued. The banner may not be used at the same time as any other temporary signage.

3. Temporary Ground Signs

- (i) In any district, each property is allowed one (1) temporary ground sign per road frontage per twelve (12) month period in compliance with this Subsection 4.2.2C.3.
- (ii) A Temporary Ground Sign shall not be used as a substitute for a permanent sign.
- (iii) All temporary ground signs must have a solid, durable backing that resists folding or twisting, and be anchored or fastened to the ground.
- (iv) The property owner or business must replace or re-set a temporary ground sign that twists or deflects more than three (3) degrees off center.
- (v) The property owner or business must remove any temporary ground sign if the sign remains on a property for longer than six (6) months or if the sign becomes worn, faded, or damaged.
- (vi) Signs that are not made using wood or thick-gauge steel frame construction are not framed or use wire construction must be removed after three (3) months.
- (1) The Planning Director may grant a three (3) month extension to subsection 4.2.2C.3(v) if the sign is in good condition and the property on which the sign is located is actively listed for sale or at least one building that sits on the property is actively listed for lease.
- (vii) Temporary ground signs are prohibited in the public Right-of-Way or on private property without the consent of the property owner.
- (viii) Temporary ground signs must be located outside of the sight visibility zone (see subsection 6.4).
- (ix) The size of a temporary ground sign shall not exceed the maximum square footage in Table 4.2 1:

Table 4.2 1: Temporary Ground Sign Size Matrix

* * *¹

4. Temporary Window Signs: See Section 4.2.2D.7(ii),

5. Temporary Ground Banners in Residential Districts

- (i) In a single-family residential district (R-1, R-2, R-3) or property developed for single-family residential use, one (1) temporary ground banner per road frontage for a period not to exceed fifteen (15) days once per six (6) month periods in compliance with this Subsection. Temporary ground banners are prohibited in all other circumstances.
- (ii) A temporary ground banner shall not be used as a substitute for a permanent sign.
- (iii) All temporary ground banners must resist folding or twisting and be anchored or fastened to the ground.

¹ Note to publisher, table to remain unaltered.

- (iv) The property owner must remove, replace, or repair any torn or frayed banner, or re-set a temporary ground banner that twists or deflects more than three (3) degrees off center.
- (v) Temporary ground banners are prohibited in the public right-of-way or on private property without the consent of the property owner.
- (vi) Temporary ground banners must be located outside of the sight visibility zone (see subsection 6.4).
- (vii) The size of a temporary ground banner shall not exceed twenty-four (24) square feet.

* * *

5.1.1 LANDSCAPING STANDARDS

A. Landscaping Requirements Applicable to All Development within City Limits

1. Landscaping Plan Required

Construction of a Multi-Family, Mixed-Use, or Non-Residential development may not commence until a Landscape Plan is approved as a component of the required Site Plan (see subsection 3.5.4) that demonstrates conformance with this subsection 5.1.1 and contains any technical information required by the Planning Director.

2. Redevelopment Sites

For existing sites that are non-conforming under this Article 5 and undergoing expansion or redevelopment, see subsection 3.4.11E.4.

3. Credit for Preservation of Existing Trees and Trees Planted to Fulfill Mitigation Requirements

All development must preserve or replace at least sixty percent (60%) of, according to an approved Tree Survey, the caliper inches of ~~all *Celtis Occidentalis* (Hackberry), *Juniperus Virginiana* (Eastern Red Cedar), *Melia Azedarach* (Chinaberry), and *Juniperus Ashei* (Common Cedar)~~ tree species listed in Table 6.1-1 Exempted Trees when measuring twelve (12) caliper inches and or larger and all other trees four (4) inches caliper or larger shall be counted towards the required sixty percent (60%).

* * *

B. Nonresidential, Mixed-Use, and Multi-Family Residential Landscaping Requirements.

* * *

3. Parking Lot Landscaping

Parking lot landscaping is required within the area within the parking lot boundaries. Sidewalks and designated loading or unloading areas for service vehicles shall not be considered part of the parking lot.

(i) Parking Lot Shading

(1) The requirements of this subsection 5.1.1B.3(i) apply to any parking lot with more than five (5) spaces, regardless of zoning district.

(2) ~~The shaded area is calculated based on the trees listed in the Criteria Manual.~~ Shading shall be required for parking lots subject to this section. Canopy trees shall be provided to shade a minimum of twenty-five (25) percent of the parking lot or vehicular use area. The shade area provided by each tree shall be based on the area that the tree's mature canopy will encompass, as indicated in the Tree Canopy List in the Environmental Criteria Manual. Tree types not listed may be considered but shall be accompanied by a calculation of mature canopy area prepared by a registered landscape architect based on standard landscaping references. The shade area provided shall be calculated at 100% for preserved trees and 75% for newly planted trees.

(3) Existing trees preserved in an island or walkway buffer (see subsections 3.4.2E.4 and E.0) may be credited toward new plantings required under this subsection 5.1.1B.3(i) and shall be calculated at one hundred (100) percent of the required shade coverage.

(4) Newly planted trees shall be a minimum of three (3) inches caliper and calculated at seventy-five (75) percent of the shade coverage.

(5) No protected tree shall be located in a well deeper than four (4) feet, or on a pedestal higher than four (4) feet, from the surrounding parking area.

(6) Where grade changes exceed ten percent (10%), parking lots shall be stepped to accommodate the preservation of existing interior trees in accordance with this paragraph.

* * *

(iii) Parking Lot Screening

(1) All parking areas adjacent to roadways, all off-street loading areas and off-street parking areas containing three or more parking spaces shall have effective buffering from the street view and from adjacent properties.

(2) Landscape buffers or landscaped berms at least three feet (3') in height shall be appropriate for screening these areas.

(3) Vegetation selected for the three-foot (3') height screen shall be of the evergreen plant species, and they shall be spaced and massed so as to provide a solid screen within two (2) years, or two (2) growing seasons, from the planting date. Plantings should include a variety of plant species with low maintenance requirements, selected from the plant materials listed in the Preferred Tree List in ECM. A combination of shrub and tree plantings is preferred; but in any case, a minimum of one (1) tree of a minimum four-inch (4") and a minimum of eight feet (8') in height., and ten (10) shrubs of a minimum of five (5) gallon size, are required for each thirty feet (30').

(4) Ground cover should be planted on landscaped berms with appropriate plant container size and spacing that will provide full coverage within one (1) year of installation in order to prevent erosion. Berms shall be designed to transition to existing grades and shall not exceed a slope of 3:1, as a slope greater than this is generally difficult to mow and maintain.

4. Site Landscaping

All areas not included in a Roadway Buffer, Incompatible Use Buffer, or Parking Lot are subject to the landscaping requirements of this subsection 5.1.1B.4.

(i) Building Perimeter. ~~Site Landscaping shall be provided at the primary building entrance(s), along each the entire building perimeter except for areas directly abutting a door, loading bays, or garage bays. The width of the strip shall be measured according to the following schedule:~~

* * *²

~~(ii) (1) Calculation of Plantings~~

~~(1) a. One (1) tree of two (2) inches caliper or greater is required for each 1,000 square feet of perimeter strip area of 5 feet or greater.~~

~~(2) b. One (1) shrub is required for each thirty (30) square feet of perimeter strip area.~~

~~(3) c. All areas not covered in plants shall consist of sod, mulch, river rock, or other ground cover to prevent erosion and weed penetration.~~

~~(iii) (2) Alternative Compliance~~

² Note to publisher, table to remain unaltered.

The Planning Director may approve an Alternative Compliance Plan if it is submitted with the required Landscaping Plan and conforms to the provisions below:

(1) a. The landscape strip may vary in depth so that certain sections of the strip fall below the minimum depth required, if the applicant demonstrates on the landscape plan that the total area provided is not less than the minimum required if the minimum depth was uniformly provided.

(2) b. Up to fifty percent (50%) of the required perimeter strip area and plantings may be provided in the form of additional parking lot landscape islands.

(3) c. Up to one hundred percent (100%) of the required perimeter strip area may be provided abutting a detention or retention pond on the same or abutting property, under the following circumstances:

(a) (i) The pond is integrated into the landscape and site design;

(b) (ii) The minimum number of plantings required in the landscape strip area are provided within fifty (50) feet of the pond;

(c) (iii) The area abutting the pond includes, at the time a Certificate of Occupancy is issued, amenities such as walking paths and benches with direct sidewalk access from all buildings in the development; and

(d) (iv) The pond, plantings, and amenities are reserved as an easement on a recorded Final Plat.

(3) In the case that a side of a building is not viewable from a roadway, access easement, or adjacent building/use, the Planning Director may waive the requirements of this section.

(ii) Retention and Detention Ponds

(1) All retention and detention ponds shall have effective buffering from the street view and from adjacent properties. Screening shall be provided in the same manner as for parking areas. See Section 5.1.1.B.3(iii).

(2) Stormwater detention areas should be designed as free form shapes to blend with the natural landscape and use natural rocks and boulders with spillways of natural rock to create visual appeal.

(3) Detention ponds shall not be allowed within a required buffer zone or setback unless a waiver is granted at Site Plan.

* * *

D. Retaining Walls

1. Unless an alternate design is approved by the City Engineer, when property within or directly adjacent to a subdivision contains changes in elevation exceeding two and one-half feet (2.5') or the slope exceeds one unit vertical in three units horizontal, or both, a Retaining Wall shall be required at the locations specified herein prior to the acceptance of the Subdivision (see subsection 2.4.5):

(i) The grade change roughly follows a side or rear lot line;

(ii) The grade change is adjacent to a proposed building site boundary;

(iii) The grade change is adjacent to a watercourse or drainage easement;

(iv) The grade change is adjacent to a public or private road or shared driveway; or

(v) Where required by the City's Technical Manual.

2. Retaining Wall construction shall be in compliance with the provisions of the Building Code and the Criteria Manual.

3. Retaining Walls four (4) feet in height or greater require a Subdivision Construction Permit, Site Permit, or Building Permit, as applicable at the time of construction, and approval by the City Engineer.

4. A Retaining Wall shall be maintained by the owner of the property where the Retaining Wall is located. If a Retaining Wall crosses one or more properties, it shall be maintained by a Property Owners' Association and placed within a ~~maintenance~~ retaining wall easement, see Section 2.5.13(I), or common lot with sufficient width to provide access to the Retaining Wall.

(i) A ~~maintenance~~ retaining wall easement is required for any retaining wall within five feet (5') of a property line.

(ii) Retaining walls shall not straddle property lines unless approved by the City Engineer.

(iii) The City will not assume maintenance responsibility for a retaining wall outside of City property or right-of-way.

5. A Retaining Wall shall not be constructed parallel to or within any portion of a utility easement unless otherwise approved by the City Engineer pursuant to the parameters established in the Criteria Manuals.

6. Hillside Wall Standards

(i) For each eight (8) feet of vertical height, four (4) feet of horizontal offset (a stairstep design approach) shall be provided with native, drought-tolerant landscaping consisting of one (1) shrub per thirty-two (32) square feet of horizontal surface within the offset area and one Small Tree per five hundred (500) square feet;

(ii) Walls shall conform to the topography of the site; and

(iii) Walls shall incorporate the use of native materials and earth-tone colors to blend with natural surroundings.

5.1.2 FENCING AND SCREENING STANDARDS

A. Requirements Applicable to All Districts

1. Fences and Walls in Front Yards

(i) Opaque fences or walls are prohibited within a required front yard unless otherwise specified in this Section 5.1.2.

(ii) Fences or walls within a required front yard shall not exceed four (4) feet in height, except in the AG or P districts.

2. Fences and Walls in Rear and Side Yards

~~2. (i) All fences and screening walls~~ Fences and walls in rear and side yards shall be placed on a property line with the exception of fences within a common area or maintenance easement (see Subsection C below).

~~3. (ii)~~ No fence or wall in a rear or side yard may exceed eight (8) feet in height or utilize any hazardous device such as barbed wire or electrification, except in the AG or P districts.

~~4.3.~~ All fences and screening walls shall be maintained by the owner of the property in a structurally-sound condition through regular staining, sealing, shoring, tuck pointing, and replacement of rotten, missing, or sagging members, pickets, panels, stringers, posts, or other component of the fence or wall.

~~5.4.~~ Detention and retention ponds that are fenced must employ wrought iron or a living screen or a combination.

~~6.5.~~ Fence and Screening Wall Types

(i) Type 1: Full masonry 6-8 feet (brick, stone, stamped concrete)

(ii) Type 2: Partial masonry (up to 30%) with metal (wrought iron, tubular steel, or equivalent – aluminum alternative if maintained by HOA)

(iii) Type 3: ~~€~~ Stained or painted cedar board with trim cap and rust proof metal posts with top caps, or rust proofed and powder coated, or rust proofed and powder coated tubular steel; or masonry; or a combination of each with a wrought iron, living screen with minimum 6 foot

height and maximum 25% transparency, or combination of each if approved by the City Engineer.

(iv) ~~Type 4: Undeveloped property fencing (wooden or steel posts in natural color tones with non-barbed wire or metal lattice)~~ Temporary fencing for construction site/security may be permitted by the Building Official in accordance with Section 108 of the IBC. Signage on or attached to temporary fencing is prohibited, see UDC 4.2.1.D.

6. When differing land uses or zoning districts abut, fences or walls shall be installed as indicated in Table 4.4-3.

Table 4.4 3: Required Fence or Screen by Abutting Use

* * *³

7. Undeveloped property may be fences with Type 1, 2, or 3 fencing, or fencing may consist of wooden or steel posts with non-barbed wire or metal lattice. Posts shall not be painted or coated in garish or harsh color tones.

8. A permit shall be obtained from the City prior to construction of any fence or screening wall.

7.9. Screening of Mechanical Equipment

(i) Mechanical equipment shall be screened from adjacent properties, from residential uses (including those within the same property), and any public or private right-of-way based on a view of the same building elevation measured from at least six (6) feet above the surface of the street or highest grade within the right-of-way.

(ii) Roof-mounted mechanical equipment shall be screened with a parapet wall that matches the face of the building or a screening wall that complements the color of the building. A screening wall may only be utilized if it is set back at least six (6) feet from the edge of the roof.

(iii) Ground-mounted mechanical equipment, including, but not limited to, condenser units and electrical and gas meters, shall be screened by a wall section that matches the face of the building or by a living screen of hedges that achieves a sufficient height to fully screen all mechanical equipment placed on the ground or mounted to the building face, within three growing seasons.

(iv) All cables, wires, utility lines, piping, drains, or other similar components shall be placed interior to the building or camouflaged using paint or material that matches the building face. All other mechanical equipment not listed above, fuel storage, materials storage, ground-mounted satellite dishes and antennae, service or delivery areas, and solid waste container areas shall be screened from the street by an appropriate vegetative screen or masonry wall, except to the extent needed to provide access.

B. Non-Residential and Mixed-Use Screening

1. Screening of Residential Properties

(i) ~~A Masonry Type 1 fence or screening wall~~ is required between residential (AG, R-1, R-2, R-3, R-4, R-5, and PDDs with underlying residential uses) and non-residential uses (MU-N, MU-C, MU-TC, CR, P, and PDDs with underlying non-residential uses).

(ii) All lots, or parts of lots, with one or more non-residential use and whose side or rear lot lines are adjacent to a residential district or use and not separated by a public or private street or roadway, shall be screened from such residential district or use ~~by a screening wall at least six feet (6') in height~~ a Type 1 fence or screening wall.

³ Note to publisher, table to remain unaltered.

(iii) ~~Masonry screening walls shall be constructed of materials that provide a solid visual barrier. The Walls~~ A Type 1 fence or screening wall, including applicable footings, shall be placed entirely upon the lot wherein the non-residential use is located and be adjacent to the buffer strip required in Section 5.1.1.B.2.

(iv) Maintenance responsibility of such wall shall be borne by the non-residential property owner.

2. Screening of Outdoor Storage

(i) Outdoor storage shall be placed behind the building with which it is associated, if present, and screened from any public or private right-of-way and all adjacent properties by a ~~Masonry~~ Type 1 fence or screening wall extending at least six (6) feet above the nearest paved surface, unless such requirement is modified by a Specific Use Permit (SUP).

(ii) No outdoor storage shall extend higher than the top of the ~~nearest adjacent screening wall or fence~~ Type 1 fence or screening wall, or six (6) feet if no fence or screening wall is present.

C. Residential Fencing and Screening

1. Low-Density Residential Subdivision Fencing Requirements (Detached Single-Family, Duplex, and Townhome developments in R-1, R-2, and R-3 districts)

(i) All property lines or S subdivision boundaries that abut a Non-Residential or Mixed-Use district or a street classified as a Collector or higher shall provide a screening wall to a height of at least six (6) feet from the grade of the property line consistent with Table 4.4 3.

(ii) Screening walls that abut a street classified as a Collector or higher and are longer than 500 feet shall provide wall insets every 150 feet, with posts or panels separated by three (3) to six (6) feet and enclosed with a section of wrought iron fencing and a hedge or other plant material growing to a mature height of at least five (5) feet.

(iii) Screening walls required in this Subsection 1 or screening walls that provide screening for two (2) or more lots shall be placed within a separate lot or wall maintenance easement measuring at least ten (10) feet in width at the narrowest point and shall be conferred to the ownership or benefit of an HOA or special district and maintained by the HOA or special district.

(iv) Separate lots dedicated on a plat for the purposes of screening wall maintenance shall not be subject to the standards of Section 3.4.1.

2. Low-Density Residential Private Fencing Requirements (Detached Single-Family, Duplex, and Townhome developments in R-1, R-2, and R-3 districts)

(i) Interior residential fences and front-facing fences shall be constructed from stained or painted cedar with rustproofed metal posts with top caps; or rust-proofed and powder-coated wrought iron; or rust-proofed and powder-coated tubular steel; or masonry; or a combination if approved by the City Engineer.

(ii) Side and rear yard residential fences that face a public or private street of a Local classification or an open space area such as a pond or path shall ~~consist of rust-proofed wrought iron or tubular steel or a combination of Masonry wall and wrought iron or tubular steel~~ be Type 3, with the exception of cedar fencing, and a combination with living screens shall not be permitted.

(iii) ~~No other type of opaque fence will be allowed for side and rear yards, but t~~ The property owner may grow a living wall consisting of hedges, vines, or other plant material if it does not damage the fence.

(iv) Side and rear yard fences that face a street classified as a Collector or higher shall be Type 3 and may install include a cedar fence in accordance with this subsection C, provided the fence does not impede access to the interior face of a subdivision screening wall.

3. High-Density Residential Fencing (3 units or more)

(i) Perimeter fencing shall ~~consist of a combination of wrought iron and Masonry~~ be Type 2 with a minimum height of four (4) feet and a maximum height of six (6) feet along property lines abutting public and private streets and a ~~Masonry~~ Type 1 wall a minimum of six (6) feet in height along all interior property lines.

~~(ii) Street-facing perimeter walls shall not utilize Masonry on more than thirty percent (30%) of the surface of the fence.~~

4. Alternative Compliance

(i) Use of Wooden Fence in High-Density Residential Development

(1) The developer may substitute a stained or painted board-on-board cedar fence with rustproof metal posts and top caps of the same height along interior lot lines shared with another high-density residential development.

(2) The developer may substitute a board-on-board cedar fence with rustproof metal posts and top caps of the same height along lot lines shared with a low-density residential development or non-residential or mixed-use development if a double row of large trees is also provided with spacing between thirty (30) and fifty (50) feet along the entire section of the cedar fence.

(ii) Use of Wrought Iron Fencing Adjacent to Shared Open Space

A developer may provide a wrought iron fence with vegetative screening that achieves full opacity and grows to a height of six (6) to eight (8) feet within three (3) years along an open space shared with a Low-Density Residential development in lieu of a Masonry wall.

(iii) Alternate Screening Plan

The Planning Director may approve an alternate screening plan for any residential development such as a landscaped berm or open space buffer, steep slope, or creek, if the plan meets the intentions of this subsection C. Residential Fencing and Screening and preserves or minimizes impacts to natural landscapes, habitat areas, steep slopes, or other areas of environmental sensitivity or viewsheds to such areas.

D. Retention and Detention Pond Fencing

Fencing of retention or detention ponds is limited to masonry wall, tubular steel, or wrought iron, no more than six (6) feet in height.

5.1.3 Waivers

1. General provisions.

(i) Unless otherwise proscribed within this Article, the City Council may approve a waiver to one or more provisions of Articles 5 if it makes an affirmative finding with regard to the following:

(1) That undue hardships will result from strict compliance with one or more provisions of this Article;

(2) That the purposes of these regulations may be served to a greater extent by an alternative proposal;

(3) The waiver does not have the effect of nullifying the intent and the purpose of the applicable regulations;

(4) Granting the waiver will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the waiver will not prevent the orderly development or use of other property in the vicinity;

(5) The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought, and are not applicable generally to other property;

(6) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out; and

(7) An alternate design will generally achieve the same result or intent as the standards and regulations prescribed.

(ii) Such findings of the City Council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the City Council meeting at which a waiver is considered.

(iii) The City Council may grant a waiver from a provision of Article 5 when the relief granted is in harmony with the general purpose and intent of the Article and when the safety and welfare of the public will be secured and substantial justice done.

(iv) Financial hardship to the property owner or developer does not constitute undue hardship as defined in subsection (i) above.

2. Conditions. In approving a waiver, the City Council may require such conditions which, in its judgment, secure substantially the purpose described the applicable Section of Article 5.

3. Procedures.

(i) The applicant must submit a petition for a waiver in writing by the applicant with the Site Plan or development application. If the applicant does not submit a petition in writing, the associated application will not be considered complete (see section 1.4.2.E Application Considered Complete).

(ii) The petition shall state fully the grounds for the application and the facts relied upon by the petitioner.

(iii) Where a hardship is identified pursuant to this section which requires issuance of a waiver from a provision in this Article, the Planning and Zoning Commission may, in its consideration of an associated Site Plan or other development application it is required to consider, recommend to the City Council a waiver from the provision in this Article 5.

(iv) The City Council may grant final approval to a waiver from a provision of this Article provided that no new information or reasonable alternative plan exists which, at the determination of the City Council, voids the need for a waiver.

(v) The City Council's decision is final.

6.1.5 DEFINITIONS

Alteration (noun): Means any act that causes or may reasonably be expected to cause a tree protected under this section to die, including, but not limited to, any of the following: uprooting any portion of the tree's root system; severing the main trunk of the tree; inflicting damage upon the tree's root system by machinery, storage of materials, or the compaction of soil above the root system of a tree; changing the natural grade of the critical root zone of a tree or of an area that sits uphill from the critical root zone of the tree so as to divert the flow of water to or away from the critical root zone; applying herbicides or other chemicals lethal to trees within the area of the critical root zone, including portions of the tree that extend above ground; placement of impermeable material over any portion of the critical root system of a tree; and trenching within the critical root zone.

Alter (verb): A tree protected under this section is considered to be altered if one or more of the following occurs: Severing or partially severing the main trunk of a single-trunk tree or more

than twenty-five percent (25%) of the trunks of a multi-trunk tree; more than twenty-five percent (25%) of the critical root zone is affected by a means listed in 6.1.5A or more than twenty-five percent (25%) of its canopy is removed.

Canopy: The upper vegetative cover of a tree (see Figure 6.1.5 1).

Critical Root Zone: The area of undisturbed natural soil around a tree defined by a horizontal circle drawn at grade with the center being the center of the tree trunk of a single-trunk tree or approximate center of all trunks of a multi-trunk tree and a radius equal to one foot (1') from the tree trunk for each diameter inch of trunk size (see Figure 6.1.5 1).

Figure 6.1.5-1: Canopy, Critical Root Zone, and Drip Line

* * *⁴

Drip Line: An area within a concentric circle having a radius extending outward from the approximate center of the tree and measuring one half (1/2) of the Tree's height (see Figure 6.1.5 1).

Multi-Trunk Tree: A tree with more than one trunk that has a visible connection above ground. For the purposes of measuring trunk diameter for a multi-trunk tree, the full diameter of the largest trunk shall be combined with the sum of the diameters of all other trunks divided by 2 (i.e., If the largest trunk measures 6 inches in diameter and the sum of all other trunk diameters is 12 inches, total diameter of the multi-trunk tree is 12 inches or $6 + 12/2$).

Poisonous or Hazardous Materials: An object or substance with qualities harmful to Trees, including, but not limited to, paint; soil not matching the soil profile and content of the property on which the Tree sits; petroleum products, including diesel fuel, gasoline, and engine oil; concrete or stucco mix or wash; fibrous insulation; foul, brackish, or dirty water; corrosive or acidic substances or objects that may produce such substances; or any other material which may be reasonably expected to harm Trees.

Removal: Any act that has the effect of destroying a tree, including completely or partially severing the trunk of a Tree, removing more than twenty-five percent (25%) of the Canopy, or otherwise Altering a tree so that it dies or becomes fatally injured.

Tree: Any self-supporting woody perennial plant of a species that will commonly attain a trunk diameter of two (2) or more inches at a point measuring four and one-half (4 ½) feet above ground level and an overall height of at least ten (10) feet at maturity.

Tree, Heritage: Any tree of a species other than those listed in Section 6.1.4 that measures twenty-four (24) inches in caliper or greater at a point measuring four and one-half (4 ½) feet above ground level.

Tree, Protected: Any tree of a species other than those listed in Section 6.1.4 that measures four (4) inches or greater, but less than eight (8) inches in caliper at a point measuring four and one-half (4 ½) feet above ground level.

Tree, Significant: Any tree of a species other than those listed in Section 6.1.4 that measures eight (8) inches or greater, but less than twelve (12) inches in caliper at a point measuring four and one-half (4 ½) feet above ground level.

Tree, Specimen: Any tree of a species other than those listed in Section 6.1.4 that measures twelve (12) inches or greater, but less than twenty-four (24) inches in caliper at a point measuring four and one-half (4 ½) feet above ground level.

Tree Cluster: Three or more trees of a species other than those listed in Section 6.1.4 where any portion of the trunk or trunks of the trees are located less than ten (10) feet apart from one

⁴ Note to publisher, figure to remain unaltered.

another and where each tree has a trunk measuring at least four (4) inches caliper at a point measuring four and one-half (4 ½) feet above ground level.

Tree Removal Permit: A permit issued under this section that authorizes a person or entity to Remove or Alter a tree protected under this section.

* * *

6.1.9 TREE MITIGATION

A. Any Trees that are removed or damaged as a result of the approval of a Tree Removal Permit issued pursuant to Section 6.1.6E must be mitigated on the same property or development area, unless the City Manager approves a fee in lieu.

1. The fee in lieu will be paid directly to the City to fund placement of trees at public parks or other approved public facilities throughout the City.

B. Any Trees that are removed or damaged as a result of the approval of a Tree Removal Permit issued pursuant to Section 6.1.6F must be mitigated pursuant to the ratios provided in Section 5.1.1 ~~Table 32, Fee In Lieu of Tree Mitigation.~~

C. Fee in Lieu of Tree Mitigation

~~(i)~~1. The City Manager may approve payment of a fee in lieu of replacement trees.

~~(ii)~~2. The fee shall be per the adopted fee schedule.

~~(iii)~~3. The fee in lieu option is available for only the following cases:

~~(1)~~(i) If the property or development area is heavily treed and the existing tree canopy would prohibit the growth of the replacement trees, or

~~(2)~~(ii) If the required replacement trees were to be installed, then the replacement trees would be planted under the canopy of an existing tree.

~~E~~D. Limitations of species and placement. Replacement Trees must be shown and reviewed on a Landscape Plan consistent with the requirements of Section 5.1.1 and provide placement of Trees consistent with the requirements of those sections.

* * *

6.2.1 PURPOSE AND APPLICABILITY

A. Purpose

The purpose of these lighting regulations is to:

1. Permit the use of outdoor lighting that does not exceed the maximum levels specified in Illuminating Engineering Society (IES) recommended practices for night-time safety, utility, security, productivity, enjoyment, and commerce.

2. Minimize adverse offsite impacts of lighting such as Light Trespass and obtrusive light.

3. Curtail Light Pollution, reduce skyglow and improve the nighttime environment for astronomy.

4. Help protect the natural environment from the adverse effects of night lighting from gas or electric sources.

5. Conserve energy and resources to the greatest extent possible.

B. Applicability as to Location

This section applies within the City limits.

C. Applicability as to Type

1. Except as described below, all outdoor lighting installed after the date of effect of this UDC shall comply with these requirements. This includes, but is not limited to, new lighting, replacement lighting or any other lighting whether attached to structures, poles, the earth, or any other location.

2. Exemptions

- (i) Lighting within ~~public or private right-of-way or easement~~ a state-owned right-of-way for the principal purpose of illuminating streets or roads. No exemption shall apply to any lighting within the public or private right-of-way or easement when the purpose of the luminaire is to illuminate areas outside the public or private right-of-way or easement, unless otherwise stated in separate regulation.
- (ii) Lighting that is removed or destroyed less than 30% of the total value of all lighting on a property
- (iii) Repairs to existing luminaires not exceeding twenty-five percent (25%) of total installed luminaires.
- (iv) Temporary lighting for theatrical, filming on location, and performance areas with applicable City permits.
- (v) Underwater lighting in swimming pools and other water features.
- (vi) Temporary lighting and seasonal lighting, such as string, festoon, bistro, and similar lighting, provided that the emission of such lighting does not exceed 125 lumens per linear foot of line or square foot of space. These lights must be rated at or below 2700 Kelvin.
- (vii) Lighting that is only used under emergency conditions.
- (viii) Low Voltage Landscape Lighting.

3. Preemption

All lighting shall follow provisions in this ordinance; however, any special requirements for lighting listed below shall take precedence.

- (i) Lighting specified or identified in a Specific Use Permit.
- (ii) Lighting required by federal or state laws or regulations.

* * *

6.8 Performance Standards

6.8.1 In all zoning districts, any use indicated in the permitted use chart, see Section 3.3.5, shall conform in operation, location, and construction to the performance standards above, as well as all administered by County, State, and Federal agencies. All uses, including those which may be allowed by PDD or SUP shall conform in operation, location, and construction to appropriate standards for noise, smoke, and particulate matter, odorous matter, fire, or explosive hazard material, toxic and noxious matter, vibration, and glare.

6.8.2 All Federal and State pollution, noise, and requirements for toxic waste disposal shall be observed.

7.3.2 CONTROL MEASURES

* * *

C. Performance Standards

Except as otherwise provided in this section 7.3, all development subject to this section 7.3 shall achieve the following performance standards:

1. Removal of Annual Pollutant Load

(i) For new and re-development, the standard of treatment for surface water runoff shall be as follows:

- (1) Total suspended solids (TSS): 90% removal.
- (2) Total phosphorus (TP): 90% removal.
- (3) Oil and grease (O&G): 90% removal.
- (4) Total zinc (Zn): 90% removal (evaluated for crumb rubber turf installations only)

(ii) For development using on-site irrigation with treated wastewater effluent or with septic system effluent, see Section 2.5.17.

(iii) Background and developed sites pollutant concentrations and pollutant loads:
(1) Background pollutant concentrations shall be as defined in the Engineering Technical Manual.

(2) Standard pollutant concentrations for developed sites shall be as defined in the Engineering Technical Manual.

(3) Calculation of annual pollutant loading shall comply with the criteria given in the Engineering Technical Manual.

2. Water Quality Volume

The minimum volume of stormwater runoff for water quality control shall be the first one-half inch (0.5") of runoff plus an additional one-tenth inch (0.1") for each ten percentage point increase of the gross impervious cover over twenty percent (20%) of the contributing drainage area to the water quality control. Water quality volume shall be calculated in accordance with the Engineering Technical Manual.

3. Impervious Cover Limits by Land Use

Impervious cover limits in this subsection 3 are expressed as percentage of the Net Site Area.

(i) Impervious cover shall not exceed the following:

(1) New development shall not exceed forty percent (40%).

(2) Redevelopment of sites developed prior to adoption of Ordinance 00-08-29-B: a maximum of 60% impervious cover may be permitted via (a), (b), or a combination of (a) and (b) below:

(a) The applicant submits a survey no older than one year prior to the date of application delineating existing impervious cover. A percolation test may be required to validate impervious cover greater than 40% existing on site currently; or

(b) The City approves a transfer of impervious cover pursuant to Section 7.3.2.C.4. Sites that are eligible under this Subsection 7.3.2.C.3(i)(2) may transfer more than the equivalent of ten (10) percentage points of impervious cover provided that in no case the total impervious cover of the site exceeds sixty percent (60%).

4. Allowable Increases to Impervious Cover Limits

(i) The impervious cover limits of subsection 3(i) above of this section may be increased by the following amounts under the following conditions:

(1) Isolation of roof runoff and irrigation (for non-residential and multi-family uses). The maximum impervious cover limits may be increased up to five (5) percentage points if roof runoff is isolated, and used for irrigation, wet pond make-up water, or gray water applications in accordance with subsection L below, subject to approval by the City Engineer.

(2) Transfer of development intensity: multifamily residential use and nonresidential use. An applicant who complies with a provision of this subsection qualifies for the development intensity transfer:

(a) For each one (1) acre of land that an applicant leaves undeveloped and undisturbed in an area zoned by the City for nonresidential use and does not include in impervious calculations elsewhere, the applicant may transfer up to one (1) acre of impervious cover. For each one (1) acre of land that an applicant leaves undeveloped and undisturbed in an area zoned by the City for residential use and does not include in impervious calculations elsewhere, the applicant may transfer up to one (1) acre of impervious cover. For each one (1) acre of land that an applicant leaves undeveloped and undisturbed in the ETJ of the City and does not include in its impervious calculations elsewhere, the applicant may transfer up to one (1) acre of impervious cover.

- (b) The maximum impervious cover limit may be increased by no more than ten (10) percentage points for transfer of development intensity, except as permitted in Section 7.3.2C.3(i)(2)(b) .
- (ii) An applicant who qualifies for a development density transfer must comply with the following requirements to affect the transfer:
- (1) The transferring tract and the receiving tract must be located within the City limits or the ETJ of the City;
 - (2) If the transferring tract includes a water quality buffer zone or critical environmental feature, these features/zones must be deducted from the tract's transferrable area in accordance with the Net Site Area definition;
 - (3) The receiving tract must comply with or exceed the water quality control standards of this section 7.3;
 - (4) The receiving tract may have or be granted any variances, deviations, or waivers related to water quality.
 - (5) If the receiving tract is zoned R-1, R-2, or R-3, the transfer must be approved by City Council.
 - (6) The transferring and the receiving tracts must be platted either prior to or concurrently with the transfer;
 - ~~(5)(7)~~ A restrictive covenant that describes the development intensity transfer, and runs with the transferring and receiving tracts, and is approved by the City Council, must be filed in the deed records of the County; and
 - ~~(6)(8)~~ If any tract must be platted at the time of transfer to satisfy ~~(4)(6)~~ above, the corresponding plat(s) must include reference to the restrictive covenant memorializing ~~the City Council's approval of the development intensity transfer required in (5)(7) above.~~
 - (9) A Transfer of Development Intensity cannot be approved for a transferring or receiving tract until the property owner provides evidence demonstrating payment of indebtedness (see Subsection 1.4.2.D).
- (iii) Fees, forms, and procedures.
- (1) The City's adopted Fee Schedule may establish fees relating to the Transfer of Development Intensity review and approval process.
 - (2) The City is hereby authorized to prepare application forms and restrictive covenant templates that include requirements for information, checklists, exhibits, contact information for the property owners, applicants, and technical consultants, and any other information deemed necessary by the City to review the application for compliance with City codes. These application forms and restrictive covenant templates may be revised or changed at any time without notice consistent with the UDC.
 - (3) The Planning Director and City Engineer shall review the application for a Development Density Transfer for compliance with the requirements listed in this section. The Planning Director or City Engineer will inform the applicant of any deficiencies and provide instructions for the resubmittal of a corrected application.
 - (a) If all requirements are met, and the receiving tract is not zoned R-1, R-2, or R-3 the application will be forwarded to the City Manager. The City Manager may approve or deny the Development Density Transfer or may defer the Development Density Transfer to City Council for approval or denial.
 - (b) If all requirements are met, and the receiving tract is zoned R-1, R-2, or R-3 the application will be forwarded to the City Council for approval or denial.

(iv) Effect of approval.

Approval of a Development Density Transfer is not a guarantee that a rezoning, variance or waiver request, or a development permit of any type will be approved for the receiving property.

5. Water Quality Buffer Zones (WQBZ) and Critical Environmental Feature (CEF) Buffer Zones.

(i) Water Quality Buffer Zones (WQBZ)

A water quality buffer zone is established along each waterway as follows:

(1) Upland waterways. The WQBZ shall extend a minimum of eighty-five feet (85') from the outer limit of the peak two-year flood level paralleling each side of the waterway. The WQBZ shall parallel all reaches of each waterway with at least thirty (30) acres of contributing drainage area.

(2) Little Barton Creek and Barton Creek. The WQBZ shall extend a minimum of three hundred feet (300') from the outer limit of the peak two-year flood level, paralleling each side of the waterway.

(3) Calculation of peak flood level. The two-year peak flood level shall be calculated in accordance with the Engineering Technical Manual TCSS manual.

(ii) Critical environmental features (CEF). The CEF Buffer Zone shall extend a minimum of one hundred fifty feet (150') around the outside periphery of critical environmental features. The buffer zone for a CEF can be reduced to fifty (50') with administrative approval by City staff which may incorporate conditions at the discretion of the City Engineer.

(iii) Overlapping water quality buffer zones. If two (2) or more WQBZs overlap, then the widest zone shall be established.

(iv) Activity in Water Quality Buffer Zones (WQBZ) and Critical Environmental Feature Buffer Zone

(1) Development Features

All development activities, including temporary construction activities and landscaping activities, shall be restricted from the WQBZ and CEF buffer zones, except the following development activities and improvements, which may be allowed if approved by the City Engineer:

- (a) Roadway and driveway crossings;
 - (b) Paths in accordance with the adopted Bee Cave Connectivity Plan;
 - (c) Maintenance and restoration of natural vegetation;
 - (d) Removal of trash, debris, and pollutants;
 - (e) Utilities, as subject to the restrictions of subsection (2), below
 - (f) Fences that do not obstruct flood flows;
 - (g) Public and private parks and open space, with development in the parks and open space limited to hiking, jogging, or walking paths, and excluding stables and corrals for animals;
 - (h) Private drives to allow access to property not otherwise accessible.
 - (i) The back slope of earthen embankments related to permanent Water Quality BMPs; and
 - (j) Infiltration trenches.
- (2) Utilities
- (a) All utilities, other than wastewater, shall be located outside the WQBZ and CEF buffer zone, except for crossings.
 - (b) Wastewater lift stations shall be located outside the WQBZ and CEF buffer zone.
 - (c) On-site wastewater disposal systems shall be located outside the WQBZ and CEF buffer zone.

(d) Wastewater trunk lines and lateral lines shall be located outside the WQBZ and CEF buffer zone to the maximum extent practical except for necessary crossings. All wastewater lines located within the WQBZ and CEF buffer zones shall be approved by the City Engineer on a case-by-case basis.

(e) In no case shall any wastewater line be located less than one hundred feet (100') from the centerline of Little Barton Creek or Barton Creek or fifty feet (50') from the centerline of an upland waterway except for crossings, unless approved by the City Engineer, and unless the applicant has shown that installation outside of this zone is physically prohibitive or environmentally unsound.

(f) All wastewater trunk lines located in the WQBZ and CEF buffer zone shall meet design standards and construction specifications of testing to allow zero (0) leakage.

(3) All water quality control discharges and stormwater discharges onto a WQBZ or CEF buffer zone shall:

(a) Have diffused sheet flow;

(b) Have peak velocities of less than five (5) feet per second at the 2-year design storm.

* * *

7.3.3 ADMINISTRATION AND ENFORCEMENT

* * *

E. Functionality Inspections

1. In addition to the inspection and permitting process provided in subsection 7.3.3D, each owner of on-site water quality control facilities shall obtain from a qualified professional registered engineer a functionality inspection no less than once every five (5) years.

2. The first functionality test is due on or before the expiration of five (5) years from the date the facility was accepted by the City and every five (5) years thereafter.

3. Functionality inspections shall be conducted during or within 72 hours following a one (1) year storm event which has produced or is producing a depth of precipitation of 1.33 inches per six (6) hours or 0.22 inches per hour. The following, if present, must be inspected and evaluated at each water quality facility in accordance with the Design Manual, including but not limited to:

(i) Dams, berms, levees

(ii) Spillways

(iii) Inlets

(iv) Pipes, culverts, and appurtenances

(v) Outlets

(vi) Bank erosion

(vii) Sedimentation

(viii) Tree/vegetation management

(ix) Trash and debris removal

(x) Water quality impairments

(xi) Backup power

(xii) Reservoir drawdown capability

(xiii) Security issues

(xiv) Emergency spillway/service spillway

(xv) Service outlet structure

(xvi) Service inlet structure

(xvii) Downstream hazard conditions

- (xviii) Seepage on downstream slope
 - (xix) Downstream embankment general condition
 - (xx) Upstream embankment
 - (xxi) Crest of embankment
 - (xxii) Irrigation area
4. The purpose of the functionality inspection shall be to determine if each water quality control facility is:
- (i) Operating properly;
 - (ii) Pumps, electrical systems, and all appurtenances applicable to the BMP's are functional;
 - (iii) Structurally integrity protected;
 - (iv) Accomplishing the purposes for which it was designed and installed; and
 - (v) Can be improved or modified in a manner that is likely to improve its functionality or efficiency.
5. The engineer conducting the functionality inspection shall prepare and file with the City and the owner a written report that includes the engineer's evaluation of whether the water quality facility is accomplishing the purposes described in subsection 4 above, including any analysis of optional actions, cost/benefit, any risk associated with the facility, and any other factor that, in the engineer's opinion, should be brought to the attention of the owner and the City.
6. The owner is responsible for the operation and maintenance of a water quality management facility and shall make records of all maintenance installation and repairs.
7. Records of the inspection, maintenance and repairs must be completed, signed by the responsible engineer, and retained for a minimum of five (5) years for review upon City request.
8. The owner of the water quality facility shall be responsible for all costs associated with procuring the functionality inspection and shall provide a written copy of the engineer's inspection report not later than thirty (30) days after the sooner of the fifth (5th) anniversary of the date the facility was first installed and permitted or the last functionality inspection.
9. Failure to obtain a functionality inspection may result in revocation of the owner's permit and such other enforcement or penalties of this UDC, and other local ordinances and state and federal laws and regulations as the City may determine to be appropriate.
10. In the event that the inspection reveals that the water quality facility is not accomplishing the purposes for which it was constructed, or that new or additional BMPs, WQCs, or facilities are necessary for proper functioning of the facility or the accomplishment of its intended purposes, the owner shall be required to implement such BMPs or WQCs or to construct such facilities and, to the extent necessary, amend the applicable SWPPP, NPDES permit, water quality control maintenance plan, NPS pollution control permit, or restrictive covenant as a condition to renewal of the owner or operator's annual operating permit.
11. Deficiencies must be addressed within ninety (90) days from the date identified unless additional time is approved by the City Engineer.
12. The person responsible for facility inspection must provide documentation to the City demonstrating that each deficiency identified in the inspection report has been corrected.

* * *

9.1 For the purposes of this Unified Development Code, and all articles thereof, the following definitions apply.

9.1.1 TERMS BEGINNING WITH "A"

Accessory Dwelling Unit

An independent dwelling unit on a lot zoned for Single-Family Residential operated concurrently with a primary dwelling unit (see Section 3.4.8B.1).

Accessory Building

A Building that is subordinate to the Principal Building and sits on the same lot or property or that contains an Accessory Use.

Accessory Use

A use that is subordinate to or incidental to a Principal Use on the same property or lot and does not physically occupy more than twenty-five percent (25%) of a building or lot.

Adequate Public Facilities

Facilities capable of supporting and servicing the physical area and designated intensity of a proposed Subdivision as determined by the facility provider, including the City, PUA, WCID-17, or other utility, and based upon specific levels of service identified in the UDC and the City's adopted Technical Manual.

Agricultural Uses

Uses that involve the growing of crops or tending of domesticated animals associated with farm or agricultural uses, including associated structures, stables, pastures, and runs.

Alcoholic Beverage Sales, Off-Premises Consumption

The sale of any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted; and includes, but is not limited to, liquor, wine, malt liquor, mixed beverage or beer, to be consumed off site, such as a grocery store or liquor store.

Alcoholic Beverage Sales, On-Premises Consumption

The sale of any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted; and includes, but is not limited to, liquor, wine, malt liquor, mixed beverage or beer, to be consumed on site, such as a restaurant or night club.

Alley

A public right-of-way or private easement used for utility installation and/or secondary access to individual properties which have their primary access from an adjacent public or private street.

Alteration

Any revision or change of any extent or type whatsoever, other than the addition of signatures, dates, seals, or similar fill-ins within existing certificates or acknowledgements.

Ambulance Service

A facility for the dispatch, storage, and maintenance of emergency medical care vehicles.

Amending Plat

See Plat, Amending.

Amenity Center

A building or facility owned or operated by a corporation, association, person, or persons for a place of meeting, social, cultural, educational, or recreational purposes, to which membership or residency requirements is required for participation.

Animal Grooming

A facility where animals are groomed and bathed with no long-term sheltering or kenneling and with no outdoor facilities

Animal-Related Uses

Uses involving the care or treatment of animals, including Animal Grooming, Animal Veterinary Office or Shelter (with Outside Yard/Kennels), Animal Veterinary Office or Shelter (without Outside Yard/Kennels); Day Care, Pet; Pet Adoption Center; or Pet Store.

Animal Veterinary Office or Shelter (with Outside Yard/Kennels)

- Facility with a fenced yard or outside kennels in which dogs, cats, or other domestic animals are accepted for medical treatment, grooming, bathing, or other treatment for which payment is received.

- Facility with a fenced yard or outside kennels in which three (3) or more dogs, cats, or other domestic animals are held for adoption or accepted for boarding for which payment is received. Sometimes referred to as “doggy day care” or a “pet hotel”.

Animal Veterinary Office or Shelter (without Outside Yard/Kennels)

- Facility entirely indoors in which dogs, cats, or other domestic animals are accepted for medical treatment, grooming, bathing, or other treatment for which payment is received.

- Facility entirely indoors in which three (3) or more dogs, cats, or other domestic animals are held for adoption or accepted for boarding for which payment is received. Sometimes referred to as “doggy day care” or a “pet hotel”.

Amusements (Indoors)

An amusement enterprise wholly enclosed in a building that does not generate noise perceptible at the bounding property line and including, but not limited to, a facility that includes one or more of the following: climbing walls, video game arcade, shooting range, batting cages, indoor skydiving, bowling alley, or billiard parlor.

Amusement (Outdoors)

An amusement enterprise offering entertainment or games of skill wherein any portion of the activity takes place in the open and includes one or more of the following: paintball, go-cart racing, miniature golf course, or similar outdoor use.

Appliance Sales or Repair

The indoor sale or routine repair of household appliances such as dishwashers, ovens, ranges, clothes washing machines, clothes dryers, and other similar devices.

Applicant

Anyone authorized to submit an application for Development, including, but not limited to, a property owner or the owner’s designee or a Subdivider or Developer or their agent, attorney, architect, engineer, surveyor, or contractor.

Application

Notice to the City provided on an acceptable form from the City that begins the Development or Subdivision process. For the purposes of TLGC Chapter 242, the date an applicant submits an application for review of administrative completeness determines the regulations the City will use to review the application.

Architect

An individual who is either licensed to practice architecture in the U.S. and/or associate architect as defined by the American Institute of Architecture.

Architectural Lighting

Lighting designed to reveal architectural beauty, shape or form with any other purpose for the lighting being incidental.

Art Gallery or Museum

An institution for the collection, display, or distribution of objects of art or artifacts of cultural, scientific, or historic significance, that is sponsored by a public or quasi-public or non-profit agency, and is open to the general public or by invitation or appointment.

Artisan Studio

A work space ~~not more than 1,500 square feet in size~~ used by one or more painters, sculptors, graphic artists, illustrators, photographers, jewelers, or other artists ~~using a medium that is not a~~ including Ceramic, Pottery, or Glass Studios, that is not food production, is not the manufacture of large quantities of a standardized article, does not endanger the health, safety, and welfare of the artist or the general public, and that does not cause a nuisance to abutting property owners.

Assisted Living Home

A licensed residential facility that provides food & shelter, personal guidance, care, habilitation services, & supervision for 7 or more persons with a disability as defined by Chapter 123 of the Texas Human Resources Code, the Americans with Disabilities Act or the Fair Housing Act.

Astronomic Time Switch

An automatic lighting control device that switches outdoor lighting relative to time of solar day with time of year correction.

Auto Driving School

A school that instructs students to operate an automobile or light truck, including classroom instruction and driving on a public street.

Auto Parts Sales

Retail sales of new auto parts, not including tires.

Auto/Vehicle Repair

A shop that maintains, repairs, or rebuilds engines, transmissions, differentials, suspension components, electrical or computer components, EV or hybrid batteries or components, brakes, or other major components, or performs repair or maintenance of vehicle bodies, with all repair conducted inside an enclosed building and not including salvaging of parts or long-term holding or storage of inoperable or disassembled vehicles. May include Quick Lube.

Average Grade

The average of the highest and lowest existing ground elevation points around the structure's foundation.

* * *

9.1.3 TERMS BEGINNING WITH "C"

Cafeteria

A restaurant where prepared food is served to customer from a serving area adjacent to the kitchen which allows the customer to see the food before it is served, and where food is typically purchased before it is consumed and eaten on-premises.

Caliper

The diameter of a tree as measured at a point that is four and one-half feet (4.5') above ground level.

Car Service

A for-hire service that provides private vehicles under 16,000 pounds GVWR to individuals or companies on a prearranged basis. Also includes secondary storage of vehicles used for providing the car service but not servicing or repair of any vehicles.

Car Wash

A facility, structure, or group of structures, which may include tunnels, awnings, and canopies, for washing automobiles and light trucks (under 16,000 pounds GVWR) in accordance with State regulations, 6.7 of this UDC, and the City's Technical Manual, and which may include secondary facilities or services for drying, vacuuming, and detailing automobiles and light trucks. Does not include self-service or coin operated facilities where vehicle owners use equipment provided by the facility to wash their vehicle.

Carpentry Shop

A shop involving woodworking and assembly of wood products.

Caterer or Catering Service

A business that provides prepared foods, meals, and refreshments for public or private events.

Cemetery or Mausoleum

Property used for interring the dead.

Ceramic, Pottery, or Glass Studio

A studio that is not a manufacturer that produces ceramic, pottery, or glass goods and that does not create a nuisance to abutting properties or the general public by creating dust, odor, or fumes. May operate as a "make your own" facility open to the public where the public makes their own goods or paints, decorates, or otherwise manipulates finished goods.

Certificate of Completeness

Certification by the Responsible Official that an application for Plat, Plan, Permit, or other application subject to the requirements of TLGC Chapter 245 meets the requirements for that application to be considered complete under this UDC.

Certificate of Convenience and Necessity

A Certificate of Convenience and Necessity (CCN) gives a retail public utility the exclusive right to provide retail water and sewer utility service to an identified geographic area or the "certificated service area." Chapter 13 of the Texas Water Code requires a CCN holder to provide continuous and adequate service to the area within the boundaries of its certificated service area. Neither the PUD nor the City shall provide retail water or sewer service within an area being lawfully served by another utility unless that district or municipality has a CCN for the area.

Certificate of Occupancy

Certificate issued by the building official for the use of a building, structure, or land, when it is determined by the building official that the building, structure, or proposed land use is listed in the official Use Charts (see Section 3.3.5) and complies with the provisions of all applicable codes of the City of Bee Cave.

Check Cashing

A business that cashes checks for a nominal fee related to the amount on the face of the check and does not provide credit access, payment advances, or loans.

City

The City of Bee Cave, Texas.

City Code

The Code of Ordinances of the City, including but not limited to the City Charter. This term does not refer to the Unified Development Code (UDC)

City Council

The elected governing body of the City of Bee Cave, Texas. Also referred to as "Council".

City Engineer

The individual holding the office of City Engineer of the City of Bee Cave, Texas, who shall actively maintain licensure in good standing as a professional engineer under the laws of the State of Texas. Those duties assigned by this UDC to the City Engineer which relate to the development review process may be reassigned by the City Manager, in whole or in part, to one or more licensed professional engineers, as needed to adjust workflow or to provide specific expertise.

City Limits

The boundary of the incorporated limits of the City.

City Manager

- The chief executive officer and head of the administrative branch of the City government.
- The acting City Manager; or
- Any employee or administrative officer of the City to whom such chief executive officer or acting City Manager shall have delegated certain authority, but only to the extent of such delegation.

Clinic (Inpatient)

A facility that performs advanced medical procedures or those requiring an overnight stay or 24-hour monitoring that does not fall under the definition of Hospital.

Clinic (Outpatient)

A facility that treats patients with non-emergency or non-life-threatening conditions such as a cold or fever. May include limited imaging such as x-ray. Patients are typically seen and treated by a general physician or nurse practitioner who may prescribe medication or treatment.

Facilities such as “Urgent Care” clinics fall under this definition (for facilities that treat emergency situations, including facilities capable of receiving patients transported by ambulance, see Emergency Care Facility).

Clinic (Specialty Outpatient)

A clinic that performs medical procedures not requiring an overnight stay or 24-hour monitoring, including dentists, orthopedists, ophthalmologists, plastic surgeons, ENTs, dialysis, and elective and non-elective inpatient surgeries.

College or University

An academic institution of higher learning that is recognized by the State or accredited or recognized by an accrediting institution and offers a program or series of programs of academic study culminating in the granting of a degree or credential.

Community Center

~~A building dedicated to social or recreational activities that serves the City or a Subdivision and is owned and operated by the City, a Property Owners’ Association, or a non-profit organization dedicated to promoting the health, safety, and general welfare of the City.~~

Community Home

A licensed residential facility that provides food & shelter, personal guidance, care, habilitation services, and supervision for no more than 6 persons with a disability as defined by Chapter 123 of the Texas Human Resources Code, the Americans with Disabilities Act or the Fair Housing Act.

Comprehensive Plan

The City’s Comprehensive Plan adopted in accordance with Texas Local Government Code, Chapter 213, and all the associated studies, recommendations, and maps within it, including the Future Land Use Map.

Computer Sales and Repair

A business that sells, buys, upgrades, or repairs computers and similar electronic personal devices such as laptops, tablets, and associated parts and peripheral components, with all work and storage being indoors.

Community Center

A multipurpose meeting and recreational facility typically consisting of one or more meeting or multipurpose rooms, kitchens, and/or outdoor barbecue facilities that are available for use by various groups for such activities as meetings, parties, receptions, dances, etc. The facility is owned and operated by the City or a non-profit organization dedicated to promoting the health, safety, and general welfare of the City.

Community Center, Residential

A multipurpose meeting and recreational facility, with features including, but not limited to fitness centers, meeting rooms, restrooms, swimming pools, sport courts, and reserved for the use of residents of a particular neighborhood or development. Such facilities are typically owned by a property owners association or similar entity.

Concept Plan

A graphic representation of the general layout and development scheme currently contemplated for the property subject to request to rezone to a higher-intensity zoning district. The Planning Director is responsible for maintaining and making available a checklist of items to be included in a Concept Plan, this checklist may be revised or changed at any time without notice consistent with the UDC.

Conference Center

A facility with predominantly indoor rentable or leasable space for conferences, events, conventions, meetings, and other similar gatherings that are booked in advance, along with supporting facilities such as lobbies, mezzanines, kitchens for food preparation, catering, or vending, loading docks, and storage or staging areas. These facilities are of a scale to be able to host one or more separate events at the same time.

Consignment Shop

A business that is not a Pawn Shop or junk shop that offers secondhand merchandise such as clothes, jewelry, or furniture for sale on behalf of the owner of the merchandise and takes a fee for selling the merchandise.

Construction Limit Line

The line marking the boundary of disturbance from construction.

Construction Release

Certification by the City Engineer that Construction Plans and all planned activities associated with construction of a Subdivision and Public Facilities meet all requirements of this UDC.

Contractor

Any person, other than the owner, engaging in land development activities on land located within the City Jurisdiction.

Contractor's Office

A facility for administrative functions and storage of equipment and materials used in the on-site physical improvement or repair of properties and structures, including construction, plumbing, heating and cooling, electrical, and similar professions.

Convenience Store

A small retail store that is less than 6,500 square feet that offers goods such as packaged foods, beverages, tchotchkes, and limited personal and household items, but that offers little to no fresh

foods, hygiene, or healthcare goods. May offer limited food preparation on site as a secondary use or be connected to a Restaurant.

Country Club

A chartered membership club catering primarily to its membership, providing one or more of the following recreational and social activities such as: golf, swimming, riding and tennis; with amenities such as a club house, locker room, or pro shop.

Cross Access Easement

An easement shown on a Plat or other recorded instrument that assigns benefit and right of entry to the public at large or to an abutting property owner and allows passage to the beneficiary over and across the property on which the easement is located.

* * *

II. CUMULATIVE CLAUSE

That this Ordinance shall be cumulative of all provisions of the City of Bee Cave, except where the provisions of this Ordinance are in direct conflict with the provisions of such other ordinance, in which event the conflicting provisions of such other ordinance are hereby repealed, while leaving the remainder of such other ordinance intact. To the extent of any conflict, this Ordinance is controlling.

III. SEVERABILITY

That it is hereby declared to be the intention of the City Council of the City of Bee Cave. that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional or invalid by final judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional or invalid phrases, sentences, paragraphs, or sections.

IV. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government

V. EFFECTIVE DATE

This ordinance shall be effective upon passage and publication as required by state and local law.

DULY PASSED AND APPROVED, on the _____ day of _____, 2023 at a regular meeting of the City Council of the City of Bee Cave, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

CITY OF BEE CAVE:

Kara King, Mayor

ATTEST:

Kaylynn Holloway, City Secretary

[SEAL]

APPROVED AS TO FORM:

City Attorney
Ryan Henry, Law Offices of Ryan Henry, PLLC

ORDINANCE NO. 522

AN ORDINANCE AMENDING ARTICLE 1, ARTICLES 4 – 7, AND ARTICLE 9 OF THE UNIFIED DEVELOPMENT CODE OF THE CITY OF BEE CAVE.

WHEREAS, the City of Bee Cave is lawfully incorporated as a Home Rule municipality and the City Council is the governing body of the City; and,

WHEREAS, it is the intent of the City of Bee Cave to protect the public health, safety, and welfare of its citizens; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety, and welfare of their citizens; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or policy regulation that is for the good government, peace, or order of the municipality; and

WHEREAS, the Bee Cave City Council may regulate the development of property within Bee Cave's city limits and extraterritorial jurisdiction; and

WHEREAS, the Bee Cave City Council, in compliance with the laws of the State of Texas and the City's municipal code, and in the exercise of its legislative discretion, has determined it is appropriate, for good government and for the welfare and benefit of the public, to amend the Unified Development Code to update its provisions to keep up with the growth and development of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS that Article 1, Article 4, Article 5, Article 6, Article 7 and Article 9 of the City of Bee Cave Unified Development Code shall be amended with strike-through text being deletions and underlined text being additions and all other provisions not addressed remain untouched and in full force and effect and shall read as follows:

* * *

1.1.16 TECHNICAL MANUALS

A. Unless differentiated, "UDC" also refers to any Technical Manual adopted by the City but maintained separately from the UDC. Unless specifically exempted, a Technical Manual adopted by the City applies to all development in the City Limits and Extraterritorial Jurisdiction (ETJ). These are policy documents adopted by reference and may be amended at any time by the City.

B. Other criteria manuals which are included by reference in the UDC under the term "Technical Manual" are: Engineering Criteria Manual, Transportation Criteria Manual, Drainage Criteria Manual, Technical Construction Standards, & Specifications (TCSS) Technical Manual Amendments. Where the UDC refers to manuals adopted or propagated by a state or federal agency, it will use the full title of the manual.

C. The Planning Director, City Engineer, Fire Marshal and Building Official are responsible for interpreting, developing, and processing updates to departmental technical manuals as

necessary to carry out the intent of the UDC. ~~A public hearing will be conducted before City Council to allow public input before updates are approved by the Council.~~

* * *

1.2.5 SUMMARY OF APPROVAL AUTHORITIES AND PUBLIC NOTICE

Table 1.2 1: Summary of Approval Authorities, Public Notice provides a summary of the review and approval procedures discussed in the UDC. See Section 1.4.3 for procedures related to required public notices.

* * *

1.4.3 GENERAL NOTIFICATION REQUIREMENTS

In accordance with the requirements shown in Table 12-1 Summary of approval authorities and public notice, public hearing notice shall be made as follows:

A. Mailed Property Owner Notice

1. When mailed property owner notice is required, written notice of all public hearings before the Planning and Zoning Commission and City Council shall be sent to all owners of real property within two hundred (200) feet of the subject property of the Application based on Table 1.2 1: Summary of Approval Authorities, Public Notice, and Appeals, as may be modified by the Section Reference listed in the Table.

2. Such notice shall be given not fewer than eleven (11) calendar days before the date of the Board or Commission public hearing by posting such notice, properly addressed and postage paid, to each taxpayer as the ownership appears on the last approved City tax roll or County tax roll for the area affected.

~~(i) The City Council shall conduct a public hearing before adopting any proposed rezoning or text amendment.~~

B. Newspaper Published Notice

~~N~~When newspaper public notice is required, notice of the time and place of the public hearing for an Application based on Table 1.2 1: Summary of Approval Authorities, Public Notice, and Appeals must be published in a newspaper of general circulation in the City at least sixteen (16) days before the date of the public hearing before City Council and not fewer than eleven (11) calendar days before the date of the public hearing before the Zoning Board of Adjustment.

* * *

4.2.2 Permitted Signs

* * *

C. Temporary Signs

1. General Provisions

(i) The regulations of this subsection 4.2.2C apply to all uses equally. They are not intended to regulate or make any distinction regarding religious or political speech, or to impose restrictions on seasonal or religious decorations or symbols.

(ii) A reflective surface is prohibited on any temporary sign.

2. Temporary Wall Banner Signs

In all Non-Residential and Mixed-Use districts, each non-residential building or non-residential tenant space within a building with a valid Certificate of Occupancy may install one (1) banner meeting the following:

(i) No banner shall exceed twenty-four (24) square feet in size or fifteen percent (15%) of the building façade or tenant space, whichever is greater;

- (ii) The property owner or business must securely affix the banner to the side of the building. The property owner or business must remove, replace, or repair any torn or frayed banner, or any banner that is detached from the side of the building;
- (iii) Banners are prohibited in the public Right-of-Way, on the side of a temporary building, trailer, fence, freestanding wall, or retaining wall;
- (iv) Each building or tenant space is allowed no more than one (1) banner per calendar year for a period not to exceed fifteen (15) days;
- (v) In addition to subsection 4.2.2C.2(iv), a tenant may display a banner for up to thirty (30) days at the time a Certificate of Occupancy is issued. The banner may not be used at the same time as any other temporary signage.

3. Temporary Ground Signs

- (i) In any district, each property is allowed one (1) temporary ground sign per road frontage per twelve (12) month period in compliance with this Subsection 4.2.2C.3.
- (ii) A Temporary Ground Sign shall not be used as a substitute for a permanent sign.
- (iii) All temporary ground signs must have a solid, durable backing that resists folding or twisting, and be anchored or fastened to the ground.
- (iv) The property owner or business must replace or re-set a temporary ground sign that twists or deflects more than three (3) degrees off center.
- (v) The property owner or business must remove any temporary ground sign if the sign remains on a property for longer than six (6) months or if the sign becomes worn, faded, or damaged.
- (vi) Signs that are not made using wood or thick-gauge steel frame construction are not framed or use wire construction must be removed after three (3) months.
- (1) The Planning Director may grant a three (3) month extension to subsection 4.2.2C.3(v) if the sign is in good condition and the property on which the sign is located is actively listed for sale or at least one building that sits on the property is actively listed for lease.
- (vii) Temporary ground signs are prohibited in the public Right-of-Way or on private property without the consent of the property owner.
- (viii) Temporary ground signs must be located outside of the sight visibility zone (see subsection 6.4).
- (ix) The size of a temporary ground sign shall not exceed the maximum square footage in Table 4.2 1:

Table 4.2 1: Temporary Ground Sign Size Matrix

* * *¹

- 4. Temporary Window Signs: See Section 4.2.2D.7(ii),
- 5. Temporary Ground Banners in Residential Districts
 - (i) In a single-family residential district (R-1, R-2, R-3) or property developed for single-family residential use, one (1) temporary ground banner per road frontage for a period not to exceed fifteen (15) days once per six (6) month periods in compliance with this Subsection. Temporary ground banners are prohibited in all other circumstances.
 - (ii) A temporary ground banner shall not be used as a substitute for a permanent sign.
 - (iii) All temporary ground banners must **not have a solid, durable backing but must** resist folding or twisting and be anchored or fastened to the ground.

¹ Note to publisher, table to remain unaltered.

- (iv) The property owner must remove, replace, or repair any torn or frayed banner, or re-set a temporary ground banner that twists or deflects more than three (3) degrees off center.
- (v) Temporary ground banners are prohibited in the public right-of-way or on private property without the consent of the property owner.
- (vi) Temporary ground banners must be located outside of the sight visibility zone (see subsection 6.4).
- (vii) The size of a temporary ground banner shall not exceed twenty-four (24) square feet.

* * *

5.1.1 LANDSCAPING STANDARDS

A. Landscaping Requirements Applicable to All Development within City Limits

1. Landscaping Plan Required

Construction of a Multi-Family, Mixed-Use, or Non-Residential development may not commence until a Landscape Plan is approved as a component of the required Site Plan (see subsection 3.5.4) that demonstrates conformance with this subsection 5.1.1 and contains any technical information required by the Planning Director.

2. Redevelopment Sites

For existing sites that are non-conforming under this Article 5 and undergoing expansion or redevelopment, see subsection 3.4.11E.4.

3. Credit for Preservation of Existing Trees and Trees Planted to Fulfill Mitigation Requirements

All development must preserve or replace at least sixty percent (60%) of ~~the caliper inches of trees present on site prior to development~~ according to an approved Tree Survey. ~~5.1.1 The caliper inches of all *Celtis Occidentalis* (Hackberry), *Juniperus Virginiana* (Eastern Red Cedar), *Melia Azedarach* (Chinaberry), and *Juniperus Ashei* (Common Cedar) tree species listed in Table 6.1-1 Exempted Trees when measuring twelve (12) caliper inches and or larger and all other trees four (4) inches caliper or larger shall be counted towards the required sixty percent (60%).~~

* * *

B. Nonresidential, Mixed-Use, and Multi-Family Residential Landscaping Requirements.

* * *

3. Parking Lot Landscaping

Parking lot landscaping is required within the area within the parking lot boundaries. Sidewalks and designated loading or unloading areas for service vehicles shall not be considered part of the parking lot.

(i) Parking Lot Shading

(1) The requirements of this subsection 5.1.1B.3(i) apply to any parking lot with more than five (5) spaces, regardless of zoning district.

(2) ~~The shaded area is calculated based on the trees listed in the Criteria Manual.~~ Shading shall be required for parking lots subject to this section. Canopy trees shall be provided to shade a minimum of twenty-five (25) percent of the parking lot or vehicular use area. The shade area provided by each tree shall be based on the area that the tree's mature canopy will encompass, as indicated in the Tree Canopy List in the Environmental Criteria Manual. Tree types not listed may be considered but shall be accompanied by a calculation of mature canopy area prepared by a registered landscape architect based on standard landscaping references. The shade area provided shall be calculated at 100% for preserved trees and 75% for newly planted trees.

(3) Existing trees preserved in an island or walkway buffer (see subsections 3.4.2E.4 and E.0) may be credited toward new plantings required under this subsection 5.1.1B.3(i) and shall be calculated at one hundred (100) percent of the required shade coverage.

(4) Newly planted trees shall be a minimum of three (3) inches caliper and calculated at seventy-five (75) percent of the shade coverage.

(5) No protected tree shall be located in a well deeper than four (4) feet, or on a pedestal higher than four (4) feet, from the surrounding parking area.

(6) Where grade changes exceed ten percent (10%), parking lots shall be stepped to accommodate the preservation of existing interior trees in accordance with this paragraph.

* * *

(iii) Parking Lot Screening

(1) All parking areas adjacent to roadways, all off-street loading areas and off-street parking areas containing three or more parking spaces shall have effective buffering from the street view and from adjacent properties.

(2) Landscape buffers or landscaped berms at least three feet (3') in height shall be appropriate for screening these areas.

(3) Vegetation selected for the three-foot (3') height screen shall be of the evergreen plant species, and they shall be spaced and massed so as to provide a solid screen within two (2) years, or two (2) growing seasons, from the planting date. Plantings should include a variety of plant species with low maintenance requirements, selected from the plant materials listed in the Preferred Tree List in ECM. A combination of shrub and tree plantings is preferred; but in any case, a minimum of one (1) tree of a minimum four-inch (4") and a minimum of eight feet (8') in height., and ten (10) shrubs of a minimum of five (5) gallon size, are required for each thirty feet (30').

(4) Ground cover should be planted on landscaped berms with appropriate plant container size and spacing that will provide full coverage within one (1) year of installation in order to prevent erosion. Berms shall be designed to transition to existing grades and shall not exceed a slope of 3:1, as a slope greater than this is generally difficult to mow and maintain.

4. Site Landscaping

All areas not included in a Roadway Buffer, Incompatible Use Buffer, or Parking Lot are subject to the landscaping requirements of this subsection 5.1.1B.4.

(i) Building Perimeter. ~~Site Landscaping shall be provided at the primary building entrance(s), along each the entire building perimeter except for areas directly abutting a door, loading bays, or garage bays. The width of the strip shall be measured according to the following schedule:~~

* * *²

~~(ii) (1) Calculation of Plantings~~

~~(1) a. One (1) tree of two (2) inches caliper or greater is required for each 1,000 square feet of perimeter strip area of 5 feet or greater.~~

~~(2) b. One (1) shrub is required for each thirty (30) square feet of perimeter strip area.~~

~~(3) c. All areas not covered in plants shall consist of sod, mulch, river rock, or other ground cover to prevent erosion and weed penetration.~~

~~(iii) (2) Alternative Compliance~~

² Note to publisher, table to remain unaltered.

The Planning Director may approve an Alternative Compliance Plan if it is submitted with the required Landscaping Plan and conforms to the provisions below:

(1) a. The landscape strip may vary in depth so that certain sections of the strip fall below the minimum depth required, if the applicant demonstrates on the landscape plan that the total area provided is not less than the minimum required if the minimum depth was uniformly provided.

(2) b. Up to fifty percent (50%) of the required perimeter strip area and plantings may be provided in the form of additional parking lot landscape islands.

(3) c. Up to one hundred percent (100%) of the required perimeter strip area may be provided abutting a detention or retention pond on the same or abutting property, under the following circumstances:

(a) (i) The pond is integrated into the landscape and site design;

(b) (ii) The minimum number of plantings required in the landscape strip area are provided within fifty (50) feet of the pond;

(c) (iii) The area abutting the pond includes, at the time a Certificate of Occupancy is issued, amenities such as walking paths and benches with direct sidewalk access from all buildings in the development; and

(d) (iv) The pond, plantings, and amenities are reserved as an easement on a recorded Final Plat.

(3) In the case that a side of a building is not viewable from a roadway, access easement, or adjacent building/use, the Planning Director may waive the requirements of this section.

(ii) Retention and Detention Ponds

(1) All retention and detention ponds shall have effective buffering from the street view and from adjacent properties. Screening shall be provided in the same manner as for parking areas. See Section 5.1.1.B.3(iii).

(2) Stormwater detention areas should be designed as free form shapes to blend with the natural landscape and use natural rocks and boulders with spillways of natural rock to create visual appeal.

(3) Detention ponds shall not be allowed within a required buffer zone or setback unless a waiver is granted at Site Plan.

* * *

D. Retaining Walls

1. Unless an alternate design is approved by the City Engineer, when property within or directly adjacent to a subdivision contains changes in elevation exceeding two and one-half feet (2.5') or the slope exceeds one unit vertical in three units horizontal, or both, a Retaining Wall shall be required at the locations specified herein prior to the acceptance of the Subdivision (see subsection 2.4.5):

(i) The grade change roughly follows a side or rear lot line;

(ii) The grade change is adjacent to a proposed building site boundary;

(iii) The grade change is adjacent to a watercourse or drainage easement;

(iv) The grade change is adjacent to a public or private road or shared driveway; or

(v) Where required by the City's Technical Manual.

2. Retaining Wall construction shall be in compliance with the provisions of the Building Code and the Criteria Manual.

3. Retaining Walls four (4) feet in height or greater require a Subdivision Construction Permit, Site Permit, or Building Permit, as applicable at the time of construction, and approval by the City Engineer.

4. A Retaining Wall shall be maintained by the owner of the property where the Retaining Wall is located. If a Retaining Wall crosses one or more properties, it shall be maintained by a Property Owners' Association and placed within a ~~maintenance~~ retaining wall easement, see Section 2.5.13(I), or common lot with sufficient width to provide access to the Retaining Wall.

(i) A ~~maintenance~~ retaining wall easement is required for any retaining wall within five feet (5') of a property line.

(ii) Retaining walls shall not straddle property lines unless approved by the City Engineer.

(iii) The City will not assume maintenance responsibility for a retaining wall outside of City property or right-of-way.

5. A Retaining Wall shall not be constructed parallel to or within any portion of a utility easement unless otherwise approved by the City Engineer pursuant to the parameters established in the Criteria Manuals.

6. Hillside Wall Standards

(i) For each eight (8) feet of vertical height, four (4) feet of horizontal offset (a stairstep design approach) shall be provided with native, drought-tolerant landscaping consisting of one (1) shrub per thirty-two (32) square feet of horizontal surface within the offset area and one Small Tree per five hundred (500) square feet;

(ii) Walls shall conform to the topography of the site; and

(iii) Walls shall incorporate the use of native materials and earth-tone colors to blend with natural surroundings.

5.1.2 FENCING AND SCREENING STANDARDS

A. Requirements Applicable to All Districts

1. Fences and Walls in Front Yards

(i) Opaque fences or walls are prohibited within a required front yard unless otherwise specified in this Section 5.1.2.

(ii) Fences or walls within a required front yard shall not exceed four (4) feet in height, except in the AG or P districts.

2. Fences and Walls in Rear and Side Yards

~~2. (i) All fences and screening walls~~ Fences and walls in rear and side yards shall be placed on a property line with the exception of fences within a common area or maintenance easement (see Subsection C below).

~~3. (ii)~~ No fence or wall in a rear or side yard may exceed eight (8) feet in height or utilize any hazardous device such as barbed wire or electrification, except in the AG or P districts.

~~4.3.~~ All fences and screening walls shall be maintained by the owner of the property in a structurally-sound condition through regular staining, sealing, shoring, tuck pointing, and replacement of rotten, missing, or sagging members, pickets, panels, stringers, posts, or other component of the fence or wall.

~~5.4.~~ Detention and retention ponds that are fenced must employ wrought iron or a living screen or a combination.

~~6.5.~~ Fence and Screening Wall Types

(i) Type 1: Full masonry 6-8 feet (brick, stone, stamped concrete)

(ii) Type 2: Partial masonry (up to 30%) with metal (wrought iron, tubular steel, or equivalent – aluminum alternative if maintained by HOA)

(iii) Type 3: ~~€~~ Stained or painted cedar board with trim cap and rust proof metal posts with top caps, or rust proofed and powder coated, or rust proofed and powder coated tubular steel; or masonry; or a combination of each with a wrought iron, living screen with minimum 6 foot

height and maximum 25% transparency, ~~or combination of each~~ if approved by the City Engineer.

(iv) ~~Type 4: Undeveloped property fencing (wooden or steel posts in natural color tones with non-barbed wire or metal lattice)~~ Temporary fencing for construction site/security may be permitted by the Building Official in accordance with Section 108 of the IBC. Signage on or attached to temporary fencing is prohibited, see UDC 4.2.1.D.

6. When differing land uses or zoning districts abut, fences or walls shall be installed as indicated in Table 4.4-3.

Table 4.4 3: Required Fence or Screen by Abutting Use

* * *³

7. Undeveloped property may be fences with Type 1, 2, or 3 fencing, or fencing may consist of wooden or steel posts with non-barbed wire or metal lattice. Posts shall not be painted or coated in garish or harsh color tones.

8. A permit shall be obtained from the City prior to construction of any fence or screening wall.

7.9. Screening of Mechanical Equipment

(i) Mechanical equipment shall be screened from adjacent properties, from residential uses (including those within the same property), and any public or private right-of-way based on a view of the same building elevation measured from at least six (6) feet above the surface of the street or highest grade within the right-of-way.

(ii) Roof-mounted mechanical equipment shall be screened with a parapet wall that matches the face of the building or a screening wall that complements the color of the building. A screening wall may only be utilized if it is set back at least six (6) feet from the edge of the roof.

(iii) Ground-mounted mechanical equipment, including, but not limited to, condenser units and electrical and gas meters, shall be screened by a wall section that matches the face of the building or by a living screen of hedges that achieves a sufficient height to fully screen all mechanical equipment placed on the ground or mounted to the building face, within three growing seasons.

(iv) All cables, wires, utility lines, piping, drains, or other similar components shall be placed interior to the building or camouflaged using paint or material that matches the building face. All other mechanical equipment not listed above, fuel storage, materials storage, ground-mounted satellite dishes and antennae, service or delivery areas, and solid waste container areas shall be screened from the street by an appropriate vegetative screen or masonry wall, except to the extent needed to provide access.

B. Non-Residential and Mixed-Use Screening

1. Screening of Residential Properties

(i) ~~A Masonry Type 1 fence or screening wall~~ is required between residential (AG, R-1, R-2, R-3, R-4, R-5, and PDDs with underlying residential uses) and non-residential uses (MU-N, MU-C, MU-TC, CR, P, and PDDs with underlying non-residential uses).

(ii) All lots, or parts of lots, with one or more non-residential use and whose side or rear lot lines are adjacent to a residential district or use and not separated by a public or private street or roadway, shall be screened from such residential district or use ~~by a screening wall at least six feet (6') in height~~ a Type 1 fence or screening wall.

³ Note to publisher, table to remain unaltered.

(iii) ~~Masonry screening walls shall be constructed of materials that provide a solid visual barrier. The Walls~~ A Type 1 fence or screening wall, including applicable footings, shall be placed entirely upon the lot wherein the non-residential use is located and be adjacent to the buffer strip required in Section 5.1.1.B.2.

(iv) Maintenance responsibility of such wall shall be borne by the non-residential property owner.

2. Screening of Outdoor Storage

(i) Outdoor storage shall be placed behind the building with which it is associated, if present, and screened from any public or private right-of-way and all adjacent properties by a ~~Masonry~~ Type 1 fence or screening wall extending at least six (6) feet above the nearest paved surface, unless such requirement is modified by a Specific Use Permit (SUP).

(ii) No outdoor storage shall extend higher than the top of the ~~nearest adjacent screening wall or fence~~ Type 1 fence or screening wall, or six (6) feet if no fence or screening wall is present.

C. Residential Fencing and Screening

1. Low-Density Residential Subdivision Fencing Requirements (Detached Single-Family, Duplex, and Townhome developments in R-1, R-2, and R-3 districts)

(i) All property lines or ~~S-~~subdivision boundaries that abut a Non-Residential or Mixed-Use district or a street classified as a Collector or higher shall provide a screening wall to a height of at least six (6) feet from the grade of the property line consistent with Table 4.4 3.

(ii) Screening walls that abut a street classified as a Collector or higher and are longer than 500 feet shall provide wall insets every 150 feet, with posts or panels separated by three (3) to six (6) feet and enclosed with a section of wrought iron fencing and a hedge or other plant material growing to a mature height of at least five (5) feet.

(iii) Screening walls required in this Subsection 1 or screening walls that provide screening for two (2) or more lots shall be placed within a separate lot or wall maintenance easement measuring at least ten (10) feet in width at the narrowest point and shall be conferred to the ownership or benefit of an HOA or special district and maintained by the HOA or special district.

(iv) Separate lots dedicated on a plat for the purposes of screening wall maintenance shall not be subject to the standards of Section 3.4.1.

2. Low-Density Residential Private Fencing Requirements (Detached Single-Family, Duplex, and Townhome developments in R-1, R-2, and R-3 districts)

(i) Interior residential fences and front-facing fences shall be constructed from stained or painted cedar with rustproofed metal posts with top caps; or rust-proofed and powder-coated wrought iron; or rust-proofed and powder-coated tubular steel; or masonry; or a combination if approved by the City Engineer.

(ii) Side and rear yard residential fences that face a public or private street of a Local classification or an open space area such as a pond or path shall ~~consist of rust-proofed wrought iron or tubular steel or a combination of Masonry wall and wrought iron or tubular steel~~ be Type 3, with the exception of cedar fencing, and a combination with living screens shall not be permitted.

(iii) ~~No other type of opaque fence will be allowed for side and rear yards, but t~~ The property owner may grow a living wall consisting of hedges, vines, or other plant material if it does not damage the fence.

(iv) Side and rear yard fences that face a street classified as a Collector or higher shall be Type 3 and may install include a cedar fence in accordance with this subsection C, provided the fence does not impede access to the interior face of a subdivision screening wall.

3. High-Density Residential Fencing (3 units or more)

(i) Perimeter fencing shall ~~consist of a combination of wrought iron and Masonry~~ be Type 2 with a minimum height of four (4) feet and a maximum height of six (6) feet along property lines abutting public and private streets and a ~~Masonry~~ Type 1 wall a minimum of six (6) feet in height along all interior property lines.

~~(ii) Street facing perimeter walls shall not utilize Masonry on more than thirty percent (30%) of the surface of the fence.~~

4. Alternative Compliance

(i) Use of Wooden Fence in High-Density Residential Development

(1) The developer may substitute a stained or painted board-on-board cedar fence with rustproof metal posts and top caps of the same height along interior lot lines shared with another high-density residential development.

(2) The developer may substitute a board-on-board cedar fence with rustproof metal posts and top caps of the same height along lot lines shared with a low-density residential development or non-residential or mixed-use development if a double row of large trees is also provided with spacing between thirty (30) and fifty (50) feet along the entire section of the cedar fence.

(ii) Use of Wrought Iron Fencing Adjacent to Shared Open Space

A developer may provide a wrought iron fence with vegetative screening that achieves full opacity and grows to a height of six (6) to eight (8) feet within three (3) years along an open space shared with a Low-Density Residential development in lieu of a Masonry wall.

(iii) Alternate Screening Plan

The Planning Director may approve an alternate screening plan for any residential development such as a landscaped berm or open space buffer, steep slope, or creek, if the plan meets the intentions of this subsection C. Residential Fencing and Screening and preserves or minimizes impacts to natural landscapes, habitat areas, steep slopes, or other areas of environmental sensitivity or viewsheds to such areas.

D. Retention and Detention Pond Fencing

Fencing of retention or detention ponds is limited to masonry wall, tubular steel, or wrought iron, no more than six (6) feet in height.

5.1.3 Waivers

1. General provisions.

(i) Unless otherwise proscribed within this Article, the City Council may approve a waiver to one or more provisions of Articles 5 if it makes an affirmative finding with regard to the following:

(1) That undue hardships will result from strict compliance with one or more provisions of this Article;

(2) That the purposes of these regulations may be served to a greater extent by an alternative proposal;

(3) The waiver does not have the effect of nullifying the intent and the purpose of the applicable regulations;

(4) Granting the waiver will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the waiver will not prevent the orderly development or use of other property in the vicinity;

(5) The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought, and are not applicable generally to other property;

(6) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out; and

(7) An alternate design will generally achieve the same result or intent as the standards and regulations prescribed.

(ii) Such findings of the City Council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the City Council meeting at which a waiver is considered.

(iii) The City Council may grant a waiver from a provision of Article 5 when the relief granted is in harmony with the general purpose and intent of the Article and when the safety and welfare of the public will be secured and substantial justice done.

(iv) Financial hardship to the property owner or developer does not constitute undue hardship as defined in subsection (i) above.

2. Conditions. In approving a waiver, the City Council may require such conditions which, in its judgment, secure substantially the purpose described the applicable Section of Article 5.

3. Procedures.

(i) The applicant must submit a petition for a waiver in writing by the applicant with the Site Plan or development application. If the applicant does not submit a petition in writing, the associated application will not be considered complete (see section 1.4.2.E Application Considered Complete).

(ii) The petition shall state fully the grounds for the application and the facts relied upon by the petitioner.

(iii) Where a hardship is identified pursuant to this section which requires issuance of a waiver from a provision in this Article, the Planning and Zoning Commission may, in its consideration of an associated Site Plan or other development application it is required to consider, recommend to the City Council a waiver from the provision in this Article 5.

(iv) The City Council may grant final approval to a waiver from a provision of this Article provided that no new information or reasonable alternative plan exists which, at the determination of the City Council, voids the need for a waiver.

(v) The City Council's decision is final.

6.1.5 DEFINITIONS

Alteration (noun): Means any act that causes or may reasonably be expected to cause a tree protected under this section to die, including, but not limited to, any of the following: uprooting any portion of the tree's root system; severing the main trunk of the tree; inflicting damage upon the tree's root system by machinery, storage of materials, or the compaction of soil above the root system of a tree; changing the natural grade of the critical root zone of a tree or of an area that sits uphill from the critical root zone of the tree so as to divert the flow of water to or away from the critical root zone; applying herbicides or other chemicals lethal to trees within the area of the critical root zone, including portions of the tree that extend above ground; placement of impermeable material over any portion of the critical root system of a tree; and trenching within the critical root zone.

Alter (verb): A tree protected under this section is considered to be altered if one or more of the following occurs: Severing or partially severing the main trunk of a single-trunk tree or more

than twenty-five percent (25%) of the trunks of a multi-trunk tree; more than twenty-five percent (25%) of the critical root zone is affected by a means listed in 6.1.5A or more than twenty-five percent (25%) of its canopy is removed.

Canopy: The upper vegetative cover of a tree (see Figure 6.1.5 1).

Critical Root Zone: The area of undisturbed natural soil around a tree defined by a horizontal circle drawn at grade with the center being the center of the tree trunk of a single-trunk tree or approximate center of all trunks of a multi-trunk tree and a radius equal to one foot (1') from the tree trunk for each diameter inch of trunk size (see Figure 6.1.5 1).

Figure 6.1.5-1: Canopy, Critical Root Zone, and Drip Line

* * *⁴

Drip Line: An area within a concentric circle having a radius extending outward from the approximate center of the tree and measuring one half (1/2) of the Tree's height (see Figure 6.1.5 1).

Multi-Trunk Tree: A tree with more than one trunk that has a visible connection above ground. For the purposes of measuring trunk diameter for a multi-trunk tree, the full diameter of the largest trunk shall be combined with the sum of the diameters of all other trunks divided by 2 (i.e., If the largest trunk measures 6 inches in diameter and the sum of all other trunk diameters is 12 inches, total diameter of the multi-trunk tree is 12 inches or $6 + 12/2$).

Poisonous or Hazardous Materials: An object or substance with qualities harmful to Trees, including, but not limited to, paint; soil not matching the soil profile and content of the property on which the Tree sits; petroleum products, including diesel fuel, gasoline, and engine oil; concrete or stucco mix or wash; fibrous insulation; foul, brackish, or dirty water; corrosive or acidic substances or objects that may produce such substances; or any other material which may be reasonably expected to harm Trees.

Removal: Any act that has the effect of destroying a tree, including completely or partially severing the trunk of a Tree, removing more than twenty-five percent (25%) of the Canopy, or otherwise Altering a tree so that it dies or becomes fatally injured.

Tree: Any self-supporting woody perennial plant of a species that will commonly attain a trunk diameter of two (2) or more inches at a point measuring four and one-half (4 ½) feet above ground level and an overall height of at least ten (10) feet at maturity.

Tree, Heritage: Any tree of a species other than those listed in Section 6.1.4 that measures twenty-four (24) inches in caliper or greater at a point measuring four and one-half (4 ½) feet above ground level.

Tree, Protected: Any tree of a species other than those listed in Section 6.1.4 that measures four (4) inches or greater, but less than eight (8) inches in caliper at a point measuring four and one-half (4 ½) feet above ground level.

Tree, Significant: Any tree of a species other than those listed in Section 6.1.4 that measures eight (8) inches or greater, but less than twelve (12) inches in caliper at a point measuring four and one-half (4 ½) feet above ground level.

Tree, Specimen: Any tree of a species other than those listed in Section 6.1.4 that measures twelve (12) inches or greater, but less than twenty-four (24) inches in caliper at a point measuring four and one-half (4 ½) feet above ground level.

Tree Cluster: Three or more trees of a species other than those listed in Section 6.1.4 where any portion of the trunk or trunks of the trees are located less than ten (10) feet apart from one

⁴ Note to publisher, figure to remain unaltered.

another and where each tree has a trunk measuring at least four (4) inches caliper at a point measuring four and one-half (4 ½) feet above ground level.

Tree Removal Permit: A permit issued under this section that authorizes a person or entity to Remove or Alter a tree protected under this section.

* * *

6.1.9 TREE MITIGATION

A. Any Trees that are removed or damaged as a result of the approval of a Tree Removal Permit issued pursuant to Section 6.1.6E must be mitigated on the same property or development area, unless the City Manager approves a fee in lieu.

1. The fee in lieu will be paid directly to the City to fund placement of trees at public parks or other approved public facilities throughout the City.

B. Any Trees that are removed or damaged as a result of the approval of a Tree Removal Permit issued pursuant to Section 6.1.6F must be mitigated pursuant to the ratios provided in Section 5.1.1 ~~Table 32, Fee In Lieu of Tree Mitigation.~~

C. Fee in Lieu of Tree Mitigation

~~(i)~~1. The City Manager may approve payment of a fee in lieu of replacement trees.

~~(ii)~~2. The fee shall be per the adopted fee schedule.

~~(iii)~~3. The fee in lieu option is available for only the following cases:

~~(1)~~(i) If the property or development area is heavily treed and the existing tree canopy would prohibit the growth of the replacement trees, or

~~(2)~~(ii) If the required replacement trees were to be installed, then the replacement trees would be planted under the canopy of an existing tree.

~~E~~D. Limitations of species and placement. Replacement Trees must be shown and reviewed on a Landscape Plan consistent with the requirements of Section 5.1.1 and provide placement of Trees consistent with the requirements of those sections.

* * *

6.2.1 PURPOSE AND APPLICABILITY

A. Purpose

The purpose of these lighting regulations is to:

1. Permit the use of outdoor lighting that does not exceed the maximum levels specified in Illuminating Engineering Society (IES) recommended practices for night-time safety, utility, security, productivity, enjoyment, and commerce.

2. Minimize adverse offsite impacts of lighting such as Light Trespass and obtrusive light.

3. Curtail Light Pollution, reduce skyglow and improve the nighttime environment for astronomy.

4. Help protect the natural environment from the adverse effects of night lighting from gas or electric sources.

5. Conserve energy and resources to the greatest extent possible.

B. Applicability as to Location

This section applies within the City limits.

C. Applicability as to Type

1. Except as described below, all outdoor lighting installed after the date of effect of this UDC shall comply with these requirements. This includes, but is not limited to, new lighting, replacement lighting or any other lighting whether attached to structures, poles, the earth, or any other location.

2. Exemptions

(i) Lighting within ~~public or private right-of-way or easement~~ a state-owned right-of-way for the principal purpose of illuminating streets or roads. No exemption shall apply to any lighting within the public or private right-of-way or easement when the purpose of the luminaire is to illuminate areas outside the public or private right-of-way or easement, unless otherwise stated in separate regulation.

(ii) Replacement of lighting where the lighting ~~Lighting~~ that is removed or destroyed is less than 30% of the total value of all lighting on a property

(iii) Repairs to existing luminaires not exceeding twenty-five percent (25%) of total installed luminaires.

(iv) Temporary lighting for theatrical, filming on location, and performance areas with applicable City permits.

(v) Underwater lighting in swimming pools and other water features.

(vi) Temporary lighting and seasonal lighting, such as string, festoon, bistro, and similar lighting, provided that the emission of such lighting does not exceed 125 lumens per linear foot of line or square foot of space. These lights must be rated at or below 2700 Kelvin.

(vii) Lighting that is only used under emergency conditions.

(viii) Low Voltage Landscape Lighting.

3. Preemption

All lighting shall follow provisions in this ordinance; however, any special requirements for lighting listed below shall take precedence.

(i) Lighting specified or identified in a Specific Use Permit.

(ii) Lighting required by federal or state laws or regulations.

* * *

6.8 Performance Standards

6.8.1 In all zoning districts, any use indicated in the permitted use chart, see Section 3.3.5, shall conform in operation, location, and construction to the performance standards above, as well as all administered by County, State, and Federal agencies. All uses, including those which may be allowed by PDD or SUP shall conform in operation, location, and construction to appropriate standards for noise, smoke, and particulate matter, odorous matter, fire, or explosive hazard material, toxic and noxious matter, vibration, and glare.

6.8.2 All Federal and State pollution, noise, and requirements for toxic waste disposal shall be observed.

7.3.2 CONTROL MEASURES

* * *

C. Performance Standards

Except as otherwise provided in this section 7.3, all development subject to this section 7.3 shall achieve the following performance standards:

1. Removal of Annual Pollutant Load

(i) For new and re-development, the standard of treatment for surface water runoff shall be as follows:

(1) Total suspended solids (TSS): 90% removal.

(2) Total phosphorus (TP): 90% removal.

(3) Oil and grease (O&G): 90% removal.

(4) Total zinc (Zn): 90% removal (evaluated for crumb rubber turf installations only)

(ii) For development using on-site irrigation with treated wastewater effluent or with septic system effluent, see Section 2.5.17.

(iii) Background and developed sites pollutant concentrations and pollutant loads:
(1) Background pollutant concentrations shall be as defined in the Engineering Technical Manual.

(2) Standard pollutant concentrations for developed sites shall be as defined in the Engineering Technical Manual.

(3) Calculation of annual pollutant loading shall comply with the criteria given in the Engineering Technical Manual.

2. Water Quality Volume

The minimum volume of stormwater runoff for water quality control shall be the first one-half inch (0.5") of runoff plus an additional one-tenth inch (0.1") for each ten percentage point increase of the gross impervious cover over twenty percent (20%) of the contributing drainage area to the water quality control. Water quality volume shall be calculated in accordance with the Engineering Technical Manual.

3. Impervious Cover Limits by Land Use

Impervious cover limits in this subsection 3 are expressed as percentage of the Net Site Area.

(i) Impervious cover shall not exceed the following:

(1) New development shall not exceed forty percent (40%).

(2) Redevelopment of sites developed prior to adoption of Ordinance 00-08-29-B: a maximum of 60% impervious cover may be permitted via (a), (b), or a combination of (a) and (b) below:

(a) The applicant submits a survey no older than one year prior to the date of application delineating existing impervious cover. A percolation test may be required to validate impervious cover greater than 40% existing on site currently; or

(b) The City approves a transfer of impervious cover pursuant to Section 7.3.2.C.4. Sites that are eligible under this Subsection 7.3.2.C.3(i)(2) may transfer more than the equivalent of ten (10) percentage points of impervious cover provided that in no case the total impervious cover of the site exceeds sixty percent (60%).

4. Allowable Increases to Impervious Cover Limits

(i) The impervious cover limits of subsection 3(i) above of this section may be increased by the following amounts under the following conditions:

(1) Isolation of roof runoff and irrigation (for non-residential and multi-family uses). The maximum impervious cover limits may be increased up to five (5) percentage points if roof runoff is isolated, and used for irrigation, wet pond make-up water, or gray water applications in accordance with subsection L below, subject to approval by the City Engineer.

(2) Transfer of development intensity: multifamily residential use and nonresidential use. An applicant who complies with a provision of this subsection qualifies for the development intensity transfer:

(a) For each one (1) acre of land that an applicant leaves undeveloped and undisturbed in an area zoned by the City for nonresidential use and does not include in impervious calculations elsewhere, the applicant may transfer up to one (1) acre of impervious cover. For each one (1) acre of land that an applicant leaves undeveloped and undisturbed in an area zoned by the City for residential use and does not include in impervious calculations elsewhere, the applicant may transfer up to one (1) acre of impervious cover. For each one (1) acre of land that an applicant leaves undeveloped and undisturbed in the ETJ of the City and does not include in its impervious calculations elsewhere, the applicant may transfer up to one (1) acre of impervious cover.

- (b) The maximum impervious cover limit may be increased by no more than ten (10) percentage points for transfer of development intensity, except as permitted in Section 7.3.2C.3(i)(2)(b) .
- (ii) An applicant who qualifies for a development density transfer must comply with the following requirements to affect the transfer:
- (1) The transferring tract and the receiving tract must be located within the City limits or the ETJ of the City;
 - (2) If the transferring tract includes a water quality buffer zone or critical environmental feature, these features/zones must be deducted from the tract's transferrable area in accordance with the Net Site Area definition;
 - (3) The receiving tract must comply with or exceed the water quality control standards of this section 7.3;
 - (4) The receiving tract may have or be granted any variances, deviations, or waivers related to water quality.
 - (5) If the receiving tract is zoned R-1, R-2, or R-3, the transfer must be approved by City Council.
 - (6) The transferring and the receiving tracts must be platted either prior to or concurrently with the transfer;
 - ~~(5)(7)~~ A restrictive covenant that describes the development intensity transfer, and runs with the transferring and receiving tracts, and is approved by the City Council, must be filed in the deed records of the County; and
 - ~~(6)(8)~~ If any tract must be platted at the time of transfer to satisfy ~~(4)(6)~~ above, the corresponding plat(s) must include reference to the restrictive covenant memorializing ~~the City Council's approval of the development intensity transfer required in (5)(7) above.~~
 - (9) A Transfer of Development Intensity cannot be approved for a transferring or receiving tract until the property owner provides evidence demonstrating payment of indebtedness (see Subsection 1.4.2.D).
- (iii) Fees, forms, and procedures.
- (1) The City's adopted Fee Schedule may establish fees relating to the Transfer of Development Intensity review and approval process.
 - (2) The City is hereby authorized to prepare application forms and restrictive covenant templates that include requirements for information, checklists, exhibits, contact information for the property owners, applicants, and technical consultants, and any other information deemed necessary by the City to review the application for compliance with City codes. These application forms and restrictive covenant templates may be revised or changed at any time without notice consistent with the UDC.
 - (3) The Planning Director and City Engineer shall review the application for a Development Density Transfer for compliance with the requirements listed in this section. The Planning Director or City Engineer will inform the applicant of any deficiencies and provide instructions for the resubmittal of a corrected application.
 - (a) If all requirements are met, and the receiving tract is not zoned R-1, R-2, or R-3 the application will be forwarded to the City Manager. The City Manager may approve or deny the Development Density Transfer or may defer the Development Density Transfer to City Council for approval or denial.
 - (b) If all requirements are met, and the receiving tract is zoned R-1, R-2, or R-3 the application will be forwarded to the City Council for approval or denial.

(iv) Effect of approval.

Approval of a Development Density Transfer is not a guarantee that a rezoning, variance or waiver request, or a development permit of any type will be approved for the receiving property.

5. Water Quality Buffer Zones (WQBZ) and Critical Environmental Feature (CEF) Buffer Zones.

(i) Water Quality Buffer Zones (WQBZ)

A water quality buffer zone is established along each waterway as follows:

(1) Upland waterways. The WQBZ shall extend a minimum of eighty-five feet (85') from the outer limit of the peak two-year flood level paralleling each side of the waterway. The WQBZ shall parallel all reaches of each waterway with at least thirty (30) acres of contributing drainage area.

(2) Little Barton Creek and Barton Creek. The WQBZ shall extend a minimum of three hundred feet (300') from the outer limit of the peak two-year flood level, paralleling each side of the waterway.

(3) Calculation of peak flood level. The two-year peak flood level shall be calculated in accordance with the Engineering Technical Manual TCSS manual.

(ii) Critical environmental features (CEF). The CEF Buffer Zone shall extend a minimum of one hundred fifty feet (150') around the outside periphery of critical environmental features. The buffer zone for a CEF can be reduced to fifty (50') with administrative approval by City staff which may incorporate conditions at the discretion of the City Engineer.

(iii) Overlapping water quality buffer zones. If two (2) or more WQBZs overlap, then the widest zone shall be established.

(iv) Activity in Water Quality Buffer Zones (WQBZ) and Critical Environmental Feature Buffer Zone

(1) Development Features

All development activities, including temporary construction activities and landscaping activities, shall be restricted from the WQBZ and CEF buffer zones, except the following development activities and improvements, which may be allowed if approved by the City Engineer:

- (a) Roadway and driveway crossings;
 - (b) Paths in accordance with the adopted Bee Cave Connectivity Plan;
 - (c) Maintenance and restoration of natural vegetation;
 - (d) Removal of trash, debris, and pollutants;
 - (e) Utilities, as subject to the restrictions of subsection (2), below
 - (f) Fences that do not obstruct flood flows;
 - (g) Public and private parks and open space, with development in the parks and open space limited to hiking, jogging, or walking paths, and excluding stables and corrals for animals;
 - (h) Private drives to allow access to property not otherwise accessible.
 - (i) The back slope of earthen embankments related to permanent Water Quality BMPs; and
 - (j) Infiltration trenches.
- (2) Utilities
- (a) All utilities, other than wastewater, shall be located outside the WQBZ and CEF buffer zone, except for crossings.
 - (b) Wastewater lift stations shall be located outside the WQBZ and CEF buffer zone.
 - (c) On-site wastewater disposal systems shall be located outside the WQBZ and CEF buffer zone.

(d) Wastewater trunk lines and lateral lines shall be located outside the WQBZ and CEF buffer zone to the maximum extent practical except for necessary crossings. All wastewater lines located within the WQBZ and CEF buffer zones shall be approved by the City Engineer on a case-by-case basis.

(e) In no case shall any wastewater line be located less than one hundred feet (100') from the centerline of Little Barton Creek or Barton Creek or fifty feet (50') from the centerline of an upland waterway except for crossings, unless approved by the City Engineer, and unless the applicant has shown that installation outside of this zone is physically prohibitive or environmentally unsound.

(f) All wastewater trunk lines located in the WQBZ and CEF buffer zone shall meet design standards and construction specifications of testing to allow zero (0) leakage.

(3) All water quality control discharges and stormwater discharges onto a WQBZ or CEF buffer zone shall:

(a) Have diffused sheet flow;

(b) Have peak velocities of less than five (5) feet per second at the 2-year design storm.

* * *

7.3.3 ADMINISTRATION AND ENFORCEMENT

* * *

E. Functionality Inspections

1. In addition to the inspection and permitting process provided in subsection 7.3.3D, each owner of on-site water quality control facilities shall obtain from a qualified professional registered engineer a functionality inspection no less than once every five (5) years.

2. The first functionality test is due on or before the expiration of five (5) years from the date the facility was accepted by the City and every five (5) years thereafter.

3. Functionality inspections shall be conducted during or within 72 hours following a rain event which has produced or is producing a depth of precipitation of at least 0.5 inches over a 24-hour period, as measured by a local LCRA/NOAA rain gauge, or alternative rain gauge as approved by the City Engineer. The following, if present, must be inspected and evaluated at each water quality facility in accordance with the Design Manual, including but not limited to:

(i) Dams, berms, levees

(ii) Spillways

(iii) Inlets

(iv) Pipes, culverts, and appurtenances

(v) Outlets

(vi) Bank erosion

(vii) Sedimentation

(viii) Tree/vegetation management

(ix) Trash and debris removal

(x) Water quality impairments

(xi) Backup power

(xii) Reservoir drawdown capability

(xiii) Security issues

(xiv) Emergency spillway/service spillway

(xv) Service outlet structure

(xvi) Service inlet structure

(xvii) Downstream hazard conditions

- (xviii) Seepage on downstream slope
 - (xix) Downstream embankment general condition
 - (xx) Upstream embankment
 - (xxi) Crest of embankment
 - (xxii) Irrigation area
4. The purpose of the functionality inspection shall be to determine if each water quality control facility is:
- (i) Operating properly;
 - (ii) Pumps, electrical systems, and all appurtenances applicable to the BMP's are functional;
 - (iii) Structurally integrity protected;
 - (iv) Accomplishing the purposes for which it was designed and installed; and
 - (v) Can be improved or modified in a manner that is likely to improve its functionality or efficiency.
5. The engineer conducting the functionality inspection shall prepare and file with the City and the owner a written report that includes the engineer's evaluation of whether the water quality facility is accomplishing the purposes described in subsection 4 above, including any analysis of optional actions, cost/benefit, any risk associated with the facility, and any other factor that, in the engineer's opinion, should be brought to the attention of the owner and the City.
6. The owner is responsible for the operation and maintenance of a water quality management facility and shall make records of all maintenance installation and repairs.
7. Records of the inspection, maintenance and repairs must be completed, signed by the responsible engineer, and retained for a minimum of five (5) years for review upon City request.
8. The owner of the water quality facility shall be responsible for all costs associated with procuring the functionality inspection and shall provide a written copy of the engineer's inspection report not later than thirty (30) days after the sooner of the fifth (5th) anniversary of the date the facility was first installed and permitted or the last functionality inspection.
9. Failure to obtain a functionality inspection may result in revocation of the owner's permit and such other enforcement or penalties of this UDC, and other local ordinances and state and federal laws and regulations as the City may determine to be appropriate.
10. In the event that the inspection reveals that the water quality facility is not accomplishing the purposes for which it was constructed, or that new or additional BMPs, WQCs, or facilities are necessary for proper functioning of the facility or the accomplishment of its intended purposes, the owner shall be required to implement such BMPs or WQCs or to construct such facilities and, to the extent necessary, amend the applicable SWPPP, NPDES permit, water quality control maintenance plan, NPS pollution control permit, or restrictive covenant as a condition to renewal of the owner or operator's annual operating permit.
11. Deficiencies must be addressed within ninety (90) days from the date identified unless additional time is approved by the City Engineer.
12. The person responsible for facility inspection must provide documentation to the City demonstrating that each deficiency identified in the inspection report has been corrected.

* * *

9.1 For the purposes of this Unified Development Code, and all articles thereof, the following definitions apply.

9.1.1 TERMS BEGINNING WITH "A"

Accessory Dwelling Unit

An independent dwelling unit on a lot zoned for Single-Family Residential operated concurrently with a primary dwelling unit (see Section 3.4.8B.1).

Accessory Building

A Building that is subordinate to the Principal Building and sits on the same lot or property or that contains an Accessory Use.

Accessory Use

A use that is subordinate to or incidental to a Principal Use on the same property or lot and does not physically occupy more than twenty-five percent (25%) of a building or lot.

Adequate Public Facilities

Facilities capable of supporting and servicing the physical area and designated intensity of a proposed Subdivision as determined by the facility provider, including the City, PUA, WCID-17, or other utility, and based upon specific levels of service identified in the UDC and the City's adopted Technical Manual.

Agricultural Uses

Uses that involve the growing of crops or tending of domesticated animals associated with farm or agricultural uses, including associated structures, stables, pastures, and runs.

Alcoholic Beverage Sales, Off-Premises Consumption

The sale of any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted; and includes, but is not limited to, liquor, wine, malt liquor, mixed beverage or beer, to be consumed off site, such as a grocery store or liquor store.

Alcoholic Beverage Sales, On-Premises Consumption

The sale of any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted; and includes, but is not limited to, liquor, wine, malt liquor, mixed beverage or beer, to be consumed on site, such as a restaurant or night club.

Alley

A public right-of-way or private easement used for utility installation and/or secondary access to individual properties which have their primary access from an adjacent public or private street.

Alteration

Any revision or change of any extent or type whatsoever, other than the addition of signatures, dates, seals, or similar fill-ins within existing certificates or acknowledgements.

Ambulance Service

A facility for the dispatch, storage, and maintenance of emergency medical care vehicles.

Amending Plat

See Plat, Amending.

Amenity Center

A building or facility owned or operated by a corporation, association, person, or persons for a place of meeting, social, cultural, educational, or recreational purposes, to which membership or residency requirements is required for participation.

Animal Grooming

A facility where animals are groomed and bathed with no long-term sheltering or kenneling and with no outdoor facilities

Animal-Related Uses

Uses involving the care or treatment of animals, including Animal Grooming, Animal Veterinary Office or Shelter (with Outside Yard/Kennels), Animal Veterinary Office or Shelter (without Outside Yard/Kennels); Day Care, Pet; Pet Adoption Center; or Pet Store.

Animal Veterinary Office or Shelter (with Outside Yard/Kennels)

- Facility with a fenced yard or outside kennels in which dogs, cats, or other domestic animals are accepted for medical treatment, grooming, bathing, or other treatment for which payment is received.

- Facility with a fenced yard or outside kennels in which three (3) or more dogs, cats, or other domestic animals are held for adoption or accepted for boarding for which payment is received. Sometimes referred to as “doggy day care” or a “pet hotel”.

Animal Veterinary Office or Shelter (without Outside Yard/Kennels)

- Facility entirely indoors in which dogs, cats, or other domestic animals are accepted for medical treatment, grooming, bathing, or other treatment for which payment is received.

- Facility entirely indoors in which three (3) or more dogs, cats, or other domestic animals are held for adoption or accepted for boarding for which payment is received. Sometimes referred to as “doggy day care” or a “pet hotel”.

Amusements (Indoors)

An amusement enterprise wholly enclosed in a building that does not generate noise perceptible at the bounding property line and including, but not limited to, a facility that includes one or more of the following: climbing walls, video game arcade, shooting range, batting cages, indoor skydiving, bowling alley, or billiard parlor.

Amusement (Outdoors)

An amusement enterprise offering entertainment or games of skill wherein any portion of the activity takes place in the open and includes one or more of the following: paintball, go-cart racing, miniature golf course, or similar outdoor use.

Appliance Sales or Repair

The indoor sale or routine repair of household appliances such as dishwashers, ovens, ranges, clothes washing machines, clothes dryers, and other similar devices.

Applicant

Anyone authorized to submit an application for Development, including, but not limited to, a property owner or the owner’s designee or a Subdivider or Developer or their agent, attorney, architect, engineer, surveyor, or contractor.

Application

Notice to the City provided on an acceptable form from the City that begins the Development or Subdivision process. For the purposes of TLGC Chapter 242, the date an applicant submits an application for review of administrative completeness determines the regulations the City will use to review the application.

Architect

An individual who is either licensed to practice architecture in the U.S. and/or associate architect as defined by the American Institute of Architecture.

Architectural Lighting

Lighting designed to reveal architectural beauty, shape or form with any other purpose for the lighting being incidental.

Art Gallery or Museum

An institution for the collection, display, or distribution of objects of art or artifacts of cultural, scientific, or historic significance, that is sponsored by a public or quasi-public or non-profit agency, and is open to the general public or by invitation or appointment.

Artisan Studio

A work space ~~not more than 1,500 square feet in size~~ used by one or more painters, sculptors, graphic artists, illustrators, photographers, jewelers, or other artists ~~using a medium that is not a~~ including Ceramic, Pottery, or Glass Studios, that is not food production, is not the manufacture of large quantities of a standardized article, does not endanger the health, safety, and welfare of the artist or the general public, and that does not cause a nuisance to abutting property owners.

Assisted Living Home

A licensed residential facility that provides food & shelter, personal guidance, care, habilitation services, & supervision for 7 or more persons with a disability as defined by Chapter 123 of the Texas Human Resources Code, the Americans with Disabilities Act or the Fair Housing Act.

Astronomic Time Switch

An automatic lighting control device that switches outdoor lighting relative to time of solar day with time of year correction.

Auto Driving School

A school that instructs students to operate an automobile or light truck, including classroom instruction and driving on a public street.

Auto Parts Sales

Retail sales of new auto parts, not including tires.

Auto/Vehicle Repair

A shop that maintains, repairs, or rebuilds engines, transmissions, differentials, suspension components, electrical or computer components, EV or hybrid batteries or components, brakes, or other major components, or performs repair or maintenance of vehicle bodies, with all repair conducted inside an enclosed building and not including salvaging of parts or long-term holding or storage of inoperable or disassembled vehicles. May include Quick Lube.

Average Grade

The average of the highest and lowest existing ground elevation points around the structure's foundation.

* * *

9.1.3 TERMS BEGINNING WITH "C"

Cafeteria

A restaurant where prepared food is served to customer from a serving area adjacent to the kitchen which allows the customer to see the food before it is served, and where food is typically purchased before it is consumed and eaten on-premises.

Caliper

The diameter of a tree as measured at a point that is four and one-half feet (4.5') above ground level.

Car Service

A for-hire service that provides private vehicles under 16,000 pounds GVWR to individuals or companies on a prearranged basis. Also includes secondary storage of vehicles used for providing the car service but not servicing or repair of any vehicles.

Car Wash

A facility, structure, or group of structures, which may include tunnels, awnings, and canopies, for washing automobiles and light trucks (under 16,000 pounds GVWR) in accordance with State regulations, 6.7 of this UDC, and the City's Technical Manual, and which may include secondary facilities or services for drying, vacuuming, and detailing automobiles and light trucks. Does not include self-service or coin operated facilities where vehicle owners use equipment provided by the facility to wash their vehicle.

Carpentry Shop

A shop involving woodworking and assembly of wood products.

Caterer or Catering Service

A business that provides prepared foods, meals, and refreshments for public or private events.

Cemetery or Mausoleum

Property used for interring the dead.

Ceramic, Pottery, or Glass Studio

A studio that is not a manufacturer that produces ceramic, pottery, or glass goods and that does not create a nuisance to abutting properties or the general public by creating dust, odor, or fumes. May operate as a "make your own" facility open to the public where the public makes their own goods or paints, decorates, or otherwise manipulates finished goods.

Certificate of Completeness

Certification by the Responsible Official that an application for Plat, Plan, Permit, or other application subject to the requirements of TLGC Chapter 245 meets the requirements for that application to be considered complete under this UDC.

Certificate of Convenience and Necessity

A Certificate of Convenience and Necessity (CCN) gives a retail public utility the exclusive right to provide retail water and sewer utility service to an identified geographic area or the "certificated service area." Chapter 13 of the Texas Water Code requires a CCN holder to provide continuous and adequate service to the area within the boundaries of its certificated service area. Neither the PUD nor the City shall provide retail water or sewer service within an area being lawfully served by another utility unless that district or municipality has a CCN for the area.

Certificate of Occupancy

Certificate issued by the building official for the use of a building, structure, or land, when it is determined by the building official that the building, structure, or proposed land use is listed in the official Use Charts (see Section 3.3.5) and complies with the provisions of all applicable codes of the City of Bee Cave.

Check Cashing

A business that cashes checks for a nominal fee related to the amount on the face of the check and does not provide credit access, payment advances, or loans.

City

The City of Bee Cave, Texas.

City Code

The Code of Ordinances of the City, including but not limited to the City Charter. This term does not refer to the Unified Development Code (UDC)

City Council

The elected governing body of the City of Bee Cave, Texas. Also referred to as "Council".

City Engineer

The individual holding the office of City Engineer of the City of Bee Cave, Texas, who shall actively maintain licensure in good standing as a professional engineer under the laws of the State of Texas. Those duties assigned by this UDC to the City Engineer which relate to the development review process may be reassigned by the City Manager, in whole or in part, to one or more licensed professional engineers, as needed to adjust workflow or to provide specific expertise.

City Limits

The boundary of the incorporated limits of the City.

City Manager

- The chief executive officer and head of the administrative branch of the City government.
- The acting City Manager; or
- Any employee or administrative officer of the City to whom such chief executive officer or acting City Manager shall have delegated certain authority, but only to the extent of such delegation.

Clinic (Inpatient)

A facility that performs advanced medical procedures or those requiring an overnight stay or 24-hour monitoring that does not fall under the definition of Hospital.

Clinic (Outpatient)

A facility that treats patients with non-emergency or non-life-threatening conditions such as a cold or fever. May include limited imaging such as x-ray. Patients are typically seen and treated by a general physician or nurse practitioner who may prescribe medication or treatment.

Facilities such as “Urgent Care” clinics fall under this definition (for facilities that treat emergency situations, including facilities capable of receiving patients transported by ambulance, see Emergency Care Facility).

Clinic (Specialty Outpatient)

A clinic that performs medical procedures not requiring an overnight stay or 24-hour monitoring, including dentists, orthopedists, ophthalmologists, plastic surgeons, ENTs, dialysis, and elective and non-elective inpatient surgeries.

College or University

An academic institution of higher learning that is recognized by the State or accredited or recognized by an accrediting institution and offers a program or series of programs of academic study culminating in the granting of a degree or credential.

Community Center

~~A building dedicated to social or recreational activities that serves the City or a Subdivision and is owned and operated by the City, a Property Owners’ Association, or a non-profit organization dedicated to promoting the health, safety, and general welfare of the City.~~

Community Center

~~A multipurpose meeting and recreational facility typically consisting of one or more meeting or multipurpose rooms, kitchens, and/or outdoor barbecue facilities that are available for use by various groups for such activities as meetings, parties, receptions, dances, etc. The facility is owned and operated by the City, or a non-profit organization dedicated to promoting the health, safety, and general welfare of the City.~~

Community Center

~~A multipurpose meeting and recreational facility typically consisting of one or more meeting or multipurpose rooms, kitchens, and/or outdoor barbecue facilities that are available for use by various groups for such activities as meetings, parties, receptions, dances, etc.~~

Community Center, Residential

A multipurpose meeting and recreational facility, with features including, but not limited to fitness centers, meeting rooms, restrooms, swimming pools, sport courts, and reserved for the use of residents of a particular neighborhood or development. Such facilities are typically owned by a property owners association or similar entity.

Community Home

A licensed residential facility that provides food & shelter, personal guidance, care, habilitation services, and supervision for no more than 6 persons with a disability as defined by Chapter 123 of the Texas Human Resources Code, the Americans with Disabilities Act or the Fair Housing Act.

Comprehensive Plan

The City's Comprehensive Plan adopted in accordance with Texas Local Government Code, Chapter 213, and all the associated studies, recommendations, and maps within it, including the Future Land Use Map.

Computer Sales and Repair

A business that sells, buys, upgrades, or repairs computers and similar electronic personal devices such as laptops, tablets, and associated parts and peripheral components, with all work and storage being indoors.

Concept Plan

A graphic representation of the general layout and development scheme currently contemplated for the property subject to request to rezone to a higher-intensity zoning district. The Planning Director is responsible for maintaining and making available a checklist of items to be included in a Concept Plan, this checklist may be revised or changed at any time without notice consistent with the UDC.

Conference Center

A facility with predominantly indoor rentable or leasable space for conferences, events, conventions, meetings, and other similar gatherings that are booked in advance, along with supporting facilities such as lobbies, mezzanines, kitchens for food preparation, catering, or vending, loading docks, and storage or staging areas. These facilities are of a scale to be able to host one or more separate events at the same time.

Consignment Shop

A business that is not a Pawn Shop or junk shop that offers secondhand merchandise such as clothes, jewelry, or furniture for sale on behalf of the owner of the merchandise and takes a fee for selling the merchandise.

Construction Limit Line

The line marking the boundary of disturbance from construction.

Construction Release

Certification by the City Engineer that Construction Plans and all planned activities associated with construction of a Subdivision and Public Facilities meet all requirements of this UDC.

Contractor

Any person, other than the owner, engaging in land development activities on land located within the City Jurisdiction.

Contractor's Office

A facility for administrative functions and storage of equipment and materials used in the on-site physical improvement or repair of properties and structures, including construction, plumbing, heating and cooling, electrical, and similar professions.

Convenience Store

A small retail store that is less than 6,500 square feet that offers goods such as packaged foods, beverages, tchotchkes, and limited personal and household items, but that offers little to no fresh foods, hygiene, or healthcare goods. May offer limited food preparation on site as a secondary use or be connected to a Restaurant.

Country Club

A chartered membership club catering primarily to its membership, providing one or more of the following recreational and social activities such as: golf, swimming, riding and tennis; with amenities such as a club house, locker room, or pro shop.

Cross Access Easement

An easement shown on a Plat or other recorded instrument that assigns benefit and right of entry to the public at large or to an abutting property owner and allows passage to the beneficiary over and across the property on which the easement is located.

* * *

II. CUMULATIVE CLAUSE

That this Ordinance shall be cumulative of all provisions of the City of Bee Cave, except where the provisions of this Ordinance are in direct conflict with the provisions of such other ordinance, in which event the conflicting provisions of such other ordinance are hereby repealed, while leaving the remainder of such other ordinance intact. To the extent of any conflict, this Ordinance is controlling.

III. SEVERABILITY

That it is hereby declared to be the intention of the City Council of the City of Bee Cave. that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional or invalid by final judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional or invalid phrases, sentences, paragraphs, or sections.

IV. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government

**V.
EFFECTIVE DATE**

This ordinance shall be effective upon passage and publication as required by state and local law.

DULY PASSED AND APPROVED, on the _____ day of _____, 2023 at a regular meeting of the City Council of the City of Bee Cave, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

CITY OF BEE CAVE:

Kara King, Mayor

ATTEST:

Kaylynn Holloway, City Secretary

[SEAL]

APPROVED AS TO FORM:

City Attorney
Ryan Henry, Law Offices of Ryan Henry, PLLC

ORDINANCE NO. 522

AN ORDINANCE AMENDING ARTICLE 1, ARTICLES 4 – 7, AND ARTICLE 9 OF THE UNIFIED DEVELOPMENT CODE OF THE CITY OF BEE CAVE.

WHEREAS, the City of Bee Cave is lawfully incorporated as a Home Rule municipality and the City Council is the governing body of the City; and,

WHEREAS, it is the intent of the City of Bee Cave to protect the public health, safety, and welfare of its citizens; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety, and welfare of their citizens; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or policy regulation that is for the good government, peace, or order of the municipality; and

WHEREAS, the Bee Cave City Council may regulate the development of property within Bee Cave's city limits and extraterritorial jurisdiction; and

WHEREAS, the Bee Cave City Council, in compliance with the laws of the State of Texas and the City's municipal code, and in the exercise of its legislative discretion, has determined it is appropriate, for good government and for the welfare and benefit of the public, to amend the Unified Development Code to update its provisions to keep up with the growth and development of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS that Article 1, Article 4, Article 5, Article 6, Article 7 and Article 9 of the City of Bee Cave Unified Development Code shall be amended with strike-through text being deletions and underlined text being additions and all other provisions not addressed remain untouched and in full force and effect and shall read as follows:

* * *

1.1.16 TECHNICAL MANUALS

A. Unless differentiated, "UDC" also refers to any Technical Manual adopted by the City but maintained separately from the UDC. Unless specifically exempted, a Technical Manual adopted by the City applies to all development in the City Limits and Extraterritorial Jurisdiction (ETJ). These are policy documents adopted by reference and may be amended at any time by the City.

B. Other criteria manuals which are included by reference in the UDC under the term "Technical Manual" are: Engineering Criteria Manual, Transportation Criteria Manual, Drainage Criteria Manual, Technical Construction Standards, & Specifications (TCSS) Technical Manual Amendments. Where the UDC refers to manuals adopted or propagated by a state or federal agency, it will use the full title of the manual.

C. The Planning Director, City Engineer, Fire Marshal and Building Official are responsible for interpreting, developing, and processing updates to departmental technical manuals as

necessary to carry out the intent of the UDC. ~~A public hearing will be conducted before City Council to allow public input before updates are approved by the Council.~~

* * *

1.2.5 SUMMARY OF APPROVAL AUTHORITIES AND PUBLIC NOTICE

Table 1.2 1: Summary of Approval Authorities, Public Notice provides a summary of the review and approval procedures discussed in the UDC. See Section 1.4.3 for procedures related to required public notices.

* * *

1.4.3 GENERAL NOTIFICATION REQUIREMENTS

In accordance with the requirements shown in Table 12-1 Summary of approval authorities and public notice, public hearing notice shall be made as follows:

A. Mailed Property Owner Notice

1. When mailed property owner notice is required, written notice of all public hearings before the Planning and Zoning Commission and City Council shall be sent to all owners of real property within two hundred (200) feet of the subject property of the Application based on Table 1.2 1: Summary of Approval Authorities, Public Notice, and Appeals, as may be modified by the Section Reference listed in the Table.

2. Such notice shall be given not fewer than eleven (11) calendar days before the date of the Board or Commission public hearing by posting such notice, properly addressed and postage paid, to each taxpayer as the ownership appears on the last approved City tax roll or County tax roll for the area affected.

~~(i) The City Council shall conduct a public hearing before adopting any proposed rezoning or text amendment.~~

B. Newspaper Published Notice

~~N~~When newspaper public notice is required, notice of the time and place of the public hearing for an Application based on Table 1.2 1: Summary of Approval Authorities, Public Notice, and Appeals must be published in a newspaper of general circulation in the City at least sixteen (16) days before the date of the public hearing before City Council and not fewer than eleven (11) calendar days before the date of the public hearing before the Zoning Board of Adjustment.

* * *

4.2.2 Permitted Signs

* * *

C. Temporary Signs

1. General Provisions

(i) The regulations of this subsection 4.2.2C apply to all uses equally. They are not intended to regulate or make any distinction regarding religious or political speech, or to impose restrictions on seasonal or religious decorations or symbols.

(ii) A reflective surface is prohibited on any temporary sign.

2. Temporary Wall Banner Signs

In all Non-Residential and Mixed-Use districts, each non-residential building or non-residential tenant space within a building with a valid Certificate of Occupancy may install one (1) banner meeting the following:

(i) No banner shall exceed twenty-four (24) square feet in size or fifteen percent (15%) of the building façade or tenant space, whichever is greater;

- (ii) The property owner or business must securely affix the banner to the side of the building. The property owner or business must remove, replace, or repair any torn or frayed banner, or any banner that is detached from the side of the building;
- (iii) Banners are prohibited in the public Right-of-Way, on the side of a temporary building, trailer, fence, freestanding wall, or retaining wall;
- (iv) Each building or tenant space is allowed no more than one (1) banner per calendar year for a period not to exceed fifteen (15) days;
- (v) In addition to subsection 4.2.2C.2(iv), a tenant may display a banner for up to thirty (30) days at the time a Certificate of Occupancy is issued. The banner may not be used at the same time as any other temporary signage.

3. Temporary Ground Signs

- (i) In any district, each property is allowed one (1) temporary ground sign per road frontage per twelve (12) month period in compliance with this Subsection 4.2.2C.3.
- (ii) A Temporary Ground Sign shall not be used as a substitute for a permanent sign.
- (iii) All temporary ground signs must have a solid, durable backing that resists folding or twisting, and be anchored or fastened to the ground.
- (iv) The property owner or business must replace or re-set a temporary ground sign that twists or deflects more than three (3) degrees off center.
- (v) The property owner or business must remove any temporary ground sign if the sign remains on a property for longer than six (6) months or if the sign becomes worn, faded, or damaged.
- (vi) Signs that are not made using wood or thick-gauge steel frame construction are not framed or use wire construction must be removed after three (3) months.
- (1) The Planning Director may grant a three (3) month extension to subsection 4.2.2C.3(v) if the sign is in good condition and the property on which the sign is located is actively listed for sale or at least one building that sits on the property is actively listed for lease.
- (vii) Temporary ground signs are prohibited in the public Right-of-Way or on private property without the consent of the property owner.
- (viii) Temporary ground signs must be located outside of the sight visibility zone (see subsection 6.4).
- (ix) The size of a temporary ground sign shall not exceed the maximum square footage in Table 4.2 1:

Table 4.2 1: Temporary Ground Sign Size Matrix

* * *¹

- 4. Temporary Window Signs: See Section 4.2.2D.7(ii),
- 5. Temporary Ground Banners in Residential Districts
 - (i) In a single-family residential district (R-1, R-2, R-3) or property developed for single-family residential use, one (1) temporary ground banner per road frontage for a period not to exceed fifteen (15) days once per six (6) month periods in compliance with this Subsection. Temporary ground banners are prohibited in all other circumstances.
 - (ii) A temporary ground banner shall not be used as a substitute for a permanent sign.
 - (iii) All temporary ground banners must **not have a solid, durable backing but must** resist folding or twisting and be anchored or fastened to the ground.

¹ Note to publisher, table to remain unaltered.

- (iv) The property owner must remove, replace, or repair any torn or frayed banner, or re-set a temporary ground banner that twists or deflects more than three (3) degrees off center.
- (v) Temporary ground banners are prohibited in the public right-of-way or on private property without the consent of the property owner.
- (vi) Temporary ground banners must be located outside of the sight visibility zone (see subsection 6.4).
- (vii) The size of a temporary ground banner shall not exceed twenty-four (24) square feet.

* * *

5.1.1 LANDSCAPING STANDARDS

A. Landscaping Requirements Applicable to All Development within City Limits

1. Landscaping Plan Required

Construction of a Multi-Family, Mixed-Use, or Non-Residential development may not commence until a Landscape Plan is approved as a component of the required Site Plan (see subsection 3.5.4) that demonstrates conformance with this subsection 5.1.1 and contains any technical information required by the Planning Director.

2. Redevelopment Sites

For existing sites that are non-conforming under this Article 5 and undergoing expansion or redevelopment, see subsection 3.4.11E.4.

3. Credit for Preservation of Existing Trees and Trees Planted to Fulfill Mitigation Requirements

All development must preserve or replace at least sixty percent (60%) of the caliper inches of trees present on site prior to development according to an approved Tree Survey. ~~5.1.1~~The caliper inches of all Celtis Occidentalis (Hackberry), Juniperus Virginiana (Eastern Red Cedar), Melia Azedarach (Chinaberry), and Juniperus Ashei (Common Cedar) tree species listed in Table 6.1-1 Exempted Trees when measuring twelve (12) caliper inches and or larger and all other trees four (4) inches caliper or larger shall be counted towards the required sixty percent (60%).

* * *

B. Nonresidential, Mixed-Use, and Multi-Family Residential Landscaping Requirements.

* * *

3. Parking Lot Landscaping

Parking lot landscaping is required within the area within the parking lot boundaries. Sidewalks and designated loading or unloading areas for service vehicles shall not be considered part of the parking lot.

(i) Parking Lot Shading

(1) The requirements of this subsection 5.1.1B.3(i) apply to any parking lot with more than five (5) spaces, regardless of zoning district.

(2) ~~The shaded area is calculated based on the trees listed in the Criteria Manual.~~ Shading shall be required for parking lots subject to this section. Canopy trees shall be provided to shade a minimum of twenty-five (25) percent of the parking lot or vehicular use area. The shade area provided by each tree shall be based on the area that the tree's mature canopy will encompass, as indicated in the Tree Canopy List in the Environmental Criteria Manual. Tree types not listed may be considered but shall be accompanied by a calculation of mature canopy area prepared by a registered landscape architect based on standard landscaping references. The shade area provided shall be calculated at 100% for preserved trees and 75% for newly planted trees.

(3) Existing trees preserved in an island or walkway buffer (see subsections 3.4.2E.4 and E.0) may be credited toward new plantings required under this subsection 5.1.1B.3(i) and shall be calculated at one hundred (100) percent of the required shade coverage.

(4) Newly planted trees shall be a minimum of three (3) inches caliper and calculated at seventy-five (75) percent of the shade coverage.

(5) No protected tree shall be located in a well deeper than four (4) feet, or on a pedestal higher than four (4) feet, from the surrounding parking area.

(6) Where grade changes exceed ten percent (10%), parking lots shall be stepped to accommodate the preservation of existing interior trees in accordance with this paragraph.

* * *

(iii) Parking Lot Screening

(1) All parking areas adjacent to roadways, all off-street loading areas and off-street parking areas containing three or more parking spaces shall have effective buffering from the street view and from adjacent properties.

(2) Landscape buffers or landscaped berms at least three feet (3') in height shall be appropriate for screening these areas.

(3) Vegetation selected for the three-foot (3') height screen shall be of the evergreen plant species, and they shall be spaced and massed so as to provide a solid screen within two (2) years, or two (2) growing seasons, from the planting date. Plantings should include a variety of plant species with low maintenance requirements, selected from the plant materials listed in the Preferred Tree List in ECM. A combination of shrub and tree plantings is preferred; but in any case, a minimum of one (1) tree of a minimum four-inch (4") and a minimum of eight feet (8') in height., and ten (10) shrubs of a minimum of five (5) gallon size, are required for each thirty feet (30').

(4) Ground cover should be planted on landscaped berms with appropriate plant container size and spacing that will provide full coverage within one (1) year of installation in order to prevent erosion. Berms shall be designed to transition to existing grades and shall not exceed a slope of 3:1, as a slope greater than this is generally difficult to mow and maintain.

4. Site Landscaping

All areas not included in a Roadway Buffer, Incompatible Use Buffer, or Parking Lot are subject to the landscaping requirements of this subsection 5.1.1B.4.

(i) Building Perimeter. ~~Site Landscaping shall be provided at the primary building entrance(s), along each the entire building perimeter except for areas directly abutting a door, loading bays, or garage bays. The width of the strip shall be measured according to the following schedule:~~

* * *²

~~(ii) (1) Calculation of Plantings~~

~~(1) a. One (1) tree of two (2) inches caliper or greater is required for each 1,000 square feet of perimeter strip area of 5 feet or greater.~~

~~(2) b. One (1) shrub is required for each thirty (30) square feet of perimeter strip area.~~

~~(3) c. All areas not covered in plants shall consist of sod, mulch, river rock, or other ground cover to prevent erosion and weed penetration.~~

~~(iii) (2) Alternative Compliance~~

² Note to publisher, table to remain unaltered.

The Planning Director may approve an Alternative Compliance Plan if it is submitted with the required Landscaping Plan and conforms to the provisions below:

(1) a. The landscape strip may vary in depth so that certain sections of the strip fall below the minimum depth required, if the applicant demonstrates on the landscape plan that the total area provided is not less than the minimum required if the minimum depth was uniformly provided.

(2) b. Up to fifty percent (50%) of the required perimeter strip area and plantings may be provided in the form of additional parking lot landscape islands.

(3) c. Up to one hundred percent (100%) of the required perimeter strip area may be provided abutting a detention or retention pond on the same or abutting property, under the following circumstances:

(a) (i) The pond is integrated into the landscape and site design;

(b) (ii) The minimum number of plantings required in the landscape strip area are provided within fifty (50) feet of the pond;

(c) (iii) The area abutting the pond includes, at the time a Certificate of Occupancy is issued, amenities such as walking paths and benches with direct sidewalk access from all buildings in the development; and

(d) (iv) The pond, plantings, and amenities are reserved as an easement on a recorded Final Plat.

(3) In the case that a side of a building is not viewable from a roadway, access easement, or adjacent building/use, the Planning Director may waive the requirements of this section.

(ii) Retention and Detention Ponds

(1) All retention and detention ponds shall have effective buffering from the street view and from adjacent properties. Screening shall be provided in the same manner as for parking areas. See Section 5.1.1.B.3(iii).

(2) Stormwater detention areas should be designed as free form shapes to blend with the natural landscape and use natural rocks and boulders with spillways of natural rock to create visual appeal.

(3) Detention ponds shall not be allowed within a required buffer zone or setback unless a waiver is granted at Site Plan.

* * *

D. Retaining Walls

1. Unless an alternate design is approved by the City Engineer, when property within or directly adjacent to a subdivision contains changes in elevation exceeding two and one-half feet (2.5') or the slope exceeds one unit vertical in three units horizontal, or both, a Retaining Wall shall be required at the locations specified herein prior to the acceptance of the Subdivision (see subsection 2.4.5):

(i) The grade change roughly follows a side or rear lot line;

(ii) The grade change is adjacent to a proposed building site boundary;

(iii) The grade change is adjacent to a watercourse or drainage easement;

(iv) The grade change is adjacent to a public or private road or shared driveway; or

(v) Where required by the City's Technical Manual.

2. Retaining Wall construction shall be in compliance with the provisions of the Building Code and the Criteria Manual.

3. Retaining Walls four (4) feet in height or greater require a Subdivision Construction Permit, Site Permit, or Building Permit, as applicable at the time of construction, and approval by the City Engineer.

4. A Retaining Wall shall be maintained by the owner of the property where the Retaining Wall is located. If a Retaining Wall crosses one or more properties, it shall be maintained by a Property Owners' Association and placed within a ~~maintenance~~ retaining wall easement, see Section 2.5.13(I), or common lot with sufficient width to provide access to the Retaining Wall.

(i) A ~~maintenance~~ retaining wall easement is required for any retaining wall within five feet (5') of a property line.

(ii) Retaining walls shall not straddle property lines unless approved by the City Engineer.

(iii) The City will not assume maintenance responsibility for a retaining wall outside of City property or right-of-way.

5. A Retaining Wall shall not be constructed parallel to or within any portion of a utility easement unless otherwise approved by the City Engineer pursuant to the parameters established in the Criteria Manuals.

6. Hillside Wall Standards

(i) For each eight (8) feet of vertical height, four (4) feet of horizontal offset (a stairstep design approach) shall be provided with native, drought-tolerant landscaping consisting of one (1) shrub per thirty-two (32) square feet of horizontal surface within the offset area and one Small Tree per five hundred (500) square feet;

(ii) Walls shall conform to the topography of the site; and

(iii) Walls shall incorporate the use of native materials and earth-tone colors to blend with natural surroundings.

5.1.2 FENCING AND SCREENING STANDARDS

A. Requirements Applicable to All Districts

1. Fences and Walls in Front Yards

(i) Opaque fences or walls are prohibited within a required front yard unless otherwise specified in this Section 5.1.2.

(ii) Fences or walls within a required front yard shall not exceed four (4) feet in height, except in the AG or P districts.

2. Fences and Walls in Rear and Side Yards

~~2. (i) All fences and screening walls~~ Fences and walls in rear and side yards shall be placed on a property line with the exception of fences within a common area or maintenance easement (see Subsection C below).

~~3. (ii)~~ No fence or wall in a rear or side yard may exceed eight (8) feet in height or utilize any hazardous device such as barbed wire or electrification, except in the AG or P districts.

~~4.3.~~ All fences and screening walls shall be maintained by the owner of the property in a structurally-sound condition through regular staining, sealing, shoring, tuck pointing, and replacement of rotten, missing, or sagging members, pickets, panels, stringers, posts, or other component of the fence or wall.

~~5.4.~~ Detention and retention ponds that are fenced must employ wrought iron or a living screen or a combination.

~~6.5.~~ Fence and Screening Wall Types

(i) Type 1: Full masonry 6-8 feet (brick, stone, stamped concrete)

(ii) Type 2: Partial masonry (up to 30%) with metal (wrought iron, tubular steel, or equivalent – aluminum alternative if maintained by HOA)

(iii) Type 3: ~~€~~ Stained or painted cedar board with trim cap and rust proof metal posts with top caps, or rust proofed and powder coated, or rust proofed and powder coated tubular steel; or masonry; or a combination of each with a wrought iron, living screen with minimum 6 foot

height and maximum 25% transparency, ~~or combination of each~~ if approved by the City Engineer.

(iv) ~~Type 4: Undeveloped property fencing (wooden or steel posts in natural color tones with non-barbed wire or metal lattice)~~ Temporary fencing for construction site/security may be permitted by the Building Official in accordance with Section 108 of the IBC. Signage on or attached to temporary fencing is prohibited, see UDC 4.2.1.D.

6. When differing land uses or zoning districts abut, fences or walls shall be installed as indicated in Table 4.4-3.

Table 4.4 3: Required Fence or Screen by Abutting Use

* * *³

7. Undeveloped property may be fences with Type 1, 2, or 3 fencing, or fencing may consist of wooden or steel posts with non-barbed wire or metal lattice. Posts shall not be painted or coated in garish or harsh color tones.

8. A permit shall be obtained from the City prior to construction of any fence or screening wall.

7.9. Screening of Mechanical Equipment

(i) Mechanical equipment shall be screened from adjacent properties, from residential uses (including those within the same property), and any public or private right-of-way based on a view of the same building elevation measured from at least six (6) feet above the surface of the street or highest grade within the right-of-way.

(ii) Roof-mounted mechanical equipment shall be screened with a parapet wall that matches the face of the building or a screening wall that complements the color of the building. A screening wall may only be utilized if it is set back at least six (6) feet from the edge of the roof.

(iii) Ground-mounted mechanical equipment, including, but not limited to, condenser units and electrical and gas meters, shall be screened by a wall section that matches the face of the building or by a living screen of hedges that achieves a sufficient height to fully screen all mechanical equipment placed on the ground or mounted to the building face, within three growing seasons.

(iv) All cables, wires, utility lines, piping, drains, or other similar components shall be placed interior to the building or camouflaged using paint or material that matches the building face. All other mechanical equipment not listed above, fuel storage, materials storage, ground-mounted satellite dishes and antennae, service or delivery areas, and solid waste container areas shall be screened from the street by an appropriate vegetative screen or masonry wall, except to the extent needed to provide access.

B. Non-Residential and Mixed-Use Screening

1. Screening of Residential Properties

(i) ~~A Masonry Type 1 fence or screening wall~~ is required between residential (AG, R-1, R-2, R-3, R-4, R-5, and PDDs with underlying residential uses) and non-residential uses (MU-N, MU-C, MU-TC, CR, P, and PDDs with underlying non-residential uses).

(ii) All lots, or parts of lots, with one or more non-residential use and whose side or rear lot lines are adjacent to a residential district or use and not separated by a public or private street or roadway, shall be screened from such residential district or use ~~by a screening wall at least six feet (6') in height~~ a Type 1 fence or screening wall.

³ Note to publisher, table to remain unaltered.

(iii) ~~Masonry screening walls shall be constructed of materials that provide a solid visual barrier. The Walls~~ A Type 1 fence or screening wall, including applicable footings, shall be placed entirely upon the lot wherein the non-residential use is located and be adjacent to the buffer strip required in Section 5.1.1.B.2.

(iv) Maintenance responsibility of such wall shall be borne by the non-residential property owner.

2. Screening of Outdoor Storage

(i) Outdoor storage shall be placed behind the building with which it is associated, if present, and screened from any public or private right-of-way and all adjacent properties by a ~~Masonry~~ Type 1 fence or screening wall extending at least six (6) feet above the nearest paved surface, unless such requirement is modified by a Specific Use Permit (SUP).

(ii) No outdoor storage shall extend higher than the top of the ~~nearest adjacent screening wall or fence~~ Type 1 fence or screening wall, or six (6) feet if no fence or screening wall is present.

C. Residential Fencing and Screening

1. Low-Density Residential Subdivision Fencing Requirements (Detached Single-Family, Duplex, and Townhome developments in R-1, R-2, and R-3 districts)

(i) All property lines or ~~S-~~subdivision boundaries that abut a Non-Residential or Mixed-Use district or a street classified as a Collector or higher shall provide a screening wall to a height of at least six (6) feet from the grade of the property line consistent with Table 4.4 3.

(ii) Screening walls that abut a street classified as a Collector or higher and are longer than 500 feet shall provide wall insets every 150 feet, with posts or panels separated by three (3) to six (6) feet and enclosed with a section of wrought iron fencing and a hedge or other plant material growing to a mature height of at least five (5) feet.

(iii) Screening walls required in this Subsection 1 or screening walls that provide screening for two (2) or more lots shall be placed within a separate lot or wall maintenance easement measuring at least ten (10) feet in width at the narrowest point and shall be conferred to the ownership or benefit of an HOA or special district and maintained by the HOA or special district.

(iv) Separate lots dedicated on a plat for the purposes of screening wall maintenance shall not be subject to the standards of Section 3.4.1.

2. Low-Density Residential Private Fencing Requirements (Detached Single-Family, Duplex, and Townhome developments in R-1, R-2, and R-3 districts)

(i) Interior residential fences and front-facing fences shall be constructed from stained or painted cedar with rustproofed metal posts with top caps; or rust-proofed and powder-coated wrought iron; or rust-proofed and powder-coated tubular steel; or masonry; or a combination if approved by the City Engineer.

(ii) Side and rear yard residential fences that face a public or private street of a Local classification or an open space area such as a pond or path shall ~~consist of rust-proofed wrought iron or tubular steel or a combination of Masonry wall and wrought iron or tubular steel~~ be Type 3, with the exception of cedar fencing, and a combination with living screens shall not be permitted.

(iii) ~~No other type of opaque fence will be allowed for side and rear yards, but t~~ The property owner may grow a living wall consisting of hedges, vines, or other plant material if it does not damage the fence.

(iv) Side and rear yard fences that face a street classified as a Collector or higher shall be Type 3 and may install include a cedar fence in accordance with this subsection C, provided the fence does not impede access to the interior face of a subdivision screening wall.

3. High-Density Residential Fencing (3 units or more)

(i) Perimeter fencing shall ~~consist of a combination of wrought iron and Masonry~~ be Type 2 with a minimum height of four (4) feet and a maximum height of six (6) feet along property lines abutting public and private streets and a ~~Masonry~~ Type 1 wall a minimum of six (6) feet in height along all interior property lines.

~~(ii) Street facing perimeter walls shall not utilize Masonry on more than thirty percent (30%) of the surface of the fence.~~

4. Alternative Compliance

(i) Use of Wooden Fence in High-Density Residential Development

(1) The developer may substitute a stained or painted board-on-board cedar fence with rustproof metal posts and top caps of the same height along interior lot lines shared with another high-density residential development.

(2) The developer may substitute a board-on-board cedar fence with rustproof metal posts and top caps of the same height along lot lines shared with a low-density residential development or non-residential or mixed-use development if a double row of large trees is also provided with spacing between thirty (30) and fifty (50) feet along the entire section of the cedar fence.

(ii) Use of Wrought Iron Fencing Adjacent to Shared Open Space

A developer may provide a wrought iron fence with vegetative screening that achieves full opacity and grows to a height of six (6) to eight (8) feet within three (3) years along an open space shared with a Low-Density Residential development in lieu of a Masonry wall.

(iii) Alternate Screening Plan

The Planning Director may approve an alternate screening plan for any residential development such as a landscaped berm or open space buffer, steep slope, or creek, if the plan meets the intentions of this subsection C. Residential Fencing and Screening and preserves or minimizes impacts to natural landscapes, habitat areas, steep slopes, or other areas of environmental sensitivity or viewsheds to such areas.

D. Retention and Detention Pond Fencing

Fencing of retention or detention ponds is limited to masonry wall, tubular steel, or wrought iron, no more than six (6) feet in height.

5.1.3 Waivers

1. General provisions.

(i) Unless otherwise proscribed within this Article, the City Council may approve a waiver to one or more provisions of Articles 5 if it makes an affirmative finding with regard to the following:

(1) That undue hardships will result from strict compliance with one or more provisions of this Article;

(2) That the purposes of these regulations may be served to a greater extent by an alternative proposal;

(3) The waiver does not have the effect of nullifying the intent and the purpose of the applicable regulations;

(4) Granting the waiver will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the waiver will not prevent the orderly development or use of other property in the vicinity;

(5) The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought, and are not applicable generally to other property;

(6) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out; and

(7) An alternate design will generally achieve the same result or intent as the standards and regulations prescribed.

(ii) Such findings of the City Council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the City Council meeting at which a waiver is considered.

(iii) The City Council may grant a waiver from a provision of Article 5 when the relief granted is in harmony with the general purpose and intent of the Article and when the safety and welfare of the public will be secured and substantial justice done.

(iv) Financial hardship to the property owner or developer does not constitute undue hardship as defined in subsection (i) above.

2. Conditions. In approving a waiver, the City Council may require such conditions which, in its judgment, secure substantially the purpose described the applicable Section of Article 5.

3. Procedures.

(i) The applicant must submit a petition for a waiver in writing by the applicant with the Site Plan or development application. If the applicant does not submit a petition in writing, the associated application will not be considered complete (see section 1.4.2.E Application Considered Complete).

(ii) The petition shall state fully the grounds for the application and the facts relied upon by the petitioner.

(iii) Where a hardship is identified pursuant to this section which requires issuance of a waiver from a provision in this Article, the Planning and Zoning Commission may, in its consideration of an associated Site Plan or other development application it is required to consider, recommend to the City Council a waiver from the provision in this Article 5.

(iv) The City Council may grant final approval to a waiver from a provision of this Article provided that no new information or reasonable alternative plan exists which, at the determination of the City Council, voids the need for a waiver.

(v) The City Council's decision is final.

6.1.5 DEFINITIONS

Alteration (noun): Means any act that causes or may reasonably be expected to cause a tree protected under this section to die, including, but not limited to, any of the following: uprooting any portion of the tree's root system; severing the main trunk of the tree; inflicting damage upon the tree's root system by machinery, storage of materials, or the compaction of soil above the root system of a tree; changing the natural grade of the critical root zone of a tree or of an area that sits uphill from the critical root zone of the tree so as to divert the flow of water to or away from the critical root zone; applying herbicides or other chemicals lethal to trees within the area of the critical root zone, including portions of the tree that extend above ground; placement of impermeable material over any portion of the critical root system of a tree; and trenching within the critical root zone.

Alter (verb): A tree protected under this section is considered to be altered if one or more of the following occurs: Severing or partially severing the main trunk of a single-trunk tree or more

than twenty-five percent (25%) of the trunks of a multi-trunk tree; more than twenty-five percent (25%) of the critical root zone is affected by a means listed in 6.1.5A or more than twenty-five percent (25%) of its canopy is removed.

Canopy: The upper vegetative cover of a tree (see Figure 6.1.5 1).

Critical Root Zone: The area of undisturbed natural soil around a tree defined by a horizontal circle drawn at grade with the center being the center of the tree trunk of a single-trunk tree or approximate center of all trunks of a multi-trunk tree and a radius equal to one foot (1') from the tree trunk for each diameter inch of trunk size (see Figure 6.1.5 1).

Figure 6.1.5-1: Canopy, Critical Root Zone, and Drip Line

* * *⁴

Drip Line: An area within a concentric circle having a radius extending outward from the approximate center of the tree and measuring one half (1/2) of the Tree's height (see Figure 6.1.5 1).

Multi-Trunk Tree: A tree with more than one trunk that has a visible connection above ground. For the purposes of measuring trunk diameter for a multi-trunk tree, the full diameter of the largest trunk shall be combined with the sum of the diameters of all other trunks divided by 2 (i.e., If the largest trunk measures 6 inches in diameter and the sum of all other trunk diameters is 12 inches, total diameter of the multi-trunk tree is 12 inches or $6 + 12/2$).

Poisonous or Hazardous Materials: An object or substance with qualities harmful to Trees, including, but not limited to, paint; soil not matching the soil profile and content of the property on which the Tree sits; petroleum products, including diesel fuel, gasoline, and engine oil; concrete or stucco mix or wash; fibrous insulation; foul, brackish, or dirty water; corrosive or acidic substances or objects that may produce such substances; or any other material which may be reasonably expected to harm Trees.

Removal: Any act that has the effect of destroying a tree, including completely or partially severing the trunk of a Tree, removing more than twenty-five percent (25%) of the Canopy, or otherwise Altering a tree so that it dies or becomes fatally injured.

Tree: Any self-supporting woody perennial plant of a species that will commonly attain a trunk diameter of two (2) or more inches at a point measuring four and one-half (4 ½) feet above ground level and an overall height of at least ten (10) feet at maturity.

Tree, Heritage: Any tree of a species other than those listed in Section 6.1.4 that measures twenty-four (24) inches in caliper or greater at a point measuring four and one-half (4 ½) feet above ground level.

Tree, Protected: Any tree of a species other than those listed in Section 6.1.4 that measures four (4) inches or greater, but less than eight (8) inches in caliper at a point measuring four and one-half (4 ½) feet above ground level.

Tree, Significant: Any tree of a species other than those listed in Section 6.1.4 that measures eight (8) inches or greater, but less than twelve (12) inches in caliper at a point measuring four and one-half (4 ½) feet above ground level.

Tree, Specimen: Any tree of a species other than those listed in Section 6.1.4 that measures twelve (12) inches or greater, but less than twenty-four (24) inches in caliper at a point measuring four and one-half (4 ½) feet above ground level.

Tree Cluster: Three or more trees of a species other than those listed in Section 6.1.4 where any portion of the trunk or trunks of the trees are located less than ten (10) feet apart from one

⁴ Note to publisher, figure to remain unaltered.

another and where each tree has a trunk measuring at least four (4) inches caliper at a point measuring four and one-half (4 ½) feet above ground level.

Tree Removal Permit: A permit issued under this section that authorizes a person or entity to Remove or Alter a tree protected under this section.

* * *

6.1.9 TREE MITIGATION

A. Any Trees that are removed or damaged as a result of the approval of a Tree Removal Permit issued pursuant to Section 6.1.6E must be mitigated on the same property or development area, unless the City Manager approves a fee in lieu.

1. The fee in lieu will be paid directly to the City to fund placement of trees at public parks or other approved public facilities throughout the City.

B. Any Trees that are removed or damaged as a result of the approval of a Tree Removal Permit issued pursuant to Section 6.1.6F must be mitigated pursuant to the ratios provided in Section 5.1.1 ~~Table 32, Fee In Lieu of Tree Mitigation.~~

C. Fee in Lieu of Tree Mitigation

~~(i)~~1. The City Manager may approve payment of a fee in lieu of replacement trees.

~~(ii)~~2. The fee shall be per the adopted fee schedule.

~~(iii)~~3. The fee in lieu option is available for only the following cases:

~~(1)~~(i) If the property or development area is heavily treed and the existing tree canopy would prohibit the growth of the replacement trees, or

~~(2)~~(ii) If the required replacement trees were to be installed, then the replacement trees would be planted under the canopy of an existing tree.

~~E~~D. Limitations of species and placement. Replacement Trees must be shown and reviewed on a Landscape Plan consistent with the requirements of Section 5.1.1 and provide placement of Trees consistent with the requirements of those sections.

* * *

6.2.1 PURPOSE AND APPLICABILITY

A. Purpose

The purpose of these lighting regulations is to:

1. Permit the use of outdoor lighting that does not exceed the maximum levels specified in Illuminating Engineering Society (IES) recommended practices for night-time safety, utility, security, productivity, enjoyment, and commerce.

2. Minimize adverse offsite impacts of lighting such as Light Trespass and obtrusive light.

3. Curtail Light Pollution, reduce skyglow and improve the nighttime environment for astronomy.

4. Help protect the natural environment from the adverse effects of night lighting from gas or electric sources.

5. Conserve energy and resources to the greatest extent possible.

B. Applicability as to Location

This section applies within the City limits.

C. Applicability as to Type

1. Except as described below, all outdoor lighting installed after the date of effect of this UDC shall comply with these requirements. This includes, but is not limited to, new lighting, replacement lighting or any other lighting whether attached to structures, poles, the earth, or any other location.

2. Exemptions

(i) Lighting within ~~public or private right-of-way or easement~~ a state-owned right-of-way for the principal purpose of illuminating streets or roads. No exemption shall apply to any lighting within the public or private right-of-way or easement when the purpose of the luminaire is to illuminate areas outside the public or private right-of-way or easement, unless otherwise stated in separate regulation.

(ii) Replacement of lighting where the lighting ~~Lighting~~ that is removed or destroyed is less than 30% of the total value of all lighting on a property

(iii) Repairs to existing luminaires not exceeding twenty-five percent (25%) of total installed luminaires.

(iv) Temporary lighting for theatrical, filming on location, and performance areas with applicable City permits.

(v) Underwater lighting in swimming pools and other water features.

(vi) Temporary lighting and seasonal lighting, such as string, festoon, bistro, and similar lighting, provided that the emission of such lighting does not exceed 125 lumens per linear foot of line or square foot of space. These lights must be rated at or below 2700 Kelvin.

(vii) Lighting that is only used under emergency conditions.

(viii) Low Voltage Landscape Lighting.

3. Preemption

All lighting shall follow provisions in this ordinance; however, any special requirements for lighting listed below shall take precedence.

(i) Lighting specified or identified in a Specific Use Permit.

(ii) Lighting required by federal or state laws or regulations.

* * *

6.8 Performance Standards

6.8.1 In all zoning districts, any use indicated in the permitted use chart, see Section 3.3.5, shall conform in operation, location, and construction to the performance standards above, as well as all administered by County, State, and Federal agencies. All uses, including those which may be allowed by PDD or SUP shall conform in operation, location, and construction to appropriate standards for noise, smoke, and particulate matter, odorous matter, fire, or explosive hazard material, toxic and noxious matter, vibration, and glare.

6.8.2 All Federal and State pollution, noise, and requirements for toxic waste disposal shall be observed.

7.3.2 CONTROL MEASURES

* * *

C. Performance Standards

Except as otherwise provided in this section 7.3, all development subject to this section 7.3 shall achieve the following performance standards:

1. Removal of Annual Pollutant Load

(i) For new and re-development, the standard of treatment for surface water runoff shall be as follows:

(1) Total suspended solids (TSS): 90% removal.

(2) Total phosphorus (TP): 90% removal.

(3) Oil and grease (O&G): 90% removal.

(4) Total zinc (Zn): 90% removal (evaluated for crumb rubber turf installations only)

(ii) For development using on-site irrigation with treated wastewater effluent or with septic system effluent, see Section 2.5.17.

(iii) Background and developed sites pollutant concentrations and pollutant loads:
(1) Background pollutant concentrations shall be as defined in the Engineering Technical Manual.

(2) Standard pollutant concentrations for developed sites shall be as defined in the Engineering Technical Manual.

(3) Calculation of annual pollutant loading shall comply with the criteria given in the Engineering Technical Manual.

2. Water Quality Volume

The minimum volume of stormwater runoff for water quality control shall be the first one-half inch (0.5") of runoff plus an additional one-tenth inch (0.1") for each ten percentage point increase of the gross impervious cover over twenty percent (20%) of the contributing drainage area to the water quality control. Water quality volume shall be calculated in accordance with the Engineering Technical Manual.

3. Impervious Cover Limits by Land Use

Impervious cover limits in this subsection 3 are expressed as percentage of the Net Site Area.

(i) Impervious cover shall not exceed the following:

(1) New development shall not exceed forty percent (40%).

(2) Redevelopment of sites developed prior to adoption of Ordinance 00-08-29-B: a maximum of 60% impervious cover may be permitted via (a), (b), or a combination of (a) and (b) below:

(a) The applicant submits a survey no older than one year prior to the date of application delineating existing impervious cover. A percolation test may be required to validate impervious cover greater than 40% existing on site currently; or

(b) The City approves a transfer of impervious cover pursuant to Section 7.3.2.C.4. Sites that are eligible under this Subsection 7.3.2.C.3(i)(2) may transfer more than the equivalent of ten (10) percentage points of impervious cover provided that in no case the total impervious cover of the site exceeds sixty percent (60%).

4. Allowable Increases to Impervious Cover Limits

(i) The impervious cover limits of subsection 3(i) above of this section may be increased by the following amounts under the following conditions:

(1) Isolation of roof runoff and irrigation (for non-residential and multi-family uses). The maximum impervious cover limits may be increased up to five (5) percentage points if roof runoff is isolated, and used for irrigation, wet pond make-up water, or gray water applications in accordance with subsection L below, subject to approval by the City Engineer.

(2) Transfer of development intensity: multifamily residential use and nonresidential use. An applicant who complies with a provision of this subsection qualifies for the development intensity transfer:

(a) For each one (1) acre of land that an applicant leaves undeveloped and undisturbed in an area zoned by the City for nonresidential use and does not include in impervious calculations elsewhere, the applicant may transfer up to one (1) acre of impervious cover. For each one (1) acre of land that an applicant leaves undeveloped and undisturbed in an area zoned by the City for residential use and does not include in impervious calculations elsewhere, the applicant may transfer up to one (1) acre of impervious cover. For each one (1) acre of land that an applicant leaves undeveloped and undisturbed in the ETJ of the City and does not include in its impervious calculations elsewhere, the applicant may transfer up to one (1) acre of impervious cover.

- (b) The maximum impervious cover limit may be increased by no more than ten (10) percentage points for transfer of development intensity, except as permitted in Section 7.3.2C.3(i)(2)(b) .
- (ii) An applicant who qualifies for a development density transfer must comply with the following requirements to affect the transfer:
- (1) The transferring tract and the receiving tract must be located within the City limits or the ETJ of the City;
 - (2) If the transferring tract includes a water quality buffer zone or critical environmental feature, these features/zones must be deducted from the tract's transferrable area in accordance with the Net Site Area definition;
 - (3) The receiving tract must comply with or exceed the water quality control standards of this section 7.3;
 - (4) The receiving tract may have or be granted any variances, deviations, or waivers related to water quality.
 - (5) If the receiving tract is zoned R-1, R-2, or R-3, the transfer must be approved by City Council.
 - (6) The transferring and the receiving tracts must be platted either prior to or concurrently with the transfer;
 - ~~(5)(7)~~ A restrictive covenant that describes the development intensity transfer, and runs with the transferring and receiving tracts, and is approved by the City Council, must be filed in the deed records of the County; and
 - ~~(6)(8)~~ If any tract must be platted at the time of transfer to satisfy ~~(4)(6)~~ above, the corresponding plat(s) must include reference to the restrictive covenant memorializing ~~the City Council's approval of the development intensity transfer required in (5)(7) above.~~
 - (9) A Transfer of Development Intensity cannot be approved for a transferring or receiving tract until the property owner provides evidence demonstrating payment of indebtedness (see Subsection 1.4.2.D).
- (iii) Fees, forms, and procedures.
- (1) The City's adopted Fee Schedule may establish fees relating to the Transfer of Development Intensity review and approval process.
 - (2) The City is hereby authorized to prepare application forms and restrictive covenant templates that include requirements for information, checklists, exhibits, contact information for the property owners, applicants, and technical consultants, and any other information deemed necessary by the City to review the application for compliance with City codes. These application forms and restrictive covenant templates may be revised or changed at any time without notice consistent with the UDC.
 - (3) The Planning Director and City Engineer shall review the application for a Development Density Transfer for compliance with the requirements listed in this section. The Planning Director or City Engineer will inform the applicant of any deficiencies and provide instructions for the resubmittal of a corrected application.
 - (a) If all requirements are met, and the receiving tract is not zoned R-1, R-2, or R-3 the application will be forwarded to the City Manager. The City Manager may approve or deny the Development Density Transfer or may defer the Development Density Transfer to City Council for approval or denial.
 - (b) If all requirements are met, and the receiving tract is zoned R-1, R-2, or R-3 the application will be forwarded to the City Council for approval or denial.

(iv) Effect of approval.

Approval of a Development Density Transfer is not a guarantee that a rezoning, variance or waiver request, or a development permit of any type will be approved for the receiving property.

5. Water Quality Buffer Zones (WQBZ) and Critical Environmental Feature (CEF) Buffer Zones.

(i) Water Quality Buffer Zones (WQBZ)

A water quality buffer zone is established along each waterway as follows:

(1) Upland waterways. The WQBZ shall extend a minimum of eighty-five feet (85') from the outer limit of the peak two-year flood level paralleling each side of the waterway. The WQBZ shall parallel all reaches of each waterway with at least thirty (30) acres of contributing drainage area.

(2) Little Barton Creek and Barton Creek. The WQBZ shall extend a minimum of three hundred feet (300') from the outer limit of the peak two-year flood level, paralleling each side of the waterway.

(3) Calculation of peak flood level. The two-year peak flood level shall be calculated in accordance with the Engineering Technical Manual TCSS manual.

(ii) Critical environmental features (CEF). The CEF Buffer Zone shall extend a minimum of one hundred fifty feet (150') around the outside periphery of critical environmental features. The buffer zone for a CEF can be reduced to fifty (50') with administrative approval by City staff which may incorporate conditions at the discretion of the City Engineer.

(iii) Overlapping water quality buffer zones. If two (2) or more WQBZs overlap, then the widest zone shall be established.

(iv) Activity in Water Quality Buffer Zones (WQBZ) and Critical Environmental Feature Buffer Zone

(1) Development Features

All development activities, including temporary construction activities and landscaping activities, shall be restricted from the WQBZ and CEF buffer zones, except the following development activities and improvements, which may be allowed if approved by the City Engineer:

- (a) Roadway and driveway crossings;
 - (b) Paths in accordance with the adopted Bee Cave Connectivity Plan;
 - (c) Maintenance and restoration of natural vegetation;
 - (d) Removal of trash, debris, and pollutants;
 - (e) Utilities, as subject to the restrictions of subsection (2), below
 - (f) Fences that do not obstruct flood flows;
 - (g) Public and private parks and open space, with development in the parks and open space limited to hiking, jogging, or walking paths, and excluding stables and corrals for animals;
 - (h) Private drives to allow access to property not otherwise accessible.
 - (i) The back slope of earthen embankments related to permanent Water Quality BMPs; and
 - (j) Infiltration trenches.
- (2) Utilities
- (a) All utilities, other than wastewater, shall be located outside the WQBZ and CEF buffer zone, except for crossings.
 - (b) Wastewater lift stations shall be located outside the WQBZ and CEF buffer zone.
 - (c) On-site wastewater disposal systems shall be located outside the WQBZ and CEF buffer zone.

(d) Wastewater trunk lines and lateral lines shall be located outside the WQBZ and CEF buffer zone to the maximum extent practical except for necessary crossings. All wastewater lines located within the WQBZ and CEF buffer zones shall be approved by the City Engineer on a case-by-case basis.

(e) In no case shall any wastewater line be located less than one hundred feet (100') from the centerline of Little Barton Creek or Barton Creek or fifty feet (50') from the centerline of an upland waterway except for crossings, unless approved by the City Engineer, and unless the applicant has shown that installation outside of this zone is physically prohibitive or environmentally unsound.

(f) All wastewater trunk lines located in the WQBZ and CEF buffer zone shall meet design standards and construction specifications of testing to allow zero (0) leakage.

(3) All water quality control discharges and stormwater discharges onto a WQBZ or CEF buffer zone shall:

(a) Have diffused sheet flow;

(b) Have peak velocities of less than five (5) feet per second at the 2-year design storm.

* * *

7.3.3 ADMINISTRATION AND ENFORCEMENT

* * *

E. Functionality Inspections

1. In addition to the inspection and permitting process provided in subsection 7.3.3D, each owner of on-site water quality control facilities shall obtain from a qualified professional registered engineer a functionality inspection no less than once every five (5) years.

2. The first functionality test is due on or before the expiration of five (5) years from the date the facility was accepted by the City and every five (5) years thereafter.

3. Functionality inspections shall be conducted during or within 72 hours following a rain event which has produced or is producing a depth of precipitation of at least 0.5 inches over a 24-hour period, as measured by a local LCRA/NOAA rain gauge, or alternative rain gauge as approved by the City Engineer. The following, if present, must be inspected and evaluated at each water quality facility in accordance with the Design Manual, including but not limited to:

(i) Dams, berms, levees

(ii) Spillways

(iii) Inlets

(iv) Pipes, culverts, and appurtenances

(v) Outlets

(vi) Bank erosion

(vii) Sedimentation

(viii) Tree/vegetation management

(ix) Trash and debris removal

(x) Water quality impairments

(xi) Backup power

(xii) Reservoir drawdown capability

(xiii) Security issues

(xiv) Emergency spillway/service spillway

(xv) Service outlet structure

(xvi) Service inlet structure

(xvii) Downstream hazard conditions

- (xviii) Seepage on downstream slope
 - (xix) Downstream embankment general condition
 - (xx) Upstream embankment
 - (xxi) Crest of embankment
 - (xxii) Irrigation area
4. The purpose of the functionality inspection shall be to determine if each water quality control facility is:
- (i) Operating properly;
 - (ii) Pumps, electrical systems, and all appurtenances applicable to the BMP's are functional;
 - (iii) Structurally integrity protected;
 - (iv) Accomplishing the purposes for which it was designed and installed; and
 - (v) Can be improved or modified in a manner that is likely to improve its functionality or efficiency.
5. The engineer conducting the functionality inspection shall prepare and file with the City and the owner a written report that includes the engineer's evaluation of whether the water quality facility is accomplishing the purposes described in subsection 4 above, including any analysis of optional actions, cost/benefit, any risk associated with the facility, and any other factor that, in the engineer's opinion, should be brought to the attention of the owner and the City.
6. The owner is responsible for the operation and maintenance of a water quality management facility and shall make records of all maintenance installation and repairs.
7. Records of the inspection, maintenance and repairs must be completed, signed by the responsible engineer, and retained for a minimum of five (5) years for review upon City request.
8. The owner of the water quality facility shall be responsible for all costs associated with procuring the functionality inspection and shall provide a written copy of the engineer's inspection report not later than thirty (30) days after the sooner of the fifth (5th) anniversary of the date the facility was first installed and permitted or the last functionality inspection.
9. Failure to obtain a functionality inspection may result in revocation of the owner's permit and such other enforcement or penalties of this UDC, and other local ordinances and state and federal laws and regulations as the City may determine to be appropriate.
10. In the event that the inspection reveals that the water quality facility is not accomplishing the purposes for which it was constructed, or that new or additional BMPs, WQCs, or facilities are necessary for proper functioning of the facility or the accomplishment of its intended purposes, the owner shall be required to implement such BMPs or WQCs or to construct such facilities and, to the extent necessary, amend the applicable SWPPP, NPDES permit, water quality control maintenance plan, NPS pollution control permit, or restrictive covenant as a condition to renewal of the owner or operator's annual operating permit.
11. Deficiencies must be addressed within ninety (90) days from the date identified unless additional time is approved by the City Engineer.
12. The person responsible for facility inspection must provide documentation to the City demonstrating that each deficiency identified in the inspection report has been corrected.

* * *

9.1 For the purposes of this Unified Development Code, and all articles thereof, the following definitions apply.

9.1.1 TERMS BEGINNING WITH "A"

Accessory Dwelling Unit

An independent dwelling unit on a lot zoned for Single-Family Residential operated concurrently with a primary dwelling unit (see Section 3.4.8B.1).

Accessory Building

A Building that is subordinate to the Principal Building and sits on the same lot or property or that contains an Accessory Use.

Accessory Use

A use that is subordinate to or incidental to a Principal Use on the same property or lot and does not physically occupy more than twenty-five percent (25%) of a building or lot.

Adequate Public Facilities

Facilities capable of supporting and servicing the physical area and designated intensity of a proposed Subdivision as determined by the facility provider, including the City, PUA, WCID-17, or other utility, and based upon specific levels of service identified in the UDC and the City's adopted Technical Manual.

Agricultural Uses

Uses that involve the growing of crops or tending of domesticated animals associated with farm or agricultural uses, including associated structures, stables, pastures, and runs.

Alcoholic Beverage Sales, Off-Premises Consumption

The sale of any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted; and includes, but is not limited to, liquor, wine, malt liquor, mixed beverage or beer, to be consumed off site, such as a grocery store or liquor store.

Alcoholic Beverage Sales, On-Premises Consumption

The sale of any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted; and includes, but is not limited to, liquor, wine, malt liquor, mixed beverage or beer, to be consumed on site, such as a restaurant or night club.

Alley

A public right-of-way or private easement used for utility installation and/or secondary access to individual properties which have their primary access from an adjacent public or private street.

Alteration

Any revision or change of any extent or type whatsoever, other than the addition of signatures, dates, seals, or similar fill-ins within existing certificates or acknowledgements.

Ambulance Service

A facility for the dispatch, storage, and maintenance of emergency medical care vehicles.

Amending Plat

See Plat, Amending.

Amenity Center

A building or facility owned or operated by a corporation, association, person, or persons for a place of meeting, social, cultural, educational, or recreational purposes, to which membership or residency requirements is required for participation.

Animal Grooming

A facility where animals are groomed and bathed with no long-term sheltering or kenneling and with no outdoor facilities

Animal-Related Uses

Uses involving the care or treatment of animals, including Animal Grooming, Animal Veterinary Office or Shelter (with Outside Yard/Kennels), Animal Veterinary Office or Shelter (without Outside Yard/Kennels); Day Care, Pet; Pet Adoption Center; or Pet Store.

Animal Veterinary Office or Shelter (with Outside Yard/Kennels)

- Facility with a fenced yard or outside kennels in which dogs, cats, or other domestic animals are accepted for medical treatment, grooming, bathing, or other treatment for which payment is received.

- Facility with a fenced yard or outside kennels in which three (3) or more dogs, cats, or other domestic animals are held for adoption or accepted for boarding for which payment is received. Sometimes referred to as “doggy day care” or a “pet hotel”.

Animal Veterinary Office or Shelter (without Outside Yard/Kennels)

- Facility entirely indoors in which dogs, cats, or other domestic animals are accepted for medical treatment, grooming, bathing, or other treatment for which payment is received.

- Facility entirely indoors in which three (3) or more dogs, cats, or other domestic animals are held for adoption or accepted for boarding for which payment is received. Sometimes referred to as “doggy day care” or a “pet hotel”.

Amusements (Indoors)

An amusement enterprise wholly enclosed in a building that does not generate noise perceptible at the bounding property line and including, but not limited to, a facility that includes one or more of the following: climbing walls, video game arcade, shooting range, batting cages, indoor skydiving, bowling alley, or billiard parlor.

Amusement (Outdoors)

An amusement enterprise offering entertainment or games of skill wherein any portion of the activity takes place in the open and includes one or more of the following: paintball, go-cart racing, miniature golf course, or similar outdoor use.

Appliance Sales or Repair

The indoor sale or routine repair of household appliances such as dishwashers, ovens, ranges, clothes washing machines, clothes dryers, and other similar devices.

Applicant

Anyone authorized to submit an application for Development, including, but not limited to, a property owner or the owner’s designee or a Subdivider or Developer or their agent, attorney, architect, engineer, surveyor, or contractor.

Application

Notice to the City provided on an acceptable form from the City that begins the Development or Subdivision process. For the purposes of TLGC Chapter 242, the date an applicant submits an application for review of administrative completeness determines the regulations the City will use to review the application.

Architect

An individual who is either licensed to practice architecture in the U.S. and/or associate architect as defined by the American Institute of Architecture.

Architectural Lighting

Lighting designed to reveal architectural beauty, shape or form with any other purpose for the lighting being incidental.

Art Gallery or Museum

An institution for the collection, display, or distribution of objects of art or artifacts of cultural, scientific, or historic significance, that is sponsored by a public or quasi-public or non-profit agency, and is open to the general public or by invitation or appointment.

Artisan Studio

A work space ~~not more than 1,500 square feet in size~~ used by one or more painters, sculptors, graphic artists, illustrators, photographers, jewelers, or other artists ~~using a medium that is not a~~ including Ceramic, Pottery, or Glass Studios, that is not food production, is not the manufacture of large quantities of a standardized article, does not endanger the health, safety, and welfare of the artist or the general public, and that does not cause a nuisance to abutting property owners.

Assisted Living Home

A licensed residential facility that provides food & shelter, personal guidance, care, habilitation services, & supervision for 7 or more persons with a disability as defined by Chapter 123 of the Texas Human Resources Code, the Americans with Disabilities Act or the Fair Housing Act.

Astronomic Time Switch

An automatic lighting control device that switches outdoor lighting relative to time of solar day with time of year correction.

Auto Driving School

A school that instructs students to operate an automobile or light truck, including classroom instruction and driving on a public street.

Auto Parts Sales

Retail sales of new auto parts, not including tires.

Auto/Vehicle Repair

A shop that maintains, repairs, or rebuilds engines, transmissions, differentials, suspension components, electrical or computer components, EV or hybrid batteries or components, brakes, or other major components, or performs repair or maintenance of vehicle bodies, with all repair conducted inside an enclosed building and not including salvaging of parts or long-term holding or storage of inoperable or disassembled vehicles. May include Quick Lube.

Average Grade

The average of the highest and lowest existing ground elevation points around the structure's foundation.

* * *

9.1.3 TERMS BEGINNING WITH "C"

Cafeteria

A restaurant where prepared food is served to customer from a serving area adjacent to the kitchen which allows the customer to see the food before it is served, and where food is typically purchased before it is consumed and eaten on-premises.

Caliper

The diameter of a tree as measured at a point that is four and one-half feet (4.5') above ground level.

Car Service

A for-hire service that provides private vehicles under 16,000 pounds GVWR to individuals or companies on a prearranged basis. Also includes secondary storage of vehicles used for providing the car service but not servicing or repair of any vehicles.

Car Wash

A facility, structure, or group of structures, which may include tunnels, awnings, and canopies, for washing automobiles and light trucks (under 16,000 pounds GVWR) in accordance with State regulations, 6.7 of this UDC, and the City's Technical Manual, and which may include secondary facilities or services for drying, vacuuming, and detailing automobiles and light trucks. Does not include self-service or coin operated facilities where vehicle owners use equipment provided by the facility to wash their vehicle.

Carpentry Shop

A shop involving woodworking and assembly of wood products.

Caterer or Catering Service

A business that provides prepared foods, meals, and refreshments for public or private events.

Cemetery or Mausoleum

Property used for interring the dead.

Ceramic, Pottery, or Glass Studio

A studio that is not a manufacturer that produces ceramic, pottery, or glass goods and that does not create a nuisance to abutting properties or the general public by creating dust, odor, or fumes. May operate as a "make your own" facility open to the public where the public makes their own goods or paints, decorates, or otherwise manipulates finished goods.

Certificate of Completeness

Certification by the Responsible Official that an application for Plat, Plan, Permit, or other application subject to the requirements of TLGC Chapter 245 meets the requirements for that application to be considered complete under this UDC.

Certificate of Convenience and Necessity

A Certificate of Convenience and Necessity (CCN) gives a retail public utility the exclusive right to provide retail water and sewer utility service to an identified geographic area or the "certificated service area." Chapter 13 of the Texas Water Code requires a CCN holder to provide continuous and adequate service to the area within the boundaries of its certificated service area. Neither the PUD nor the City shall provide retail water or sewer service within an area being lawfully served by another utility unless that district or municipality has a CCN for the area.

Certificate of Occupancy

Certificate issued by the building official for the use of a building, structure, or land, when it is determined by the building official that the building, structure, or proposed land use is listed in the official Use Charts (see Section 3.3.5) and complies with the provisions of all applicable codes of the City of Bee Cave.

Check Cashing

A business that cashes checks for a nominal fee related to the amount on the face of the check and does not provide credit access, payment advances, or loans.

City

The City of Bee Cave, Texas.

City Code

The Code of Ordinances of the City, including but not limited to the City Charter. This term does not refer to the Unified Development Code (UDC)

City Council

The elected governing body of the City of Bee Cave, Texas. Also referred to as "Council".

City Engineer

The individual holding the office of City Engineer of the City of Bee Cave, Texas, who shall actively maintain licensure in good standing as a professional engineer under the laws of the State of Texas. Those duties assigned by this UDC to the City Engineer which relate to the development review process may be reassigned by the City Manager, in whole or in part, to one or more licensed professional engineers, as needed to adjust workflow or to provide specific expertise.

City Limits

The boundary of the incorporated limits of the City.

City Manager

- The chief executive officer and head of the administrative branch of the City government.
- The acting City Manager; or
- Any employee or administrative officer of the City to whom such chief executive officer or acting City Manager shall have delegated certain authority, but only to the extent of such delegation.

Clinic (Inpatient)

A facility that performs advanced medical procedures or those requiring an overnight stay or 24-hour monitoring that does not fall under the definition of Hospital.

Clinic (Outpatient)

A facility that treats patients with non-emergency or non-life-threatening conditions such as a cold or fever. May include limited imaging such as x-ray. Patients are typically seen and treated by a general physician or nurse practitioner who may prescribe medication or treatment.

Facilities such as “Urgent Care” clinics fall under this definition (for facilities that treat emergency situations, including facilities capable of receiving patients transported by ambulance, see Emergency Care Facility).

Clinic (Specialty Outpatient)

A clinic that performs medical procedures not requiring an overnight stay or 24-hour monitoring, including dentists, orthopedists, ophthalmologists, plastic surgeons, ENTs, dialysis, and elective and non-elective inpatient surgeries.

College or University

An academic institution of higher learning that is recognized by the State or accredited or recognized by an accrediting institution and offers a program or series of programs of academic study culminating in the granting of a degree or credential.

Community Center

~~A building dedicated to social or recreational activities that serves the City or a Subdivision and is owned and operated by the City, a Property Owners’ Association, or a non-profit organization dedicated to promoting the health, safety, and general welfare of the City.~~

Community Center

~~A multipurpose meeting and recreational facility typically consisting of one or more meeting or multipurpose rooms, kitchens, and/or outdoor barbecue facilities that are available for use by various groups for such activities as meetings, parties, receptions, dances, etc. The facility is owned and operated by the City, or a non-profit organization dedicated to promoting the health, safety, and general welfare of the City.~~

Community Center

~~A multipurpose meeting and recreational facility typically consisting of one or more meeting or multipurpose rooms, kitchens, and/or outdoor barbecue facilities that are available for use by various groups for such activities as meetings, parties, receptions, dances, etc.~~

Community Center, Residential

A multipurpose meeting and recreational facility, with features including, but not limited to fitness centers, meeting rooms, restrooms, swimming pools, sport courts, and reserved for the use of residents of a particular neighborhood or development. Such facilities are typically owned by a property owners association or similar entity.

Community Home

A licensed residential facility that provides food & shelter, personal guidance, care, habilitation services, and supervision for no more than 6 persons with a disability as defined by Chapter 123 of the Texas Human Resources Code, the Americans with Disabilities Act or the Fair Housing Act.

Comprehensive Plan

The City's Comprehensive Plan adopted in accordance with Texas Local Government Code, Chapter 213, and all the associated studies, recommendations, and maps within it, including the Future Land Use Map.

Computer Sales and Repair

A business that sells, buys, upgrades, or repairs computers and similar electronic personal devices such as laptops, tablets, and associated parts and peripheral components, with all work and storage being indoors.

Concept Plan

A graphic representation of the general layout and development scheme currently contemplated for the property subject to request to rezone to a higher-intensity zoning district. The Planning Director is responsible for maintaining and making available a checklist of items to be included in a Concept Plan, this checklist may be revised or changed at any time without notice consistent with the UDC.

Conference Center

A facility with predominantly indoor rentable or leasable space for conferences, events, conventions, meetings, and other similar gatherings that are booked in advance, along with supporting facilities such as lobbies, mezzanines, kitchens for food preparation, catering, or vending, loading docks, and storage or staging areas. These facilities are of a scale to be able to host one or more separate events at the same time.

Consignment Shop

A business that is not a Pawn Shop or junk shop that offers secondhand merchandise such as clothes, jewelry, or furniture for sale on behalf of the owner of the merchandise and takes a fee for selling the merchandise.

Construction Limit Line

The line marking the boundary of disturbance from construction.

Construction Release

Certification by the City Engineer that Construction Plans and all planned activities associated with construction of a Subdivision and Public Facilities meet all requirements of this UDC.

Contractor

Any person, other than the owner, engaging in land development activities on land located within the City Jurisdiction.

Contractor's Office

A facility for administrative functions and storage of equipment and materials used in the on-site physical improvement or repair of properties and structures, including construction, plumbing, heating and cooling, electrical, and similar professions.

Convenience Store

A small retail store that is less than 6,500 square feet that offers goods such as packaged foods, beverages, tchotchkes, and limited personal and household items, but that offers little to no fresh foods, hygiene, or healthcare goods. May offer limited food preparation on site as a secondary use or be connected to a Restaurant.

Country Club

A chartered membership club catering primarily to its membership, providing one or more of the following recreational and social activities such as: golf, swimming, riding and tennis; with amenities such as a club house, locker room, or pro shop.

Cross Access Easement

An easement shown on a Plat or other recorded instrument that assigns benefit and right of entry to the public at large or to an abutting property owner and allows passage to the beneficiary over and across the property on which the easement is located.

* * *

II. CUMULATIVE CLAUSE

That this Ordinance shall be cumulative of all provisions of the City of Bee Cave, except where the provisions of this Ordinance are in direct conflict with the provisions of such other ordinance, in which event the conflicting provisions of such other ordinance are hereby repealed, while leaving the remainder of such other ordinance intact. To the extent of any conflict, this Ordinance is controlling.

III. SEVERABILITY

That it is hereby declared to be the intention of the City Council of the City of Bee Cave. that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional or invalid by final judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional or invalid phrases, sentences, paragraphs, or sections.

IV. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government

**V.
EFFECTIVE DATE**

This ordinance shall be effective upon passage and publication as required by state and local law.

DULY PASSED AND APPROVED, on the _____ day of _____, 2023 at a regular meeting of the City Council of the City of Bee Cave, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

CITY OF BEE CAVE:

Kara King, Mayor

ATTEST:

Kaylynn Holloway, City Secretary

[SEAL]

APPROVED AS TO FORM:

City Attorney
Ryan Henry, Law Offices of Ryan Henry, PLLC



Planning and Zoning Commission Meeting

11/7/2023

Agenda Item Transmittal

Agenda Item: 5.

Agenda Title: Public hearing, discussion, and possible action on Ordinance 521 designating a zoning classification of Public District for an approximately eleven-acre tract located on W State Highway 71 that is anticipated to be annexed into City Limits via Ordinance 520 on November 14, 2023

Commission Action: Discuss and Consider Action

Department: Planning and Development

Staff Contact: Sean Lapano

1. INTRODUCTION/PURPOSE

The purpose of this agenda item is to recommend a zoning district designation of Public District for a portion of Hwy 71 Right of Way upon annexation into Bee Cave City Limits. The area is anticipated to be annexed into the City with Ordinance 520 scheduled for City Council action on November 11, 2023.

2. DESCRIPTION/JUSTIFICATION

a) Background

The tract located adjacent to the Canyonside at Falconhead West Condominiums (Common Area) is being annexed into the City with Ordinance No. 520 and will have a zoning of Public (P) upon annexation. This tract consists entirely of TxDOT Right of Way and as per UDC Section 3.1.6.B, Council may grant a zoning designation other than AG to property annexed into the City only after Council approves the annexation.

b) Issues and Analysis

This area generally includes SH 71 itself and all of the normal utilities and appurtenances found in a state ROW. There is no commercial development, or residences. Adjacent land uses include the Canyonside neighborhood and Bee Cave Primitive Park to the North and the Lake Travis Independent School District Bus Ban to the South. This area is outside of a Municipal Utility District.

3. FINANCIAL/BUDGET

Amount Requested

Fund/Account No.

Cert. Obligation
Other source
Addtl tracking info

GO Funds
Grant title

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

Staff recommends approval of Ordinance No. 521, designating zoning upon annexation as Public District (P).

ATTACHMENTS:

Description		Type
	Ord No. 521	Ordinance
	Ord No. 520	Ordinance

ORDINANCE NO. 521

AN ORDINANCE OF THE CITY OF BEE CAVE, TEXAS ("CITY") DESIGNATING THE ZONING OF REAL PROPERTY UPON ANNEXATION, IN CONFORMANCE WITH THE CITY OF BEE CAVE COMPREHENSIVE PLAN, SECTION THREE-ONE, FUTURE LAND USE PLAN, TO PUBLIC (P) DISTRICT FOR A 11.13 ACRE TRACT OF STATE HIGHWAY 71 WEST RIGHT-OF-WAY GENERALLY LOCATED ADJACENT TO CANYONSIDE AT FALCONHEAD WEST CONDOMINIUMS (COMMON AREA), BEE CAVE, TEXAS; AND WHICH TRACT OF LAND IS DESCRIBED AND DEPICTED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR FINDINGS OF FACT, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City of Bee Cave is lawfully incorporated as a Home-Rule municipality and the City Council is the governing body of the City; and

WHEREAS, the City Council seeks to provide for the orderly development of land and use of property within its corporate limits; and

WHEREAS, the City is empowered by Section 211.005 (Districts) of the Texas Local Government Code to divide the municipality into districts of a number, shape, and size the City Council considers best for carrying out the zoning purposes under state law; and within each district, the City Council may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land; and

WHEREAS, the zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district; and shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land in the municipality; and

WHEREAS, the City recognizes its responsibility and authority to impose ordinances and controls that are necessary for the government of the City, its interest, welfare, and good order of the City; and

WHEREAS, pursuant to the City of Bee Cave Unified Development Code, Article 3, "Zoning Regulations" section 3.1.6.A, property that is annexed into the City will, by district and separate action of City Council, have an interim zoning of Agricultural (AG) District, unless City Council approves a prior agreement that specifies the zoning or approves a different designation at the time of annexation; and

WHEREAS, section 3.2.14 of the Unified Development Code provides that the purpose of a Public (P) District is a non-residential district intended primarily for uses of a government, civic, public service, or institutional nature, including major public facilities such as City

administrative buildings, police and fire stations, and City, County, or State maintenance or service uses; and

WHEREAS, the City of Bee Cave Comprehensive Plan (“Comprehensive Plan”), Future Land Use Plan provides that it shall serve as a guide for future land use patterns and that all aspects of the Comprehensive Plan “are implemented primarily through development regulations (zoning and subdivision ordinances)”; this area is designated as Suburban Corridor; and

WHEREAS, designating the zoning classification of the subject property described herein will protect the integrity and continuity of the Comprehensive Plan and such proposed land uses are consistent with the Comprehensive Plan; and

WHEREAS, the City of Bee Cave Planning and Zoning Commission and the City of Bee Cave City Council (“City Council”), in compliance with the City of Bee Cave Unified Development Code section 3.1.8, Texas Local Government Code section 211.006(a), et seq., and all applicable laws of the State of Texas, have given the requisite notices by publication and otherwise, and have held two public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof, and the City Council is of the opinion and finds that a zoning change as described herein should be granted and that the Comprehensive Zoning Ordinance and Map should be amended as set forth herein; and

WHEREAS, any protest made against the proposed change of Zoning Classification has been duly considered by the City Council; and

WHEREAS, the City Council finds that designating the real property described herein is prudent and, in accordance with Texas Local Government Code section 211.004(a)(3), will promote the health and general welfare of the City of Bee Cave and its citizens;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS:

SECTION 1. Findings of Fact. All of the above premises are hereby found to be true and correct legislative and factual findings of the City and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. Amendment. That the City Zoning Ordinance and Map of the City of Bee Cave, Texas, be and the same are hereby, amended so as to designate the zoning classification of Public (P) District for the 11.13-acre real property hereinafter described, and depicted in Exhibit “A,” attached hereto.

SECTION 3. Severability. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjusted or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of Article 3, Zoning Regulations, of the City of Bee Cave Unified Development Code and Map as a whole.

Ord. 521 – Hwy 71 W of Vail Divide Zoning

SECTION 4: Repealer. All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of such conflict.

SECTION 5. Notice and Meeting Clause. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION 6. Effective Date. That this Ordinance shall take effect immediately from and after its passage.

PASSED AND APPROVED by the City Council of the City of Bee Cave, Texas, on the ____ day of _____, 2023.

CITY OF BEE CAVE, TEXAS

Kara King, Mayor

ATTEST:

Kaylynn Holloway, City Secretary

APPROVED AS TO FORM:

City Attorney
Ryan Henry, Law Offices of Ryan Henry, PLLC

Exhibit “A”

Property Description



DOUCET

**11.13 Acre Highway 71 Annexation Tract Description
Travis County, Texas**

7401B Highway 71 West, Suite 160, Austin, TX 78735

Office: 512.583.2600

Fax: 512.583.2601

Doucetengineers.com

“Exhibit “-----”

D&A Job No. 2051-003

September 8, 2023

DESCRIPTION

BEING A 11.13 ACRE TRACT OF LAND IN THE T.C. RR. CO. SURVEY, ABSTRACT NUMBER 2259, AND THE T.C. RR. CO. SURVEY, ABSTRACT NUMBER 2525, TRAVIS COUNTY, TEXAS, SAID 11.13 ACRE TRACT OF LAND BEING A PORTION OF STATE HIGHWAY 71 (A VARIABLE WIDTH RIGHT-OF-WAY), DESCRIBED IN A DEED TO THE STATE OF TEXAS IN VOLUME 790, PAGE 582, DEED RECORDS, TRAVIS COUNTY, TEXAS, SAID 11.13 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY THE METES AND BOUNDS AS FOLLOWS:

BEGINNING at a calculated point on the north right-of-way line of said State Highway 71, for the southernmost southeast corner of Final Plat of Lot 1A, 1B and 1C, Block A of Falconhead West, Phase 1, Section 2 & Phase 2, a subdivision of record in Document Number 201700231 of the Official Public Records, Travis County, Texas [O.P.R.T.C.T.], same being the southwest corner of a called 22.997 acre tract described in a deed to Protestant Episcopal Church Council of the Diocese of Texas, recorded in Document Number 2018104077, O.P.R.T.C.T., and the northeast corner of the tract described herein;

THENCE over and across said State Highway 71, S28°04'41"W, a distance of 162.74 feet to a calculated point in the south right-of-way line of State Highway 71, for the northwest corner of Bella Colinas Commercial Plat, a subdivision of record in Document Number 201600051 O.P.R.T.C.T., same being the northeast corner of a called 136.059 acre tract of land described in a deed to Lake Travis Independent School District in Document Number 2010014061, O.P.R.T.C.T., and the southeast corner of the tract described herein;

THENCE with the south right-of-way line of said State Highway 71, same being the north line of said Lake Travis Independent School District tract, and the south line of the tract described herein, the following three (3) courses and distances:

- 1) N84°33'47"W, a distance of 168.86 feet to a calculated point of curvature,
- 2) With a curve to the left, defined by an arc length of 1,531.04 feet, a radius of 5,639.33 feet, a delta angle of 15°33'19", and a chord which bears S87°39'02"W, a distance of 1,526.34 feet to a calculated point of tangency, and
- 3) S79°54'05"W, at distance of 276.48 feet passing a calculated point for the northwest corner of said Lake Travis Independent School District Tract, same being the northeast corner of Sweetwater Crossing Lot 9, Block A Final Plat, a subdivision of record in Document Number 201700109 O.P.R.T.C.T., continuing for a total of 986.80 feet to a calculated point of curvature in the common line of State Highway 71 and the north line of said Sweetwater Crossing Lot 9, Block A Final Plat, and the south line of the tract described herein;

THENCE with the south right-of-way line of said State Highway 71, same being the north line of said Sweetwater Crossing Lot 9, Block A Final Plat, and with said curve to the right, defined by an arc length of 63.83 feet, a radius of 1,522.37 feet, a delta angle of 02°24'09", and a chord which bears S80°57'37"W, for a distance of 63.83 feet, to a calculated point for a northwestern corner of said Sweetwater Crossing Lot 9, Block A Final Plat, same being the northeastern corner of Sweetwater Crossing Phase One Final Plat, a subdivision of record described in Document Number 201700299 O.P.R.T.C.T., also being a point on curve to the right for the tract described herein;

THENCE with the south right-of-way line of said State Highway 71, same being the north line of said Sweetwater Crossing Phase One Final Plat, and continuing with a curve to the right, defined by an arc length of 340.85 feet, a radius of 1,522.37 feet, a delta angle of 12°49'41", and a chord which bears S88°34'54"W, for a distance of 340.14 feet, to a calculated point for the southwest corner of the tract described herein;

(CONTINUED ON NEXT PAGE)



“Exhibit “-----”

THENCE over and across the said State Highway 71 right-of-way, N00°00'00"E, a distance of 178.80 feet to a calculated point in the north right-of-way line of State Highway 71, for the southwest corner of Mansions at Lakeway, a subdivision of record in Document Number 201300276, O.P.R.T.C.T., same being the southwest corner of Falconhead West Phase 1, Section 2 & Phase 2 Final Plat, a subdivision of record in Document Number 200800106, O.P.R.T.C.T., for a point of curvature and the northwest corner of the tract described herein;

THENCE with the north right-of-way line of said State Highway 71, same being the south line of said Falconhead West Phase 1, Section 2 & Phase 2 Final Plat, and the north line of the tract described herein, the following four (4) courses and distances;

1. With a curve to the left, defined by an arc length of 373.01 feet, a radius of 1,342.39 feet, a delta angle of 15°55'15", and a chord which bears N87°42'00E, for a distance of 371.81 feet, to a calculated point,
2. N83°41'22"E, a distance of 447.21 feet to a calculated point,
3. N79°50'35"E, a distance of 541.10 feet to a calculated point of curvature, and
4. With a curve to the right, defined by an arc length of 1,051.53 feet, a radius of 5,789.58 feet, a delta angle of 10°24'23", and a chord which bears N85°02'47E, for a distance of 1,050.09 feet, to a calculated point on curve to the right, said point being on the west right-of-way line of Vail Divide (a variable width right-of-way) as described in Document Number 200800106, O.P.R.T.C.T.,

THENCE with the north right-of-way line of said State Highway 71, same being the south line of said Vail Divide, also being the north line of the tract described herein with said curve to the right, defined by an arc length of 100.27 feet, a radius of 5,789.58 feet, a delta angle of 0°59'32", and a chord which bears S89°15'16E, for a distance of 100.27 feet, to a calculated point on curve to the right, being a southwest corner of Final Plat of Lot 1A, 1B, and 1C, Block A of Falconhead West, Phase 1, Section 2, & Phase 2, a subdivision of record in described in Document Number 201700231, O.P.R.T.C.T.,

(CONTINUED ON NEXT PAGE)

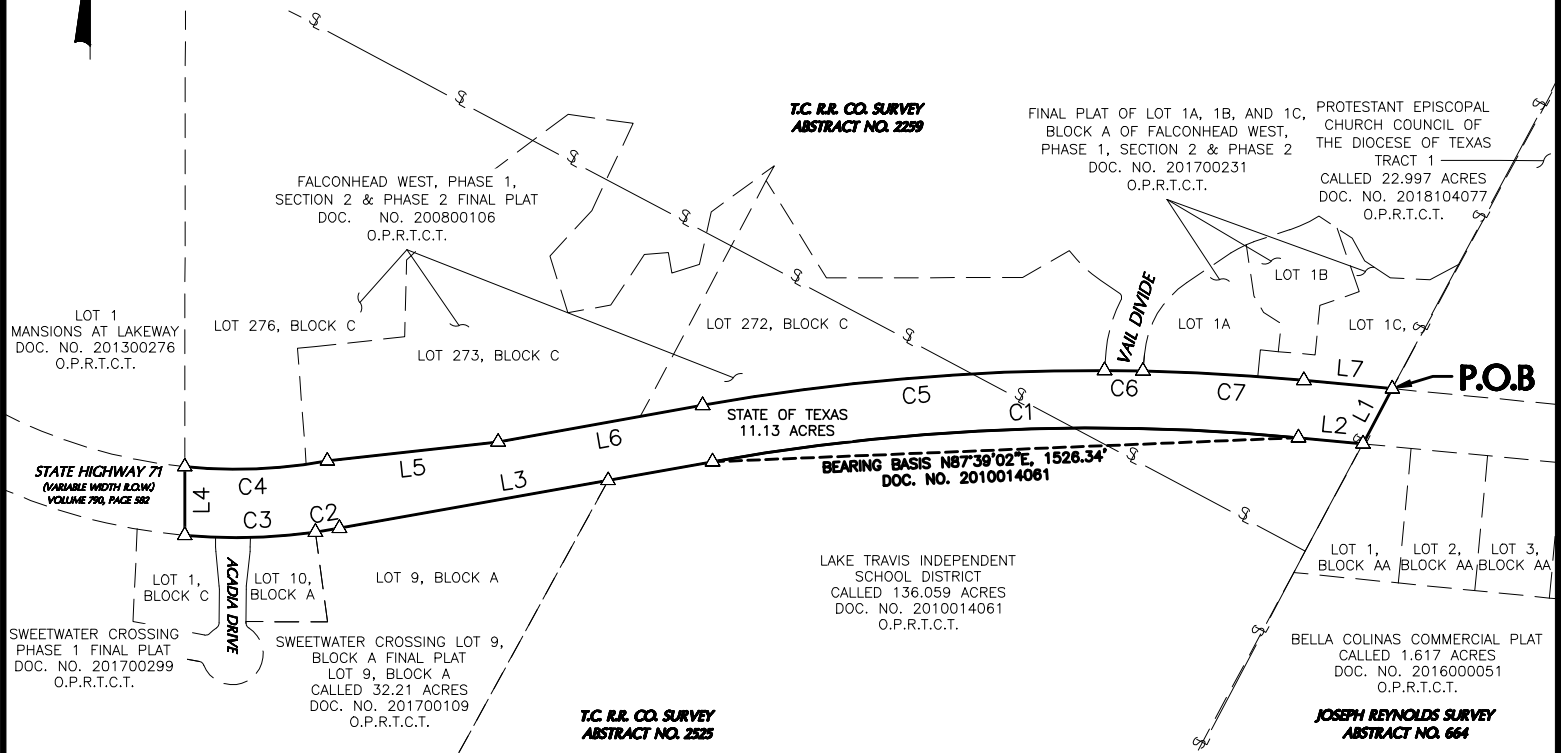


COMMITMENT YOU EXPECT | EXPERIENCE YOU NEED | PEOPLE YOU TRUST



CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	1,531.04'	5,639.33'	15°33'19"	S87°39'02"W	1,526.34'
C2	63.83'	1,522.37'	2°24'09"	S80°57'37"W	63.83'
C3	340.85'	1,522.37'	12°49'41"	S88°34'54"W	340.14'
C4	373.01'	1,342.39'	15°55'15"	N87°42'00"E	371.81'
C5	1,051.53'	5,789.58'	10°24'23"	N85°02'47"E	1,050.09'
C6	100.27'	5,789.58'	0°59'32"	S89°15'16"E	100.27'
C7	419.47'	5,789.58'	4°09'04"	S86°40'57"E	419.38'

LEGEND	
	PROPERTY LINE
	ADJOINER PROPERTY LINE
	APPROXIMATE SURVEY LINE
	CALCULATED POINT
P.O.B.	POINT OF BEGINNING
DOC. NO.	DOCUMENT NUMBER
R.O.W.	RIGHT-OF-WAY
O.P.R.T.C.T.	OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS



SURVEYOR'S NOTE:

ALL BEARINGS, DISTANCES AND CURVES SHOWN HEREON ARE RECORD AND DO NOT REFLECT THE THE RESULTS OF AN ON THE GROUND SURVEY.

THIS DOCUMENT WAS PREPARED UNDER 22 TAC §663.21, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S28°04'41"W	162.74'
L2	N84°33'47"W	168.86'
L3	S79°54'05"W	986.80'
L4	N00°00'00"E	178.80'
L5	N83°41'22"E	447.21'
L6	N79°50'35"E	541.10'
L7	S84°36'22"E	231.62'



GRAPHIC SCALE: 1" = 500'

**11.13 ACRE
TRACT EXHIBIT**

**CITY OF BEE CAVE,
TRAVIS COUNTY, TEXAS**



DOUCET

Civil Engineering // Entitlements // Geospatial
7401 B. Highway 71 W, Ste. 160
Austin, TX 78735, Tel: (512)-583-2600
www.doucetengineers.com
TBPELS Firm Number: 3937
TBPELS Firm Number: 10194551

Date: 09/08/2023

Scale: 1" = 500'

Drawn by: BSS

Reviewer: JA/JB

Project: 2051-003

Sheet: 4 of 4

Field Book: N/A

Party Chief: N/A

Survey Date: 9/7/2023

ORDINANCE NO. 520

AN ORDINANCE ANNEXING TERRITORY ADJACENT AND CONTIGUOUS TO THE CITY OF BEE CAVE TERRITORIAL AND JURISDICTIONAL BOUNDARIES CONSISTING OF A 11.13 ACRE TRACT OF STATE HIGHWAY 71 WEST RIGHT-OF-WAY GENERALLY LOCATED ADJACENT TO CANYONSIDE AT FALCONHEAD WEST CONDOMINIUMS (COMMON AREA), BEE CAVE, TEXAS, WHICH PROPERTY IS MORE FULLY DESCRIBED IN EXHIBIT A, INTO THE CITY OF BEE CAVE, TEXAS AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID PROPERTY; DIRECTING THE CITY SECRETARY TO FILE A CERTIFIED COPY OF THIS ORDINANCE WITH CERTAIN AUTHORITIES; DIRECTING THAT THE MAP OF THE CITY BOUNDARIES AND EXTRATERRITORIAL JURISDICTION BE REVISED TO INCLUDE THE ANNEXED TERRITORY; PROVIDING FOR APPROVAL OF THE SERVICE PLAN ATTACHED HERETO AS EXHIBIT “B”; GRANTING TO SAID PROPERTY AND ALL FUTURE INHABITANTS ALL OF THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID FUTURE INHABITANTS BY ALL OF THE ACTS AND ORDINANCES OF SAID CITY; PROVIDING FOR SEVERABILITY; PROPER NOTICE AND MEETING; EFFECTIVE DATE.

WHEREAS, the City desires to annex real property owned by the Texas Department of Transportation and is adjacent to the City’s territorial and jurisdictional boundaries; and

WHEREAS, the City’s home-rule charter allows it to annex territory; and

WHEREAS, the City is authorized, pursuant to its home-rule authority as well as pursuant to Texas Local Government Code §43.1055 to additionally annex a public right-of-way of a road or highway in order to achieve contiguity; and

WHEREAS, all procedural and substantive prerequisites to annexation have occurred, including notice in the newspaper for at least twenty days prior to the public hearing and allowing for comments from citizens regarding the annexation; and

WHEREAS, the Property being annexed pursuant to this ordinance is the property described in Exhibit “A”; and

WHEREAS, a service plan for the Property has been prepared as required by law, and a copy of that service plan is attached hereto as Exhibit “B” and incorporated herein for all purposes;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE

CITY OF BEE CAVE, TEXAS, THAT THE BELOW IDENTIFIED PROPERTY IS HEREBY ANNEXED BY THE CITY OF BEE CAVE AS FOLLOWS:

SECTION 1. TERRITORY. Pursuant to the authority granted by Chapter 43 of the Texas Local Government Code, and the Bee Cave Home Rule Charter, the City of Bee Cave hereby annexes to the City of Bee Cave the territory described in Attachment A by metes and bounds and incorporated by reference herein. Such annexation is for full purposes including all privileges and liabilities extended to inhabitants of such territory.

That the boundary limits of the City of Bee Cave be and the same are hereby extended to include the above described territory within the city limits of the City of Bee Cave, and the same shall hereafter be included within the territorial limits of said city, and the inhabitants and future inhabitants thereof shall hereafter be entitled to all the rights and privileges of other citizens of the City of Bee Cave and they shall be bound by the acts, ordinances, resolutions, and regulations of the City.

The land and territory lying outside of, but adjacent to and adjoining the City of Bee Cave, Texas, more particularly described as that portion of the tract of land described in Exhibit "A," attached hereto and incorporated herein by reference, shall hereafter be included within the boundary limits of said City, and the present boundary limits of said City, at the various points contiguous to the area described in Exhibit "A," are altered and amended so as to include said area within the corporate limits of the City of Bee Cave, Texas.

SECTION 2. SERVICE PLAN. That the service plan for the Annexation Area, attached hereto as Exhibit "B" is hereby approved as part of this Ordinance and incorporated herein for all purposes.

SECTION 3. OFFICIAL MAP. The City Manager is hereby authorized and directed to take — appropriate action to have the official map of the City revised to reflect the additions to the City's Corporate Limits and the City Secretary is hereby authorized and directed to provide appropriate notice to the State of Texas and the County of Travis of this annexation.

SECTION 4. ZONING. Pursuant to City ordinances, newly annexed territory shall be zoned by default as AG upon annexation, unless such territory is zoned differently at the time of annexation. The territory herein described an annexed is hereby zoned pursuant to any adopted zoning ordinance applicable to the property at the same meeting in which this ordinance is passed. Should no other zoning ordinance be adopted at the same meeting as this ordinance, then the property is zoned by default as AG and shall remain as such until properly altered by the City Council.

SECTION 5. CUMULATIVE CLAUSE. That this Ordinance shall be cumulative of all provisions of the City of Bee Cave Code of Ordinances except where the provisions of this Ordinance are in direct conflict with the provisions of such existing Ordinance, in which event the conflicting provisions of such existing Ordinance are hereby repealed, and this Ordinance controls.

SECTION 6 SEVERABILITY. That it is hereby declared to be the intent of the City Council for the City of Bee Cave that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional phrases, sentences, paragraphs, or sections.

SECTION 7. PROPER NOTICE AND MEETING. It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION 8. EFFECTIVE DATE. This Ordinance shall be effective upon passage and publication as required by governing law.

DULY PASSED AND APPROVED, on the _____ day of _____, 2023, at a regular meeting of the City Council of the City of Bee Cave, Texas, which was held in compliance with the Opening Meetings Act, Gov't Code §551.001. et. Seq. at which meeting a quorum was present and voting.

CITY OF BEE CAVE, TEXAS

Kara King, Mayor

ATTEST:

Kaylynn Holloway, City Secretary

APPROVED:

City Attorney
Ryan Henry, Law Offices of Ryan Henry, PLLC

Exhibit A
Property Description



DOUCET

**11.13 Acre Highway 71 Annexation Tract Description
Travis County, Texas**

7401B Highway 71 West, Suite 160, Austin, TX 78735

Office: 512.583.2600

Fax: 512.583.2601

Doucetengineers.com

“Exhibit “-----”

D&A Job No. 2051-003

September 8, 2023

DESCRIPTION

BEING A 11.13 ACRE TRACT OF LAND IN THE T.C. RR. CO. SURVEY, ABSTRACT NUMBER 2259, AND THE T.C. RR. CO. SURVEY, ABSTRACT NUMBER 2525, TRAVIS COUNTY, TEXAS, SAID 11.13 ACRE TRACT OF LAND BEING A PORTION OF STATE HIGHWAY 71 (A VARIABLE WIDTH RIGHT-OF-WAY), DESCRIBED IN A DEED TO THE STATE OF TEXAS IN VOLUME 790, PAGE 582, DEED RECORDS, TRAVIS COUNTY, TEXAS, SAID 11.13 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY THE METES AND BOUNDS AS FOLLOWS:

BEGINNING at a calculated point on the north right-of-way line of said State Highway 71, for the southernmost southeast corner of Final Plat of Lot 1A, 1B and 1C, Block A of Falconhead West, Phase 1, Section 2 & Phase 2, a subdivision of record in Document Number 201700231 of the Official Public Records, Travis County, Texas [O.P.R.T.C.T.], same being the southwest corner of a called 22.997 acre tract described in a deed to Protestant Episcopal Church Council of the Diocese of Texas, recorded in Document Number 2018104077, O.P.R.T.C.T., and the northeast corner of the tract described herein;

THENCE over and across said State Highway 71, S28°04'41"W, a distance of 162.74 feet to a calculated point in the south right-of-way line of State Highway 71, for the northwest corner of Bella Colinas Commercial Plat, a subdivision of record in Document Number 201600051 O.P.R.T.C.T., same being the northeast corner of a called 136.059 acre tract of land described in a deed to Lake Travis Independent School District in Document Number 2010014061, O.P.R.T.C.T., and the southeast corner of the tract described herein;

THENCE with the south right-of-way line of said State Highway 71, same being the north line of said Lake Travis Independent School District tract, and the south line of the tract described herein, the following three (3) courses and distances:

- 1) N84°33'47"W, a distance of 168.86 feet to a calculated point of curvature,
- 2) With a curve to the left, defined by an arc length of 1,531.04 feet, a radius of 5,639.33 feet, a delta angle of 15°33'19", and a chord which bears S87°39'02"W, a distance of 1,526.34 feet to a calculated point of tangency, and
- 3) S79°54'05"W, at distance of 276.48 feet passing a calculated point for the northwest corner of said Lake Travis Independent School District Tract, same being the northeast corner of Sweetwater Crossing Lot 9, Block A Final Plat, a subdivision of record in Document Number 201700109 O.P.R.T.C.T., continuing for a total of 986.80 feet to a calculated point of curvature in the common line of State Highway 71 and the north line of said Sweetwater Crossing Lot 9, Block A Final Plat, and the south line of the tract described herein;

THENCE with the south right-of-way line of said State Highway 71, same being the north line of said Sweetwater Crossing Lot 9, Block A Final Plat, and with said curve to the right, defined by an arc length of 63.83 feet, a radius of 1,522.37 feet, a delta angle of 02°24'09", and a chord which bears S80°57'37"W, for a distance of 63.83 feet, to a calculated point for a northwestern corner of said Sweetwater Crossing Lot 9, Block A Final Plat, same being the northeastern corner of Sweetwater Crossing Phase One Final Plat, a subdivision of record described in Document Number 201700299 O.P.R.T.C.T., also being a point on curve to the right for the tract described herein;

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(CONTINUED ON NEXT PAGE)



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3. N79°50'35"E, a distance of 541.10 feet to a calculated point of curvature, and
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THENCE with the north right-of-way line of said State Highway 71, same being the south line of said Vail Divide, also being the north line of the tract described herein with said curve to the right, defined by an arc length of 100.27 feet, a radius of 5,789.58 feet, a delta angle of 0°59'32", and a chord which bears S89°15'16E, for a distance of 100.27 feet, to a calculated point on curve to the right, being a southwest corner of Final Plat of Lot 1A, 1B, and 1C, Block A of Falconhead West, Phase 1, Section 2, & Phase 2, a subdivision of record in described in Document Number 201700231, O.P.R.T.C.T.,

(CONTINUED ON NEXT PAGE)

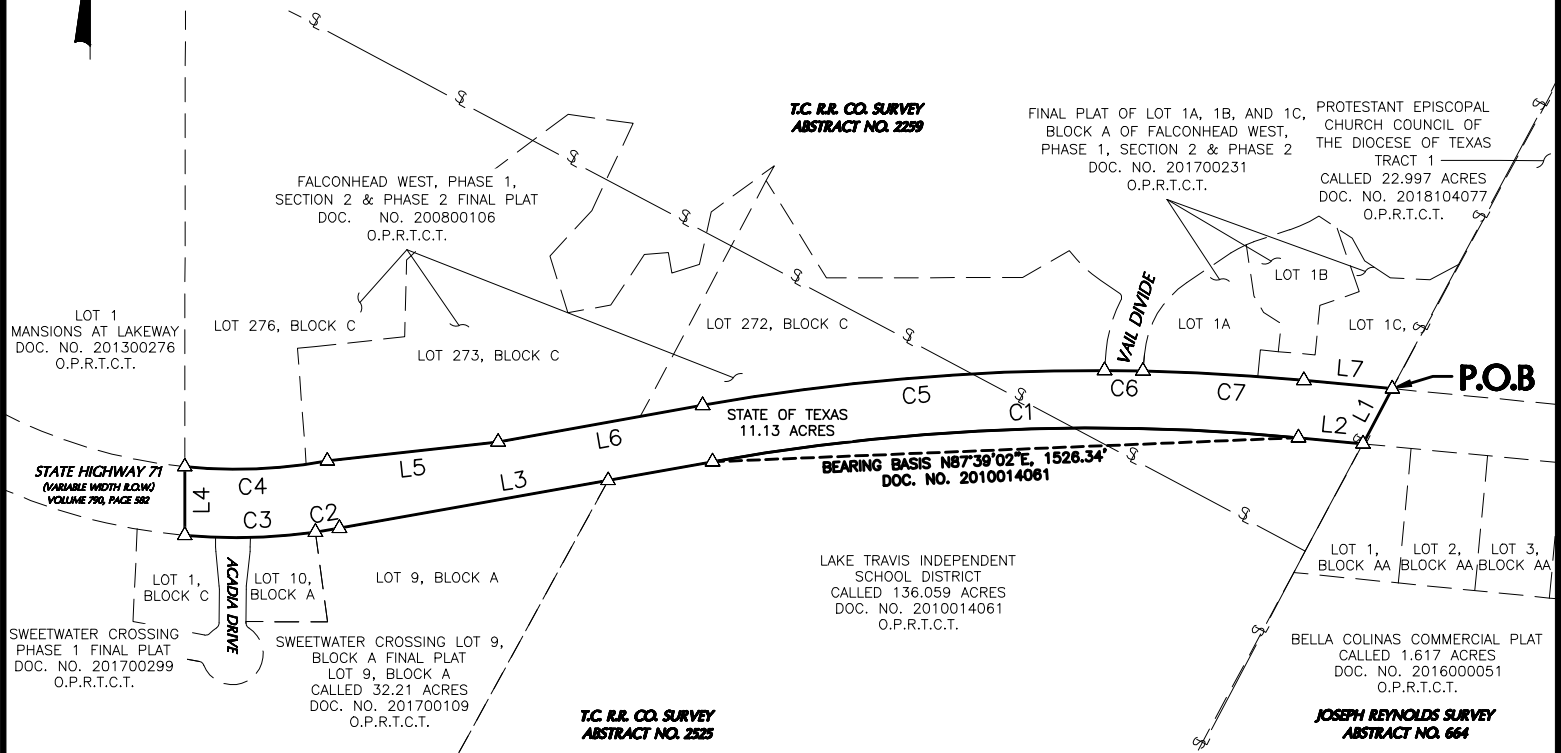


COMMITMENT YOU EXPECT | EXPERIENCE YOU NEED | PEOPLE YOU TRUST



CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
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LEGEND	
	PROPERTY LINE
	ADJOINER PROPERTY LINE
	APPROXIMATE SURVEY LINE
	CALCULATED POINT
P.O.B.	POINT OF BEGINNING
DOC. NO.	DOCUMENT NUMBER
R.O.W.	RIGHT-OF-WAY
O.P.R.T.C.T.	OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS



SURVEYOR'S NOTE:

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LINE TABLE		
LINE	BEARING	DISTANCE
L1	S28°04'41"W	162.74'
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L5	N83°41'22"E	447.21'
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GRAPHIC SCALE: 1" = 500'

**11.13 ACRE
TRACT EXHIBIT**

**CITY OF BEE CAVE,
TRAVIS COUNTY, TEXAS**



DOUCET

Civil Engineering // Entitlements // Geospatial
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TBPELS Firm Number: 3937
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Date: 09/08/2023

Scale: 1" = 500'

Drawn by: BSS

Reviewer: JA/JB

Project: 2051-003

Sheet: 4 of 4

Field Book: N/A

Party Chief: N/A

Survey Date: 9/7/2023

Exhibit B
Service Plan

CITY OF BEE CAVE
ANNEXATION SERVICE PLAN

11.13 ACRE TRACT OF LAND IN THE T.C. RR. CO. SURVEY, ABSTRACT NUMBER 2259, AND THE T.C. RR. CO. SURVEY, ABSTRACT NUMBER 2525, TRAVIS COUNTY, TEXAS, SAID 11.13 ACRE TRACT OF LAND BEING A PORTION OF STATE HIGHWAY 71 (A VARIABLE WIDTH RIGHT-OF-WAY), DESCRIBED IN A DEED TO THE STATE OF TEXAS IN VOLUME 790, PAGE 582, DEED RECORDS, TRAVIS COUNTY, TEXAS, TO BE ANNEXED INTO THE CITY ON NOVEMBER 14, 2023.

SERVICES TO BE RENDERED AS OF THE EFFECTIVE DATE OF CITY'S
ANNEXATION ORDINANCE FOR THE ANNEXED PROPERTY

Pursuant to Section 43.056 of the Texas Local Government Code, Municipal facilities and services to the Annexed Property Area described above will be provided or made available on behalf of the City at the following levels and in accordance with the following schedule:

1. POLICE PROTECTION

- A. *Existing Services:* Currently, the Area is under the jurisdiction of Travis County Sheriff's Office.
- B. *Services to be Provided:* The City and its Police Department will provide police protection to the newly annexed Area at the same or similar level of service now being provided to other areas of the City with similar topography, land use and population as that within the newly annexed Area. It is anticipated that the implementation of police patrol activities can be effectively accommodated within the current budget and staff appropriation. The City has a Municipal Court that is a Municipal Court of Record and of competent jurisdiction to handle Class C Misdemeanors.

2. FIRE PROTECTION

- A. *Existing Services:* Currently, the Area is under the jurisdiction of Emergency Service District Number 6/Lake Travis Fire and Rescue ("LTFR").
- B. *Services to be Provided:* The City does not provide fire protection services. LTFR will continue to provide fire protection service. The City is not aware that the annexation of this property will change or impact fire protection services provided to the Area by LTFR. The LTFR Station #3 is located next to the City's Police Departments. The distance from Station #3 to the subject property is approximately 2.9 miles. The distance from the LTFR Station #2 is 5 miles and from Station # 1 is 9.3 miles.

3. EMERGENCY MEDICAL SERVICES

- A. *Existing Services:* Currently, the Area is under the jurisdiction of Travis County and the City of Austin.
- B. *Services to be Provided:* The City does not provide emergency medical services. Travis County and the City of Austin will continue to provide emergency medical services. The City is not aware that the annexation of this property will change or impact emergency medical services provided to the Area.

4. SOLID WASTE COLLECTION

- A. *Existing Services:* None
- B. *Services to be Provided:* Solid waste collection services are provided by several commercial companies in the area. As of the preparation of this Service Plan, Bee Cave does not specify which company will be used, though it is in the midst of a Request for Proposal process for provision of solid waste services. There is a solid waste collection and transfer station located within 3.5 miles of the subject property. Upon compliance with all City ordinances, policies and regulations, solid waste collection will be provided to citizens in the newly annexed Area now being provided to other areas of the City with similar topography, land use and population within the City.

5. BUILDING CODES AND INSPECTION

- A. *Existing Services:* None
- B. *Services to be Provided:* The City will provide code enforcement services within the Annexed Property in accordance with the City's Code of Ordinances. This includes issuing building permits for any new construction and remodeling, and enforcing all other applicable codes which regulate building construction within the City. Costs are determined by ordinance. The City uses the 2015 International Building Code for mechanical, fire, building, plumbing and miscellaneous other items. It uses the 2017 International Electric Code for electrical work. Wastewater rules are the latest version of those published by the Texas Commission on Environmental Quality.

6. PLANNING AND ZONING

- A. *Existing Services:* The City currently has extraterritorial jurisdiction over the subdivision of land, signage and nonpoint source pollution abatement regulations related to the development of property.
- B. *Services to be Provided:* The City Council, the Planning and Zoning Commission, and City staff regulate development and land use through the administration of the City's Code of Ordinances which will extend to the newly annexed Area on the effective date of the annexation. These services can be effectively accommodated within the current budget and staff appropriation.

7. FLOODPLAIN MANAGEMENT

A. *Existing Services:* None

B. *Services to be Provided:* The Planning & Development Department of the City provides floodplain management services, and these services will extend to the newly annexed Area. These services can be effectively accommodated within the current budget and staff appropriation.

8. ANIMAL CONTROL

A. *Existing Services:* None

B. *Services to be Provided:* The City and its Police Department will provide animal control services to the newly annexed Area at the same or similar level of service now being provided to other areas of the City with similar topography, land use and population as that within the Annexed Property. It is anticipated that the implementation of animal control services can be effectively accommodated within the current budget and staff appropriation.

9. NUISANCE CONTROL

A. *Existing Services:* The City has jurisdiction over Nuisances within City limits and property located within 5,000 feet of City limits, which encompasses this annexed area.

B. *Services to be Provided:* The City, its Police Department, and Planning & Development Department will provide nuisance control services through the administration of the City's Code of Ordinances to the newly annexed Area at the same or similar level of service now being provided to the newly annexed Area and to other areas of the City with similar topography, land use and population. It is anticipated that the continuation of nuisance control services can be effectively accommodated within the current budget and staff appropriation.

10. WATER SERVICES

A. *Existing City Services:* Currently, water service is provided by the West Travis County Public Utility Agency ("WTCPUA").

B. *Services to be Provided:* Retail water service will be provided by the WTCPUA. Persons utilizing water wells shall be permitted to continue to utilize the same until such time, if ever, that service is requested from the WTCPUA or such persons become required by operation of law to connect to the WTCPUA's water systems. New development on lots or tracts to which WTCPUA water service is not readily available shall be permitted to utilize water wells unless and until WTCPUA water service becomes available at that location. Operation and maintenance of water will be provided by the WTCPUA on the same basis and at the same level as provided

throughout the City with comparable topography, land use and population density in accordance with existing Ordinances; including Ordinances governing subdivisions in effect on the date of development which require a developer, at the developer's cost, to extend and install water lines.

11. SANITARY SEWER SERVICE

- A. *Existing City Services:* Currently, wastewater service is provided by the WTCPUA.
- B. *Services to be Provided:* Retail wastewater service will be provided by the WTCPUA. Sanitary Sewer Service shall be provided by the same means by which the WTCPUA extends such services to any other area of the City and shall at no time be at a lower level of services currently provided in the Annexed Property. Persons currently receiving such service(s) from the WTCPUA shall continue to receive the same, consistent with City ordinances in effect on the date of development. Persons utilizing septic systems shall be permitted to continue to utilize the same until such time, if ever, that service is requested from the WTCPUA, or such persons become required by operation of law to connect to the WTCPUA's wastewater system. New development on lots or tracts of sufficient size to support septic systems shall be allowed to install septic systems unless WTCPUA sanitary sewer service is or becomes available at that location. Operation and maintenance of wastewater facilities will be provided by the WTCPUA on the same basis and at the same level as provided throughout the City with comparable topography, land use and population density in accordance with Ordinances; including Ordinances which require a developer, at the developer's cost, to extend and install wastewater lines.

12. MAINTENANCE OF WATER AND WASTEWATER FACILITIES

- A. *Existing Services:* Currently, water and wastewater services are provided by the WTCPUA.
- B. *Services to be Provided:* The City does not provide water or wastewater services, nor maintain the respective facilities of the WTCPUA. The City is not aware that the annexation of this property will change or impact water and wastewater services provided to the Area by the WTCPUA.

13. MAINTENANCE OF ROADS AND STREETS

- A. *Existing Services:* There is a State road in the Area to be annexed. The City has a Municipal Maintenance Agreement ("MMA") with Texas Department of Transportation ("TxDOT") to maintain the road and right of way.
- B. *Services to be Provided:* The right-of-way and road will continue to be owned by the TxDOT, and maintained by the City, in partnership with TxDOT pursuant to the

MMA.

14. MAINTENANCE OF PARKS, PLAYGROUNDS AND SWIMMING POOLS

- A. *Existing Services:* There are no public parks, playgrounds, or public swimming pools located in the Annexed Property.
- B. *Services to be Provided:* Bee Cave has a 50 acre park with playgrounds, walking trail and facilities that can be used for picnics, etc. and an approximately 144 acre primitive park. The City has a Sculpture Park located adjacent to the Police Department. Also, within the City limits, the Lake Travis Youth Association provides baseball and soccer fields. The City has City Administrative Offices. The City Hall portion of those offices is available for limited local use, i.e., civic events, meetings, etc. Within close proximity to the subject property are several golf courses, tennis courts, etc. These are not operated by the City, but are available through various kinds of membership arrangements.

15. LIBRARY SERVICE

- A. *Existing service:* Yes.
- B. *Services to be Provided:* The City of Bee Cave has a municipal library located in City Hall at 4000 Galleria Parkway. It is available to the public through membership. It is located 3.8 miles northwest of the subject property. Lake Travis Community Library, located at 1938 Lohmans Crossing, is also available to the public through membership. The library at Lake Travis Independent School District High School is open to students within the District.

16. ELECTRICAL SERVICE AND STREET LIGHTING

- A. *Existing service:* Electric service is provided by Austin Energy.
- B. *Services to be Provided:* Austin Energy provides electricity to the area. There are no street lights provided by Bee Cave. Lighting within the annexed area will be subject to requirements and restrictions provided in City ordinances, or State Law, as applicable.

17. LAND USE

- A. *Existing City Services:* The City currently has extraterritorial jurisdiction over the subdivision of land, signage and nonpoint source pollution abatement regulations related to the development of property.
- B. *Services to be Provided:* The Annexed Property will simultaneously be zoned upon annexation by City Council to Public District . If the Annexed Property is not zoned

simultaneously, it is anticipated that the decision regarding zoning will be made soon after the annexation ordinance is passed and will be in accordance with the Ordinances of the City and the Comprehensive Plan as amended from time to time. The zoning process includes notice and public hearings. The planning and zoning jurisdiction, of the City including land use regulations etc., not already applicable in the ETJ will extend to the Annexed Property on the effective date of the annexation ordinance.

18. GAS SERVICE

- A. *Existing City Services:* Propane and natural gas services are provided by several commercial companies in the area. Bee Cave does not specify which company will be used.
- B. *Services to be Provided:* Property owners within the annexed areas will have the same options as prior to annexation. Upon compliance with all City ordinances, policies and regulations, gas service will be provided to citizens in the newly annexed Area now being provided to other areas of the City with similar topography, land use and population within the City.

19. CONSTRUCTION OF ANY CAPITAL IMPROVEMENTS

Section 43.056(e) of the Texas Local Government Code requires that the City include a program under which the City will initiate after the effective date of the annexation the acquisition or construction of capital improvements necessary for providing municipal services adequate to serve the Area. Any capital improvements to be constructed in the area being annexed shall be constructed pursuant to the terms of the City's Ordinances and policies. No capital improvements are contemplated or necessary at this time. However, if it becomes necessary to construct capital improvements to implement this Service Plan, the City shall provide such service no later than four and one-half (4½) years after the effective date of the annexation. The City reserves the right to amend this service plan to extend the period of construction in a manner that ensures that construction proceeds with all deliberate speed consistent with generally accepted engineering and architectural standards and practices and consistent with comparable topography, land use and population density, and service needs existing as of the date of this annexation.

20. FUTURE CAPITAL IMPROVEMENTS

Construction of other capital improvements shall be considered by the City in the future as the need dictates on the same basis as such capital improvements are considered throughout the City in accordance with Ordinances of the City, including Ordinances which require a developer to install or construct such capital improvements including but not limited to roads, streets, water and sewer lines.

21. UNIFORM LEVEL OF SERVICES MAY NOT BE REQUIRED

Nothing in this Service Plan shall require the City to provide a uniform level of full municipal services to each area of the City, including the Annexed Property, if different characteristics of topography, land use, and population density are considered a sufficient basis for providing different levels of service. Funding capital improvement and infrastructure necessary to provide municipal services to the Annexed Property shall be subject to and in accordance with the Ordinances of the City in effect on the date of the development including those which require that a developer install or construct such capital improvements to the property being developed.

22. TERM

This service plan shall be valid for a term of ten (10) years.