



**NOTICE OF A  
OF THE CITY COUNCIL  
Tuesday, March 15, 2022  
6:00 PM**

Don Smith  
Mayor

Ernie Burns  
Mayor Pro-Tem

Amanda Davis  
Council Member

Linzy Neal  
Council Member

Charles Ryan  
Council Member

Ryan Hanson  
Council Member

Charles West  
City Manager

AGENDA

Notice is hereby given as required by Title 5, Chapter 551.041 of the Government Code that the Van City Council and the Van Planning and Zoning Board will meet in a joint workshop Tuesday, March 15, 2022 at 6:00 PM at Van City Hall, 310 Chestnut St., Van, TX 75790. The items listed below are placed on the agenda for discussion and/or action.

The City Council reserves the right to adjourn into executive session at anytime during the course of this meeting to discuss any of the matter listed below, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.087 (Economic Development).

ZOOM

Meeting ID: 859 2828 8957 Passcode: nL9fth

The consultant hired by the city to help develop the ordinances needed to implement the City's comprehensive plan will host a weekly Zoom Meeting to discuss the progress of the ordinances. All members of the public are welcome to attend these informal meetings. This is an information and feedback gathering meeting and no decisions or actions are taken by the City Boards, Commissions, and Committees in attendance. Attendance by the appointed City groups may or not be enough members to be considered a quorum, but no action will be taken at these meetings. This meeting is not considered to be a duly called and posted meeting in accordance with the Texas Open Meetings Act. All anticipated adoption actions will take place at a duly posted meeting. Following is the ordinance adoption schedule:

March 15 – Distribute Formal Preliminary Ordinance Drafts by Email  
March 22- Review and Discuss Drafts at P & Z  
April 13-14 -Public Engagement Workshops, Report to City Council  
May 3 -Planning and Zoning Public Hearing and Recommendation  
May 12 - City Council Public Hearing May 12- City Council Adoption

- I. **CALL MEETING TO ORDER**
  - A. Roll Call and Establish a Quorum

- II. **Discussion Only**
  - A. Proposed Zoning for the City of Van
- III. **ADJOURN**


**CERTIFICATION**

I hereby certify that the above notice was posted on the bulletin board at Van City Hall, 113 W. Main, Van, Texas 75790 by 5:00 pm on Thursday March 10, 2022.

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Sereca Huff-Huggins, City Secretary

**NOTE:** If, during the meeting, any discussion of any item on the agenda should be held in a closed meeting, the Council will conduct a closed meeting in accordance with the Texas Open Meetings Act, Texas Government Code, Chapter 551, Subchapters D and E

 *Persons with disabilities who plan to attend this public meeting and who may need auxiliary aid or services are requested to contact the Van City Hall 48 hours in advance, at (903)963-7216, and reasonable accommodations will be made for assistance.*

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# **WHAT IS FORM BASED HYBRID ZONING?**

## **and**

# **HOW TO USE THIS ORDINANCE**

(THIS FORWARD IS PROVIDED FOR EXPLANATORY PURPOSES ONLY AND IS NOT TO BE INTERPRETED AS REGULATIONS)

The concept of Form Based Hybrid Zoning is not new. Saratoga Springs, New York has incorporated a hybrid form for a select district within their community. Form based codes are helpful when creating a sense of place and the attention to the public realm and a walkable environment, which is a desire of the city of Van. The benefit of a hybrid to Van is that it allows the benefits of a form-based code, without the expense and time requirement of a detailed regulating plan. It also allows a simplified version of Euclidian Zoning utilizing the “zones” that are created in the city’s comprehensive plan as Quality-of-Life Areas and associated overlays.

This ordinance provides that base zoning districts be established within the city limits that follow the boundaries of the Quality-of-Life Areas detailed in the city’s comprehensive plan. Those districts have standards that identify the space those improvements may take place within. Those standards are in a Table of Dimensions, Densities, and Access Standards that identifies Build to Lines, Height Regulations, Setback Regulations, Maximum and Minimum Densities, Lot Coverage Ratios, and Pedestrian and Vehicular Access Standards. There is also a Table of Allowable Uses that identifies the various uses and activities allowed in the various zones, including any parking standards.

So, a property owner interested in developing their property will identify their parcel, or parcels on the city’s Zoning Map to determine the zoning district they are within. The owner then will look at the Table of Dimensions, Densities, and Access Standards to determine where they may place their intended improvements. They can then see if their intended use is allowed by looking at the Table of Allowable Uses.

A person interested in developing, but without an identified property, can look at the Table of Allowable Uses, find their intended use and see which districts the intended use is allowed within. They can then look at the Zoning Map and see where those districts are that allow the desired use. They can then identify the parcels that meet their needs, based upon the constraints of the Table of Dimensions, Densities, and Access Standards.

If a person is unable to find a parcel that meets their intended objectives, they may seek a zoning change for the parcel to a district that allows their intended uses, or they may seek the establishment of, or extension of an overlay that authorizes the intended use.

This ordinance creates seven Zoning Districts in the City of Van. The Town District has 4 possible Overlay Districts, the Corridor District has 4 Overlay Districts, and the Connector District has 3 Overlay Districts.

- Rural
- Nature
- Town
- Downtown
- Corridor
- Connector
- I-20

In addition to the districts and their representative standards, there are General Standards established in the ordinance. standards contained in each component; general zoning standards are identified in this code.

- **Allowable Uses** (Article IV)
- **Dimensional Standards** (Article VI)
- **Architectural Standards** (Article VIII)

These **General Standards** contain general rules applicable to all zoning districts.

The combination of the **Form Based Hybrid Zoning District** rules and the **General Standards**, which provides general standards for all districts, constitutes the **Zoning Standards** for land within the City of Van.

To obtain a building permit, a building permit application must be completed and submitted to the Permits Division. The application is reviewed for compliance with the Zoning Standards and the Building Standards (refer to the Permits Division for a copy of the most recently adopted Building Standards).

Draft - Subject to Change

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF VAN, TEXAS, AMENDING ORDINANCES AS AMENDED, IN THEIR ENTIRETY; ADOPTING A FORM BASED HYBRID ZONING the ORDINANCE; PROVIDING ZONING DISTRICTS, ZONING REGULATIONS, AND STANDARDS FOR THE DEVELOPMENT AND USE OF LAND WITHIN THE CITY; PROVIDING THE ADOPTION OF AN OFFICIAL ZONING MAP; PROVIDING SEVERABILITY, OPEN MEETINGS AND EFFECTIVE DATE CLAUSES; PROVIDING PENALTIES; AND PROVIDING FOR RELATED MATTERS.**

**ZONING ORDINANCE**

WHEREAS, included purposes of this ordinance are to implement the goals of the Comprehensive Plan, to assist in the creation of a positive and equitable built environment, to maintain and improve the quality of life, to add diversity to and protections for our neighborhoods, to increase economic development and tax revenue, to benefit job creation, to maintain and protect the attractiveness of our community, to maximize the potential of the U. S. Interstate Highway 20 interchanges, to aid in the creation of a walkable environment with destinations, , protect property values, and provide for the public health, safety and welfare;

WHEREAS, the ordinances of the City establishing zoning districts within the City limits should be flexible to meet the changing needs of the City and its commerce and economy;

WHEREAS, this ordinance creates contextually adaptive zoning standards to increase the effectiveness of zoning districts by broadening the scope of uses while creating more choices for form integrated zoning decisions through the incorporation of site and architectural standards;

WHEREAS, a purpose of this ordinance is to provide for a diversity of residential choices in the city in locations that are compatible with the existing character of the areas the improvements are contemplated within.

WHEREAS, a purpose of this ordinance is to streamline the development process by adding more administrative flexibility and by creating better defined standards that can be easily understood and objectively enforced;

WHEREAS, a purpose of this ordinance is to maintain and improve high standards of development while creating greater variety to the community fabric;

WHEREAS, additional purposes of this ordinance are to stimulate economic development by creating more effective zoning standards with greater available options, by creating a more diversified work force through the creation of more housing alternatives, by establishing standards that will add greater certainty to development expectations, and by establishing high standards that will improve quality of life and the work environment thereby making the community more attractive for business development and growth;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VAN, TEXAS, THAT:

# ARTICLE I - GENERAL

## SECTION 1: AUTHORITY

This ordinance is adopted pursuant to the police powers of the City of Van and under the authority of the State of Texas, the Constitution and general laws of the State of Texas, including, but not limited to, *Chapter 211, Texas Local Government Code*.

## SECTION 2: TITLE

This ordinance shall be known, and may be cited, as the Form Based Hybrid Zoning Ordinance, or Zoning Ordinance of the City of Van, Texas.

## SECTION 3: GENERAL PURPOSE

- (a) The general purposes of this ordinance are as follows:
- To ensure progress towards meeting the goals and visions of the City of Van as expressed in the City of Van Comprehensive Plan adopted November 11, 2021.
  - To provide reasonable regulations and requirements to protect, preserve, improve and provide for the health, safety and general welfare of the present and future citizens of the City;
  - To establish a framework of zoning guidelines and criteria that will provide for and support the development of a quality living and work environment, while respecting nature in our land use and development actions; and
  - To incorporate provisions requiring all future development and redevelopment to provide a compatible plan for residential, civic, community services, commercial and industrial uses, while providing reasonable protections for both the public and persons having an ownership interest in property affected by these regulations.
- (b) This ordinance should be administered and applied consistent with its terms and provisions to serve general purposes and to result in development superior to that otherwise achievable and that will promote the following additional purposes:
- (1) Assist the safe, orderly, healthful and coordinated development of the City;
  - (2) Conserve existing and future neighborhoods;
  - (3) Protect the value of real property throughout the community;
  - (4) Conserve, develop, protect, and utilize natural resources, as appropriate and consistent with the public interest, to enhance the preservation of the environment;
  - (5) Protect and preserve places and areas of historical and cultural importance and significance to the community;
  - (6) Provide a convenient, safe, and efficient pedestrian environment offering every citizen equitable access to all improved areas of the city while lessening vehicular congestion.
  - (7) Facilitate the adequate and efficient provision of transportation, water, wastewater, schools, parks, emergency and recreational facilities, and other public requirements;
  - (8) Promote economic development through an efficient and practical means by which development will promote a prosperous economic environment;
  - (9) Promote compatible residential, commercial and industrial uses to harmoniously relate to future development and redevelopment to the existing community and facilitate the development of adjoining properties;
  - (10) Standardize the procedure and requirements for zoning, building permits, and certificates of occupancy to provide administrative efficiency and protect property owner rights; and
  - (11) Provide an opportunity and venue for the appropriate reconciliation of any differences of interest among property owners, developers, neighborhoods and the City.

- (12) Help the region retain its natural features and visual character derived from topography, woodlands, agricultural lands and activities, creeks, lakes and other aquatic environments.
- (13) Provide growth opportunities that encourage infill and redevelopment.
- (14) Enable transportation corridors to be planned in coordination with land use.
- (15) Distribute affordable housing to match job opportunities and avoid undue concentrations.
- (16) Preserve greenbelt corridors, floodways, buffer zones, and help connect neighborhoods.
- (17) Create neighborhoods and regional centers that are compact, pedestrian-oriented, and mixed-use.
- (18) Enable ordinary activities of daily living to occur within walking distance of many dwellings, allowing independence to those who do not drive.
- (19) Provide interconnected networks of thoroughfares to disperse traffic and reduce the length of automobile trips.
- (20) Provide a range of housing types and price levels within neighborhoods to accommodate diverse ages and incomes.
- (21) Integrate civic, institutional, and commercial activity with town centers, not isolated in single-use complexes.
- (22) Provide for open space including parks, squares, and playgrounds within neighborhoods.
- (23) Create quality buildings and landscaping that contribute to the physical definition of thoroughfares as civic spaces.
- (24) Planning for the pedestrian first and allowing pedestrian-oriented design to dictate the spatial form of public space.
- (25) Create architectural standards and landscape design to reflect local climate, topography, history, and building practice.
- (26) Encourage civic buildings and public gathering places to be provided at locations that reinforce community identity.

#### **SECTION 4: JURISDICTION AND INTENT**

The requirements of this ordinance shall apply to all property within the City; provide for the implementation of site development regulations; provide a voluntary guide for the development of property within the extraterritorial jurisdiction in order that such property may be developed in a manner consistent with neighboring areas and existing or planned infrastructure; and be construed and applied in a manner to give effect to the City of Van Comprehensive Plan. The development of land within the City limits should be of a quality to carry out the purpose and spirit of the policies expressed in the Comprehensive Plan and in this ordinance, rather than be limited to the minimum standards required herein.

#### **SECTION 5: FINDINGS**

The findings and recitations set out above are found to be true and correct and are hereby adopted by the City Council as findings of fact made a part hereof for all purposes. The City Council further finds and determines that the terms and provisions of this ordinance are reasonable, necessary and required to protect the public health, safety and general welfare of the City and its residents.

#### **SECTION 6: DEFINITIONS**

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future tense. Words used in the plural include the

singular, and words in the singular include the plural. The word "shall" is always mandatory. The word "herein" means in this ordinance. The word "regulations" means the provisions of any applicable ordinance, rule, regulation or policy. The word "person" means any human being or legal entity and includes a corporation, a partnership, and an incorporated or unincorporated association. The words "used or occupied" as applied to any land or building shall be construed to include the words intended, arranged, or designed to be used or occupied.

**Access** means a way of approaching or entering a property.

**Accessory Building or Accessory Structure** means:

An accessory building / structure is incidental to and customarily associated with a specific principal use or principal building on the same site, attached to or detached from the main building.

**Accessory Use** means a use on the same lot or tract of land and of a nature customarily incidental and subordinate to the principal use.

**Accessory Dwelling Unit** means an incidental building/structure on a parcel that may or may not be attached to the principal structure, is on the same lot or tract of land and serves a residential use.

**Accessory Commercial Unit** means an incidental building/structure on a parcel that may or may not be attached to the principal structure, is on the same lot or tract of land and serves a commercial use.

**Adjacent** means abutting, directly connected to, bordering or across a public ROW.

**Alley** means a minor right-of-way, dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for such access or for public utility purposes.

**Alternative Review Procedure** means the procedures set forth in Section 20B that modify the plan or plat application review process as described in Section 20B of the Subdivision Ordinance.

**Animals** means as designated in Ordinance Number [redacted] or any future amendments.

**Animal Boarding** means a commercial enterprise for lodging and feeding of more than five animals for a specified period or time where those animals are not owned by the land owner or lessee.

**Antenna** means any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves including equipment attached to a tower, building, or other structure for the purpose of providing personal wireless services. Antennas include the following types:

- (a) Omni-Directional (or "Whip") Antenna. Receives and transmits signals in a three hundred sixty (360) degree pattern, and which is up to fifteen (15) feet in height and up to four inches in diameter;
- (b) Directional (or "Panel") Antenna. Receives and transmits signals in a directional pattern typically encompassing an arc of one hundred twenty (120) degrees;
- (c) Parabolic (or "Dish") Antenna. A bowl-shaped device that receives and transmits signals in a specific directional pattern;
- (d) Ancillary Antenna. An antenna that is less than twelve (12) inches in its largest dimension and that is not directly used to provide personal wireless communication services. An example would be a global positioning satellite antenna (GPS);

(e) Other. All other transmitting or receiving equipment not specifically described in this ordinance which most closely resembles such equipment.

**Apartment House (Apartments)** means any building, or portion thereof, which is designed or occupied as the home or residence of three (3) or more households living independently of each other and doing their own cooking in the said building, and shall include flats and other multi-family dwellings.

**Applicant** means a person applying for zoning approval, a building permit, or a subdivision application with the city of Van.

**Approval** means the final approval in a series of required actions. For instance, the approval date of a zoning application requiring approval of the Commission and then the Council is the date of Council approval.

**Assisted living.** A facility providing residence, supervision and daily assistance for individuals, with common dining and recreational areas designed for the needs of the mobility impaired. Services in these establishments include assistance with routine living functions that are non-medical in nature, such as dressing, grooming, bathing, and social and recreational services, such as meal services, transportation, housekeeping, linen, and organized social activities. An assisted living facility may include an adult daycare as an accessory use. In addition, portions of the facility may be utilized for independent living without assistance. However, independent living may not be a standalone use.

**Attendant Documents** means materials needed to address the specific requirements of this ordinance which the applicant feels necessary to explain the submittal.

**Bar** means an establishment where seventy-five percent (75%) or more of monthly gross revenue sale is alcoholic beverages.

**Backage Road** means a road that runs parallel to or alongside a street and that provides the main point of access to property.

**Board** means the Board of Adjustments of the City of Van, Texas.

**Board of Adjustments** means a quasi-judicial body appointed by the Council which interprets the provisions of this ordinance as provided by state law.

**Boarding House** means a building other than a hotel occupied as a single housekeeping unit where lodging or meals are provided for persons for compensation, pursuant to previous arrangements for definite periods, but not to the public or transients.

**Buffer Zone** means a vegetated area adjacent to a creek, river, or natural drainage way that is required to be free of impervious cover and in which Development is restricted as provided in Section [REDACTED] of the Subdivision Ordinance.

**Build to Line** means a line or lines designating the location on a lot where a structure shall be erected. The façade located on a Build to Line may or may not contain the primary entrance of the building, and the Build to Line may be specified for front, side, rear facades, and required height of the buildings.

**Building** means any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind, which is permanently affixed to the land and has one or more floors and a roof.

**Building Envelope** means the area on a lot that encompasses all development including but not limited to structure and associated setbacks, decks, pools, parking, grading, and other similar improvements.

**Building Front (a.k.a. Front Primary Building Façade)** means the side or sides of the building facing a street with a door or other primary frontage features.

**Building Height** see Height.

**Building Setback Line** means a line or lines designating the limit of the area of a lot where structures may be erected. The building lines generally provide the boundaries of the permissible building footprint on any given lot and no structure or building shall be erected between a building setback line and the corresponding lot line. The building line does not apply to building projections, e.g., eaves, awnings, window boxes, and porch overhangs that do not extend further than 24" from the building line or other projections as specifically stated herein.

**Building Setback Line, Front** means a line or lines designating the minimum distance the front wall of a structure is required to be from the front property line. The front wall shall be considered to be the wall or walls on the side of the house where the front door is located. For reverse frontage lots where the front and rear of the house face a street, both frontages shall be considered the front for purposes of establishing the building setback and the exterior wall building materials. The building line does not apply to building projections, e.g., eaves, awnings, window boxes, and porch overhangs that do not extend further than two feet from the building line or other projections as specifically stated herein.

**Building Permit** means a permit issued by the City of Van which is required prior to commencing construction or reconstruction of any structure.

**Caliper** means the trunk diameter of a tree at four (4) feet above natural grade for existing trees for the purposes of a tree survey. Caliper means the trunk diameter of a tree at twelve (12") inches above natural grade for new trees.

**Carrier** means a company that provides wireless services for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

**Centerline of a Waterway** means a line that follows the lowest cross-sectional elevations of the waterway. If not readily discernible, the centerline shall be determined by (first) the low flow line, or (second) the center of the two (2) year flood plain.

**City** means the City of Van, Texas.

**City Building Official** means a member of City staff who has the duty of administering this ordinance.

**City Council or Council** means the Van City Council.

**City Engineer** means the City Engineer for the City or his/her designated representative.

**City Limits** means within the incorporated boundaries of the City.

**City Administrator** means the chief administrative officer of the City of Van, Texas as appointed by the City Council, or his/her authorized designee.

**City Staff** means the officers, departments, employees, and agents of the city assigned and designated from time to time by the City Administrator and/or Council, including but not limited to the Director of Planning, to review, comment and/or report on zoning applications.

**City Standard Details and Specifications** means a collection of City approved drawings and technical data, as amended from time to time, representing typical drainage, transportation, erosion & sedimentation control, and utility appurtenance standards.

**Clinic** means an establishment where patients, who are not lodged overnight, are admitted for examination and treatment by a group of physicians practicing medicine individually or collectively.

**Club** means a building or portion thereof or premises owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not for profit or to render a service which is customarily carried on as a business.

**Co-location** means the use of a single support system on the ground by more than one carrier (vertical co-location) and/or several support systems on an existing building or structure by more than one carrier.

**Commercial Motor Vehicle** means a motor vehicle or combination of motor vehicles used to transport passengers or property that:

- (a) has a gross combination weight rating of 17,000 or more pounds, including a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
- (b) has a gross vehicle weight rating of 17,000 or more pounds;
- (c) is designed to transport 16 or more passengers, including the driver; or
- (d) is transporting hazardous materials and is required to be placarded under 49 C.F.R. Part 172, Subpart F.

**Commission** means the Planning and Zoning Commission of the City of Van.

**Construction Plans** mean the maps, drawings, plans and specifications indicating the proposed location and design of improvements to be installed as part of a development.

**Contiguous** means adjacent property whose property lines are shared or are separated by only a street, alley, easement or right-of-way.

**Controller** means an electric timing device that operates each zone of an irrigation system for a preset time and frequency. Water conservation features include cycle and soak (multiple cycle), rain sensor capability and a water budget feature.

**Cosmetic services** means the retail services focused on matters of personal cosmetic health and beauty which are typically elective in nature, such as but not limited to hair and nail salons, spas, massage therapy, waxing, permanent makeup (meaning producing designs that resemble makeup such as eye lining and enhancing colors to the skin of the face, lips and eyelids), microblading, microdermabrasion, Botox, chemical peels, facials, tanning, eyelash extensions, and eyebrow threading. This definition does not include tattoo or piercing shops.

**Corner Lot** means a lot located contiguous to the intersection of two (2) or more streets.

**Council** means the City Council of the City of Van.

**County** means Van Zandt County.

**County Appraisal District** means the Van Zandt County Appraisal District.

**Critical Root Zone** means a circular area centered around the trunk of a Significant Tree, equal to one (1') foot in radius for each one (1") inch Caliper.

**Dark Sky** means the use of lighting in a way that directs the light source away from the sky in order for the night sky to remain relatively free of interference from artificial light. This type of lighting is in compliance with the International Dark Sky Association standards.

**Day Care Center** means a child care facility that provides care less than 24 hours a day for more than twelve (12) children under age fourteen (14) and licensed by the State of Texas.

**Developed Area** means the area of the lot or tract of land utilized for a development. When the lot is not proposed for full development and is anticipated to have additional phases of development, such area includes all portions of the lot necessary for the proposed phase of the development. Such area includes all proposed structures, parking areas, setbacks, landscaping, utilities, drainage facilities (including detention and water quality ponds), outdoor storage areas, recreational areas, and any other improvements or uses associated with the proposed development phase.

**Developer** means the legal owner or lessee of land to be improved and/or subdivided or authorized representative of any such owner or lessee.

**Development** means the construction or placement of any buildings, utilities, access, roads, parking facilities, driveways or other structures or physical improvements, excavation, mining, dredging, grading, filling, clearing or removing vegetation, and the deposit of refuse, waste or fill. Lawn and yard care, including mowing of tall weeds and grass, gardening, tree care and maintenance, removal of trees or other vegetation damaged by natural forces, and ranching and farming shall not constitute development. Utility, drainage, and street repair, and any construction maintenance and installation which does not require land disturbance or result in additional impervious cover shall also not constitute development.

**Director of Planning and Community Development or Director of Planning** means the Director of Planning and Community Development for the City or his/her designated representative.

**District** means a zoning district as described herein, which is a part of the City of Van, Texas.

**Disabled** or **Disability** means a physical or mental impairment which substantially limits one or more major life activities; a record of such impairment; or being regarded as having such an impairment, but does not include current, illegal use of a controlled substance.

**Dog Park** means a facility set aside for dogs to exercise and play off-leash in a controlled environment under the supervision of their owners.

**Double Frontage Lot** (see Reverse Frontage Lot)

**Drainageway** (see Waterway)

**Drive Approach** means a paved surface connecting the street to a front lot line.

**Driveway** means any vehicular driving surface connecting a drive approach.

**Dry Utility** means improvements placed or installed for the purpose of producing, generating, transmitting, selling or furnishing electric, telecommunications, natural gas, or propane service from a utility provider. This definition does not include improvements installed for the purpose of distributing potable or non-potable water, collecting and treating wastewater/sewage, or conveying rainfall runoff.

**Dwelling** means any building or portion thereof which is designed for or used exclusively for residential purposes, including single-family, two-family and multi-family dwellings, boarding houses, but not including hotels, motels, campers, trailers, or other similar structures.

**Dwelling, Accessory** means a secondary dwelling unit built on a legal lot in addition to a principal dwelling unit or primary residence.

**Dwelling Unit** means a residential unit designed to accommodate one (1) household for living, sleeping, eating, cooking and sanitation.

**EIA** means Electronic Industries Association.

**EIA-222** means Electronics Industries Association Standard 222, "Structural Standards for Steel Antenna Towers and Antennas Support Structures."

**ETT (Electric Transmission Tower)** means a self-supporting structure in excess of 50 feet (15 meters) in height designed to support high voltage electric lines. This does not include local utility or distribution poles (with or without transformers) designed to provide electric service to individual customers.

**Easement** means that portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above said property.

**Environment** means the aggregate of social and physical conditions that influence the life of the individual and/or community.

**Equipment Enclosure** means a small enclosed structure, shelter, cabinet, box or vault at the base of the support system within which are housed batteries, electrical equipment, mechanical equipment or other equipment either below, above or at grade.

**FAA** means Federal Aviation Administration.

**FCC** means Federal Communications Commission.

**Family** means one (1) or more individuals, not necessarily related, living together as a single household, as distinguished from a group occupying a boarding house or hotel as defined herein.

**Family Home** means the use of a site for the provision of a family-based facility providing 24-hour care in a protected living arrangement with not more than two supervisory personnel and not more than six residents who are suffering from orthopedic, visual, speech, or hearing impairments,

Alzheimer's disease, pre-senile dementia, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, autism or emotional illness.

**Filing Date** means, with respect to plans governed by this Ordinance, the date that plans are determined to be complete and are accepted for review by the City.

**Fire Chief** means the Fire Chief for the City or his/her designated representative.

**Flood Plain** means a waterway and the adjacent land area subject to inundation during the design storm.

**Floor Area, Gross** means the sum of the horizontal areas of the floors of a building measured from the exterior face of exterior walls or, if appropriate, from the center line of a dividing wall.

**Form Based Hybrid Zoning District** means a City zoning district defined by this ordinance.

**Front Yard** means an area between any required front building setback and the front property line.

**Frontage** means the width of a lot or parcel abutting a public right-of-way measured at the property line.

**Fully Automated WCF** means no on-site personnel required for the daily operation of the WCF.

**Gaming Device** means a clock, tape machine, slot machine, or other machine or device for the reception of money or other thing of value on chance or skill or upon action of which money or other thing of value is staked, hazarded, bet, won, or lost; or any mechanism, furniture, fixture, equipment or other device designed primarily for use in a gambling place. It does not include: (1) A coin-in-slot-operated mechanical device played for amusement that rewards the player with the right to replay such mechanical device; or (2) Vending machines by which full and adequate return is made for the money invested and in which there is no element of chance or hazard.

**Gaming Room Facility** means a place to deal, operate, carry on, conduct, maintain, or expose for play any game, sports book, promotion, sweepstakes, or other activity electronic or otherwise that may or may not confer upon the patrons or participants the right, chance, or ability to win and or claim prizes.

**Grade** means slope; the topographic relief of the land surface; or a standard of material such as "exterior grade".

**Grading** means any stripping, cutting, filling or stockpiling of earth or land, including the land in its cut or filled condition.

**Group Day Care Home** means a facility that provides care for less than 24 hours a day for seven (7) to twelve (12) children under fourteen (14) years old.

**Group Home** means any Group Home-Class 1, Group Home- Class 2 or Group Home-Class 3.

**Group Home-Class 1** means the use of a site for the provision of a family-based facility providing 24-hour care in a protected living arrangement for not more than 6 residents and 2 supervisory personnel; provided that a Group Home-Class 1 for not more than 16 residents and 3 supervisory personnel for the facilities listed in this definition may be located in the MF or NR Use Components.

This use includes foster homes, congregate living facilities for persons 60 years of age or older, maternity homes, and homes for persons with physical or mental impairments not listed in the description of family home use. Persons with physical or mental impairments are persons whose impairments substantially limit one or more of the persons' major life activities, who have a record of the impairment, or who are regarded as having the impairment, as defined in the Americans with Disabilities Act.

**Group Home, Class 2** means the use of a site for the provision of a family-based facility providing 24-hour care in a protected living arrangement for more than 6 but not more than 15 residents and not more than 3 supervisory personnel. This use includes foster homes, homes for the physically and mentally impaired, homes for the developmentally disabled, congregate living facilities for persons 60 years of age or older, maternity homes, emergency shelters for victims of crime, abuse, or neglect, and residential rehabilitation facilities for alcohol and chemical dependence.

**Group Home, Class 3** means the use of a site for the provision of a family-based facility providing 24-hour care in a protected living arrangement for not more than 15 residents and not more than 3 supervisory personnel. This use includes homes for juvenile delinquents, halfway houses providing residence instead of institutional sentencing, and halfway houses providing residence to those needing correctional and mental institutionalization.

**Guy Wire** means diagonal cables utilized to tie towers to the ground or other surfaces.

**Hardscape** means non-living materials utilized as landscape improvements such as sidewalks, decks, fences, statuary, fountains, benches, etc.

**Height** means the vertical distance measured from the finished floor to the highest point of any and all components of the structure, including roof, antennas, hazard lighting, and other appurtenances, if any, except for those improvements listed in Article VIII, Sec. 8.

**Heritage Tree** means a living tree that the City desires to preserve to the greatest extent possible due to its size, location, history, or any other characteristic, as determined by action of the City Council.

**Home Occupation** means an occupation that is incidental and secondary to the primary use of the premises as a residence and customarily conducted in a residential dwelling unit by a member of the occupant's family, entirely within an enclosed structure, provided such use is not detrimental or injurious to adjoining property and meets the conditions established in [Article IV, Section 9](#).

**Household** means any one of the following:

- a. One or more persons related by blood, marriage, legal guardianship, or adoption, living together in a dwelling unit.
- b. A group of not more than four persons not related by blood, marriage, adoption, or legal guardianship living together in a dwelling unit.
- c. Two unrelated persons and their children living together in a dwelling unit.

**Hotel** means a building in which lodging or boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through and inside a lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradiction to a boarding house, a lodging house, or an apartment.

**Illegal Lot** means a lot which is part of a subdivision recorded at the county, created when it was subject to approval by a governmental entity which has subdivision approval authority as

enabled by the State of Texas, was not approved by such entity, and was not otherwise exempt from such approval.

**Illegal Tract** means a tract which was created when it was subject to review by a governmental entity which has subdivision approval authority as enabled by the State of Texas, was not approved by such entity and was not otherwise exempt from such approval.

**Impervious Cover** means roads, parking areas, buildings, swimming pools, rooftop landscapes and other construction limiting the absorption of water by covering the natural land surface; this shall include, but not be limited to, all streets and pavement within the development.

**Improvements** means any street, alley, roadway, barricade, sidewalk, bikeway, pedestrian way, water distribution system, wastewater collection system, storm drainage system, public park land, landscaping, or other facility or portion thereof for which the local government may ultimately assume responsibility for maintenance and operation or which may affect an improvement for which local government responsibility is established.

**Interior Lot** means a lot other than a Corner Lot.

**Landscaping** means any combination of living plants, such as trees, shrubs, vines, groundcover, flowers or grass; natural features such as rock, stone, bark chips or shavings; and structural features, including but not limited to, fountains, reflecting pools, outdoor art work, screen walls, fences or benches.

**Landscape Plan** means a graphic that includes a planting plan, an irrigation plan and a grading plan drawn at the same scale and that clearly and accurately identify specified plants, irrigation layout, equipment, finish grade and drainage, specifications and construction details, plan sheet numbers and drawing date of plans and may include hardscape features.

**Landscape Reviewer** means an employee or agent of the City who reviews site development permit applications for compliance with the landscaping and screening requirements of the zoning ordinance.

**Lattice Tower** means a support structure that consists of a network of crossed metal braces, forming a tower that is usually triangular or square in cross section.

**Legal Lot** means either:

- (a) a lot recorded in the official county plat records pursuant to and approved in compliance with the subdivision regulations in effect at the time of the subdivision or platting of such lot, by a governmental entity or entities which had subdivision approval authority as enabled by the State of Texas; or
- (b) a lot, which is part of a subdivision recorded in the official county plat records, that existed in its present configuration prior to subdivision regulations applicable to the lot being in effect or that is otherwise exempt from such subdivision regulations.

The City of Van's subdivision regulations were first enacted on [REDACTED]. The Van Zandt County subdivision regulations were first enacted on [REDACTED].

**Legally Platted Lot** a lot which is part of a subdivision approved by a governmental entity which has, or entities which have, subdivision approval authority as enabled by the State of Texas, and recorded in the official county plat records.

**Legal Tract** means a tract of land recorded in the official county deed records and having existed in its present configuration prior to applicable subdivision regulations being in effect or otherwise being exempt from such regulations. The City of Van's subdivision regulations were first enacted on [REDACTED]. The Van Zandt County subdivision regulations were first enacted on [REDACTED].

**Licensed Carrier** means a company authorized by the FCC.

**Loading Space** means an off-street space designed or used for a vehicle while loading or unloading merchandise or materials.

**Lot** means a subdivision of land, tract or parcel intended as a unit for transfer of ownership, or for development, or for occupancy and/or use.

**Lot Depth** means the average horizontal distance between the front and rear property or lot lines.

**Lot Width** means the average horizontal distance between side property or lot lines. Lot width can also be identified as the measurement of the lot at the building setback line. The minimum lot width for lots fronting a cul-de-sac may be reduced to a minimum of thirty (30') feet at the front property line provided that the minimum required lot width is provided at the front setback line.

**Masonry** means brick, stone, or stucco.

**Mobile Home** means a residential structure constructed prior to June 15, 1976, that is transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used as a dwelling. No mobile home shall be placed or installed on any lot, tract or parcel of land within the City after the effective date of this ordinance.

**Manufactured Home** means a residential structure constructed on or after June 15, 1976, in compliance with the rules and regulations of the United States Department of Housing and Urban Development, that is transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems.

**Monopole** means a self-supporting telecommunications tower, which consists of a single vertical pole, fixed into the ground and/or attached to a foundation.

**Motel** means a building or group of buildings used as a residence for motorists or travelers.

**Multi-Family Dwelling** means a single structure designed to accommodate three (3) or more households.

**Natural Channel** means the topography of a waterway prior to construction, installation or improvements thereof.

**Natural Drainage** means a stormwater runoff conveyance system not altered by development.

**Natural State** means substantially the same conditions of the land which existed prior to its development, including but not limited to, the same type, quality, quantity and distribution of soils, ground cover, vegetation and topographic features.

**Neighborhood** means the area of the City characterized by residential land uses which is bounded by physical features (such as river, major street, common access) and/or political features (such as voting districts, subdivision boundaries).

**Neighborhood Park** means a privately owned parcel of land, within a subdivision, dedicated solely for recreational uses and maintained by the residents of said subdivision.

**Night Club** means an establishment where seventy-five percent (75%) or more of monthly gross revenue sale is alcoholic beverages and entertainment is provided.

**Non-Automated WCF** means a WCF with on-site personnel (see WCF this section).

**Nonconforming Use** means a use, building, or yard, lawfully existing on the effective date of this ordinance, which does not, by reason of design or use, conform to the regulations of the district in which it is situated.

**Non-Residential Structure** means a building or structure not constructed for residential purposes or as an accessory structure for residential purposes, not including non-conforming uses.

**Nursing home.** A facility housing and providing care for persons who are aged, chronically ill, or incurable who are unable to care for themselves, but who do not need medical, surgical or other specialized treatment normally provided by a hospital. Services typically include custodial or attendant care and meals, but may or may not provide for routine and regular medical and nursing services. Nursing home includes homes for the aged, convalescent and rest homes, but does not include assisted living or senior apartments or hospitals or similar medical facilities.

**Off-Site Improvements** means any required improvement which lies outside of the property boundary of the land being developed.

**Off-Street Parking Space** means an area for one (1) motor vehicle not on a public street or alley, with an all-weather surface. A public street shall not be classified as off-street use, however, head-in parking or parallel parking spaces protected by raised peninsulas or islands adjacent to a public street may be considered as off-street parking if approved by the Director of Planning.

**One Hundred (100) Year Flood Plain** (see Regulatory 100-year flood plain)

**Open Air Vending** means engaging in a commercial business within the City selling, displaying, exhibiting or offering for sale or for the purpose of taking orders, any goods, merchandise, products or services from any vehicle, cart, stand, stall, tent, or other such structure, from, in or upon any private premises or public property, outside a permanent, established structure which has received a certificate of occupancy and complies with the applicable zoning, building codes, and site development requirements of the City. The term does not include peddlers, solicitors, or itinerant vendors who continuously move about from place to place and who do not occupy any particular parcel of private property as a permanent or stationary place for the conduct of their business. The term shall exclude authorized mobile food, seasonal and temporary food establishments and garage sales compliant with the requirements of City code.

**Ornamental Tree** means a tree that is identified as a small tree/large shrub in the preferred plant list maintained by the Planning Department.

**Outdoor Animal Yard, Outdoor Animal Boarding or Other Un-soundproofed Animal Area** means a commercial enterprise which includes an outdoor animal yard or any other commercial un-soundproofed animal area containing five or more animals and which charges a fee for services such as animal adoption, selling, trading, sitting, boarding, kenneling, training, veterinary care or exhibits, shows or similar activities where such activities are conducted in an outdoor animal yard or any other un-soundproofed animal area; and does not include public or private animal parks or activities associated with residential uses that are not on a fee basis. Un-soundproofed animal area does not include an area within a completely enclosed building that is insulated for typical weather conditions.

**Outdoor Display** means the display of sample inventory, merchandise, consignment items or other items for sale, rent or lease and outside a permanent, established structure which has received a certificate of occupancy and complies with the applicable zoning, building codes, and site development requirements of the City. Outdoor display includes landscaping, landscaping supplies, vehicles, RV's, trailers, farm equipment, construction equipment and accessory buildings for sale, rent or lease, but display of such items, or other similar items that would normally be utilized outside, is not limited to sample items. Except for items that would normally be stored and utilized outside, outdoor display occurs only during the business hours of the applicable business establishment.

**Outdoor Storage** means the storage or placement of any inventory; building, landscaping, construction or other materials; machinery; supplies; equipment; merchandise; and items being repaired or otherwise processed, stored, re-equipped, handled, assembled, distributed, inventoried, re-fitted, mixed, parked, or altered and not located within a permanent building approved by the City for such purpose. Outdoor storage includes inactive vehicles associated with the business, farm equipment, permanent outdoor equipment, construction equipment or other equipment waiting for repair, under repair, waiting for customer pick-up or temporarily idle; RV and trailer storage; commercial vehicle parking, and wrecker impoundment vehicles. Outdoor storage does not include materials for a resident's personal use on a residential lot such as firewood, gardening materials, etc. or agricultural goods and equipment or vehicles for sale or lease.

**Overspray** means water that hits the hardscape or non-irrigated areas. Overspray is a major source of water waste in the landscape.

**Parking Module** means a parking area consisting of an aisle and parking spaces on at least one side of the aisle. Parking spaces on one side of an aisle is a single loaded parking module. Parking spaces on both sides of an aisle is a double loaded parking module.

**Parking Space** (see Off-Street Parking Space)

**Paved Area** means an area surfaced with asphalt, concrete or similar impervious pavement, providing an all-weather surface. Gravel or base material is not considered a paved surface.

**Permanent** means intended to last indefinitely, a minimum of six (6) months.

**Planting Area** means any area designed for landscape planting having a minimum of ten (10) square feet of actual plantable area and a minimum inside dimension on any side of eighteen (18") inches.

**Primary Structure** means a structure in which the principal use of the lot is conducted. For example, for single-family residential lots, the house is the primary structure.

**Privacy Fence** means an opaque fence or screen at least six (6) feet in height. A fence shall be considered opaque if it is made of opaque materials and constructed so that gaps in the fence do not exceed one-half (1/2) inch. Fences using boards placed on alternating sides of fence runners shall be considered opaque if the boards overlap at least one-half (1/2) inch.

**Private Club** (see Bar).

**Public** means, with respect to land and interests in land within the City limits, the City; and, with respect to land and interests in land within the ETJ limits, the general public.

**Public Park** means a City owned or leased parcel of land dedicated solely for public recreational uses and maintained by the City.

**Public Use** means places of non-commercial public assembly or administrative functions where the primary activity is contained within a building(s), including but not limited to churches, schools and government buildings.

**Rain Sensor** means an electric device that measures rainfall and will override the irrigation cycle of an irrigation system, turning it off when a predetermined amount of rain has fallen. It is suggested that rain sensors be set/adjusted so they automatically shut off the irrigation system after not more than one-fourth inch (1/4-inch) of rainfall has occurred. Rain sensors must be installed according to manufacturer's instructions in a location that will provide full exposure to rainfall. They should also be maintained in good working condition.

**Rainwater Harvesting System** means all improvements associated with the collection, filtration, storage and conveyance of rainwater for purposes of utilizing this water for approved uses.

**Rear Yard** means an area between any required rear building setback line and the rear property line.

**Regulatory 100-Year Flood Plain** means the One hundred (100) year flood plain as defined by the Federal Emergency Management Act (FEMA).

**Replacement Trees** means new landscape trees to be planted by the developer to replace Significant Trees, other trees, and other vegetation removed during the development of property.

**Research, Testing and Development Laboratory** means an indoor facility where scientific research and development, not including biotechnology and nanotechnology or other research deemed hazardous by the Planning or Fire Departments, is conducted and analyses performed. These uses are typically characterized by controlled uniformity of conditions (constant temperature, humidity, cleanliness). No facilities for overnight stays by human test subjects shall be provided, nor shall such overnight stays be permitted. Typical uses include pharmaceuticals, medical instrumentation or supplies, communications and information technology, electronics and instrumentation and computer hardware and software. Allowed uses do not include the mass manufacture, fabrication, or processing of products. No outdoor storage is permitted. Research involving the use of animals or human cadavers is not permitted.

**Research, Testing and Development Laboratory (Intense)** means an indoor facility where scientific research and development is conducted and analyses performed. The business may include testing laboratories for product development, including the construction and testing of prototypes. Typical uses include biotechnology, nanotechnology, pharmaceuticals, medical instrumentation or supplies, communications and information technology, electronics and instrumentation and computer hardware and software. Allowed uses also include the mass manufacture, fabrication, processing or on-site retail sale of products. Outdoor storage is permitted with the combination of the appropriate site component and adhering to the screening requirements listed in Article VI of the Form Based Hybrid Zoning city Ordinance. Research involving the use of animals or human cadavers is not permitted unless conducted wholly within a building, and must be conducted in accordance with all applicable local, state, and federal regulations.

**Residential Areas and Residential Districts** mean one or more Form Based Hybrid Zoning districts containing a residential component

**Residential Condominium and Condo** means a single-family unit that is occupied by one household. Condominium developments typically include multiple units on one lot with common ownership.

**Restaurant** means an establishment which collects revenues from the sale of prepared food for on-premise consumption and less than 75% of the revenues are from alcoholic beverages.

**Reverse Frontage Lot** means a double frontage lot which is to be developed with the rear yard adjacent to a major street and with the primary means of ingress and egress provided on an adjacent minor street.

**Reviewing Departments** means all departments of the City, or agents thereof, that engage in the review of site development permit applications for compliance with City code.

**Right-of-Way** means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, or oil or gas pipe line, water distribution main, wastewater or storm sewer main, or for other similar purpose or use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereinafter established is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-way intended for streets, crosswalks, water distribution mains, wastewater and stormwater collection systems, or any other use involving maintenance by a public agency shall be dedicated to the public by the developer where such right-of-way is established.

**Right-of-Way** (With specific regards to wireless communication facilities) means all public streets and utility easements, now and hereafter owned by the City of Van or other public entity, but only to the extent of the city or public entity's right, title, interest or authority to grant license to occupy and use such streets and easements for wireless communication facilities.

**Service Area** means contained areas within which a wireless communication facility is able to transmit clear signals, generally circular in form.

**Setback Line** (see Building Setback Line)

**Sexually Oriented Business** means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, escort agency, or nude model studio.

**Shadow flicker** means the visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

**Shrub** means any self-supporting woody evergreen and/or deciduous species.

**Side Yard** means an area between any required side building setback and the side property line.

**Sign Band** means a portion of the exterior wall of the building generally located near of the eave of a structure and out of a material different from the remainder of the wall or along the eave of a canopy, usually oriented horizontally, and including business or industry identification colors, logos, signage or other similar features.

**Significant Tree** means a living tree that the City desires to preserve to the greatest extent possible due to its size, location, history, or any other characteristic, as determined by action of the City Council.

**Single-Family Dwelling** means a building designed for or occupied exclusively by one (1) household.

**Single-Family District** means one or more Form Based Hybrid Zoning districts containing a single-family residential component

**Site Plan** means a layout of all proposed site development showing the information required on the most recent site development application/checklist and this Chapter. A copy of the most recent site development application/checklist shall be kept on file in the Planning Department. The site development shall include all utility lines and utility facilities present and proposed to be installed on private property and/or street ROW.

**Slope** means the vertical change in elevation divided by the horizontal distance over which that vertical change occurred. The slope is usually given as a percentage.

**Small wind energy system** means a wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

**Smart Code** means the Smart Code adopted by the City of Van, Texas.

**Soil** means the upper layer of the earth in which plants grow and contains humus, minerals, available nutrients, and beneficial micro-organisms, resulting in a favorable condition for vegetative growth.

**Solar Energy System** means either of the following:

- (a) Any solar collector or other solar energy device, in compliance with the applicable International Building Code, along with its ancillary equipment, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.
- (b) Any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.

**Stealth** means a telecommunications tower or antenna that is effectively camouflaged or concealed from view, i.e.: a man-made tree; clock tower; church steeple; bell tower; utility pole;

light standard; identification pylon; flagpole; or similar structure, designed to support and camouflage or conceal the presence of telecommunications antennas.

**Story** means that portion of a building other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it. A storage area above a primary use is not considered a "story" for purposes of this ordinance. If a story is variable in height, for purposes of calculating masonry and other standards associated with this ordinance, the story shall be considered to be a consistent height equal to the height of the predominant story level.

**Street** means any public or private right-of-way which affords the primary means of vehicular access to abutting property.

**Street Facing Wall** means the exterior wall of a building, including any off-sets, projections or recesses, facing a street or within forty-five (45) degrees of such orientation and within four hundred (400) feet of the street. A wall is considered facing a street even if there is another public ROW between the wall and the street. A wall is not considered facing a street if another building or other permanent screening material on site is between the wall and the street and such building or materials block the view of the wall from the street by at least seventy-five percent (75%) from all adjacent primary view angles. Five-year projected maturity of any on-site evergreen planted materials may be considered in the screening assessment.

**Street Facing Garage** a garage that has a door oriented so that it faces a street or is within forty-five (45) degrees of such orientation. A garage door is considered facing a street even if there is another public ROW between the door and the street. A garage door is not considered facing a street if another building or other permanent screening material on site is between the wall and the street and such building or materials block the view of the wall from the street by at least seventy-five percent (75%) from all adjacent primary view angles. Five-year projected maturity of any on-site evergreen planted materials may be considered in the screening assessment.

**Street Line** means that line limiting the right-of-way of the street and being identical with the property line of persons owning property fronting on the streets.

**Street Pole** means a telephone, electric or cable television pole located in a developed street right-of-way for public utility distribution.

**Street Side Yard** means an area between any required side building setback line and the side property line abutting a public right-of-way, and measured perpendicular to the building to the closest point of the side property line abutting the right-of-way.

**Stucco** means "Cement Plaster", as defined in the currently adopted version of the International Building Code (IBC), installed as an exterior wall covering in accordance with the requirements of the IBC.

**Structural Alterations** means any change in the supporting members of a structure, such as bearing walls, columns, beams, or girders.

**Structure** means any building or anything constructed or erected on the ground or which is attached to something located on the ground. Structures include, but are not limited to, buildings, telecommunication towers, sheds, covered parking, retaining walls four (4) feet or higher (measured from the bottom of the footing to the top of the wall), permanent signs and other similar improvements.

**Subdivision** means the division or re-division of land into two (2) or more lots, tracts or parcels for the purpose of development, laying out any addition to the City, or for laying out any subdivision or building lots, or any lot, street, alley, access easement, public utility easement, park or other portion intended for use by the public, or for the use of any owner, purchaser, occupant, person or entity.

**Submittal Schedule** means a schedule prepared by the Director of Planning and adopted by the Planning & Zoning Commission. This schedule shall include filing dates and action dates associated with the site development permit applications.

**Support Structure** means the structure to which an antenna and other necessary associated hardware are attached. Support structures include, but are not limited to, the following:

- (a) Non-residential structure;
- (b) Monopole – a single pole sunk into the ground and/or attached to a foundation;
- (c) Street pole – a telephone, electric or cable television pole located in a street right-of-way.

**Tiny House** means a single-family detached house that is between one hundred forty (140) square feet and seven hundred (700) square feet in size. This house is a permanent structure that is constructed on or off site.

**Tower** means a mast, pole, monopole, lattice, other structure primarily used to support antennas or an area of any building structure no larger than 15x15 ft.

**Tower, Freestanding** means a tower that is a self-supporting structure attached to the ground by a foundation, not physically attached to a building or structure.

**Townhouse** means an attached or detached single-family unit that is occupied by one household from the ground to the roof.

**Traffic Impact Analysis (TIA)** means a study of the impacts of a development on the City's transportation system conducted by a registered professional engineer.

**Trailer, Recreational Vehicle, Mobile Home or Manufactured Home Camp or Park** means a lot or tract of land utilized for two or more recreational vehicles, mobile homes, manufactured homes or similar residences manufactured with or able to be fitted with a truck (wheel and axle) assembly for the purpose of mobility.

**Transportation Criteria Manual** means the [redacted] Transportation Criteria Manual as adopted by the City of Van.

**Tree** means any living, self-supporting woody plant species which normally grows to an overall minimum height of at least fifteen (15) feet.

**Tree Survey** means a scaled drawing accurately showing the location, caliper and critical root zone of significant trees in relation to the property boundaries.

**Two (2) Family Dwelling** means a building designed for or occupied exclusively by two (2) families.

**Variance** means a grant of relief to a person from the requirements of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance.

**Vines** mean any woody or herbaceous plants which may cling by twining, by means of aerial rootlets or by means of tendrils, or which may simply sprawl over the ground or other plants.

**Wall, Front** means any wall surface of a building or structure that includes the front door and faces a street adjacent to the building or structure, or is offset by less than forty-five (45) degrees from the street, or as determined by the Director of Planning, and includes all projections or insets from such wall.

**Wall, Side** means any wall surface of a building or structure not a front wall that faces a side property line adjacent to the building or structure, or is offset by less than forty-five (45) degrees from the side property line, or as determined by the Director of Planning, and includes all projections or insets from such wall.

**Wall, Street Facing** (See Street Facing Wall)

**Watershed** means area from which stormwater drains into a given basin, river or creek.

**Waterway** means any natural or man-made channel conducting storm water from a two (2) year storm event at a depth of eight (8) inches or more and at a rate of fifteen (15) cubic feet per second or more. Street pavement shall in no instance be considered a waterway.

**Whip Antenna** (See "Omni-Directional Antenna")

**Wildscape** is a word combination of wildlife and landscape, denoting landscaping for wildlife. Wildscapes are small habitats that provide three essential ingredients for a variety of wildlife – food, water and shelter. Native plant materials are a major component of a wildscape.

**WCF (wireless communication facility)** means a facility that transmits and/or receives electromagnetic signals, including antennas, microwave dishes, parabolic antennas, directional antennas and other types of equipment for the transmission or reception of such signals, towers or similar structures supporting the equipment, equipment buildings, shelters, cabinets, parking area, and other necessary development.

**Wood Yard** means a tract of property used for the storage of wood either for use as firewood or as a building material. Usually, the area is fenced for safety and security reasons.

**Wrap Building** means a building that includes retail or office space around an above-grade parking structure. The commercial uses screen the parking garage from view of the street.

**Yard** means an open area between any required building setback line and the relevant property line not subject to public ROW.

**SECTION 7: POLICY**

In order to carry out the purposes herein above stated, it is hereby declared to be the policy of the City to consider the zoning of land as subject to the control of the municipality, pursuant to this ordinance and the Comprehensive Plan, as adopted or amended from time to time, for the orderly, planned, efficient and economical development of the City and its jurisdiction.

**SECTION 8: APPLICATION**

The provisions of this ordinance shall, except as specifically provided otherwise in this ordinance, apply to all land within the jurisdiction of the City.

## **SECTION 9: EXEMPTIONS**

The provisions of this ordinance shall not apply to:

- (a) Cemeteries which obtain a Special Use Permit and comply with all state and local laws and regulations;
- (b) Legal lots, parcels or tracts created by order of a court of competent jurisdiction;
- (c) Commitments for the construction of public utility buildings for the City made prior to the passage of this ordinance.

## **SECTION 10: ENFORCEMENT OF REGULATIONS**

- (a) No building permit, certificate of occupancy, plumbing permit, electrical permit, or utility tap shall be issued by the City for or with respect to any land within the City limits for any parcel or plat of land for which development was initiated or restarted after the effective date of, and not in conformity with, the provisions of this ordinance, until all applicable requirements of this ordinance have been satisfied and accepted by the City of Van.
- (b) This ordinance may be further enforced by injunction and other judicial proceedings, either at law or in equity; and, in lieu of or in addition to any other authorized enforcement or action taken, any person who violates any term or provision of this ordinance, with respect to any land or development within the City, by fine and penalties as provided herein.

# ARTICLE II - ESTABLISHMENT OF ZONING REGULATIONS

## SECTION 1: GENERAL

### (a) Conformity to Form Based Hybrid Zoning District Requirements

No building or site improvements shall be erected, structurally altered, enlarged, added to, or rebuilt; nor shall any land, building or premises be developed, or designated for use for any purpose or in any manner other than provided for hereinafter in the Form Based Hybrid Zoning District in which the building, land or premises is located, and in the regulations of this ordinance; provided, however, that necessary structural repairs may be made where health and safety are endangered. Furthermore, no open space surrounding any building shall be encroached upon by a structure or reduced in any manner, unless the same shall conform to the regulations herein established.

### (b) Conformity to Other City Ordinances

No building or site improvements shall be constructed, installed, enlarged, erected, converted, reconstructed or altered except in conformance with the entire applicable ordinances and procedures of the City including, but not limited to, the Sign Ordinance, Business Regulations, Building Codes, permit requirements and procedures, the Site Development Ordinance, and the Subdivision Ordinance.

## SECTION 2: ESTABLISHMENT OF ZONING DISTRICTS

### (a) Zoning Districts

For the purposes of this ordinance, the City of Van is hereby divided into Form Based Hybrid Zoning Districts. Each district is governed by standards that are in a Table of Dimensions, Densities, and Access Standards and by a Table of Allowable Uses. Each Form Based Hybrid Zoning District, is considered a discrete and unique zoning district.

The districts are enumerated below:

- Rural District
- Nature District
- Town District
- Downtown District
- Connector Districts
- Corridor Districts
- I-20 Interchange Districts

### (b) Zoning Map

- (1) The location and boundaries of the districts herein established are shown on the Zoning Map, which is attached hereto and hereby incorporated by reference and made a part of this ordinance as Appendix 1. It shall be the duty of the City Administrator, or as applicable, the Director of Planning, to maintain the Zoning Map together with all notations, references, and other information shown thereon, and all amendments thereto.
- (2) The conversion of districts established prior to the adoption of this ordinance shall be in accordance with, and the zoning map of the City of Van is hereby amended, as described by the following zoning district conversion chart and statements:
  - (i) The portions of the City of Van that are zoned CBD, Central Business District are rezoned to Downtown District.
  - (ii) The portions of the City of Van that are zoned R-1, Single-Family District

are rezoned to Town District.

<b>ZONING DISTRICT CONVERSION</b>		
<b>Existing Zoning</b>		<b>New Form Based Hybrid Zoning Districts</b>
		Rural District
		Nature District
R-1	Single-Family Residential	Town District
CBD	Central Business District	Downtown District
		Connector District
		Corridor District
		I-20 Interchange District

**(c) District Boundaries**

Where uncertainty exists with respect to the boundaries of the established districts as shown on the Zoning Map, the following rules of construction shall apply:

- (a) Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or highway right-of-way lines shall be construed to be said boundaries.
- (b) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- (c) Where district boundaries are so indicated that they are approximately parallel to the center lines of streets or highways, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale on said Zoning Map.
- (d) In subdivided property, the district boundary lines on the Zoning Map shall be determined by use of the scale appearing on the map.
- (e) In the case of a district boundary line dividing a property into two (2) parts, the district boundary line shall be construed to be the property line nearest the district line as shown unless such dividing line was intended during the zoning of the property.
- (f) Whenever any street, alley or other public right-of-way is vacated by official action of the Council, the district shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all regulations of the extended districts.
- (g) Where the streets or highways on the ground differ from the streets shown on the Zoning Map, those on the ground shall control.

**(d) Uses Not Permitted in Any District**

The following uses are specifically prohibited in all areas of the City:

- (1) Storage, manufacturing, purifying, packaging, re-packaging, processing, selling or supplying toxic or highly flammable chemicals, gases or other substances as a primary use regardless of quantities involved.
- (2) Above ground tank farms for storage of gasoline, fuel oils, gases, propane, chemicals or other flammable, corrosive or toxic substances as a primary use or in total

onsite quantities exceeding 30,000 liquid gallons or equivalent.

- (3) Battery manufacturing or recycling; animal feed lots; meat packing (not including processing of game animals); plastics manufacturing; pulp/paper manufacturing; rubber manufacturing; tanneries; temporary buildings and structures except those described; toxic waste storage or disposal; vehicle and material recycling (salvage) and reclamation yards; billboards; off premise signs (except as otherwise approved by the City Council); tallow, grease or lard manufacture or refining; liquid asphalt manufacture or refining; coal yard or coke yard; fat rendering; garbage, offal or dead animals reduction or dumping; potash works; stock yard or slaughter of animals or fowl; tar distillation or manufacture; mixing plant for concrete, mortar, cement, plaster or paving materials except as temporarily permitted with a specific major project; rock crusher except as temporarily permitted as part of an active permit for a development issued by the City where the material is to be used on site, stone mill; quarry and mining operations; explosives or fireworks manufacture or storage; fertilizer manufacture; acetylene gas manufacture or storage; ammonia, bleaching powder or chlorine manufacture; pyroxylin manufacture; gas manufacture; poison manufacture.
- (4) Other similar uses as determined by the City Administrator, or as applicable, the Director of Planning based on the criteria of paragraph (f) below.
- (5) The following uses may be approved as a PUD district but is not permitted in any district:
- (6) A recreational vehicle, mobile home or manufactured home camp or park; and
- (7) An outdoor vendor venue (fixed location).

**(e) Determination of Appropriate District**

For uses not classified in this ordinance, the City Administrator, or as applicable, the Director of Planning, shall work with the property owner to determine the district appropriate for the proposed use, site and architectural improvements. If the proposed use is not substantially similar to a use permitted within the district in which the property is located, or is not substantially similar to a use permitted within another district, or if agreement is not reached, the issue will be submitted to the Commission. The following criteria shall be used to determine the appropriate classification of any use not listed in this ordinance and whether a use is considered principal or accessory:

- (1) The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category.
- (2) The relative amount of site area or floor space and equipment devoted to the activity.
- (3) Relative amounts of sales from each activity.
- (4) The customer type for each activity.
- (5) The relative number of employees in each activity.
- (6) Hours of operation.
- (7) Building and site arrangement.
- (8) Vehicles used and their parking requirements.
- (9) The relative number of vehicle trips generated.
- (10) The likely impact on surrounding properties.
- (11) Whether the activity is likely to be found independent of the other activities on the site.

**(f) Minimum Requirements**

- (1) In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of public health, safety,

and general welfare.

- (2) Whenever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the requirement that is most restrictive or that imposes higher standards as determined by the City Administrator, or as applicable, the Director of Planning shall govern.
- (3) The issuance of any permit, certificate or approval in accordance with the standards and requirements of this ordinance shall not relieve the recipient of such permit, certificate or approval from the responsibility of complying with all other applicable requirements of any other city, state or federal agency having jurisdiction over the structures or land uses for which the permit, certificate or approval was issued.
- (4) Any use that is not specifically listed as permitted by this ordinance, and is deemed by the City Administrator, or as applicable, the Director of Planning, as to not be substantially similar in nature to a use specifically listed as permitted, shall be prohibited; unless this ordinance is amended by the City Council to permit such use.

### **SECTION 3: ZONING OF ANNEXED AREAS**

#### **(a) Interim Zoning District**

All territory hereafter annexed to the City of Van **shall be temporarily classified as Rural District,** pending subsequent action by the Commission and Council for permanent zoning. A land owner who is zoned temporarily and has been annexed involuntarily may request permanent zoning for no fee except for direct expenses incurred during the process as long as such application is submitted to the City within two years from the date of involuntary annexation.

#### **(b) Permits in Interim Zoned Areas**

In an area temporarily classified as Rural, no permits for the construction of a building, site improvements or use of land other than uses allowed in said Form Based Hybrid Zoning district under this ordinance shall be issued by the City Building Official.

# ARTICLE III – ZONING DISTRICTS DEFINED

## SECTION 1: Rural Zoning District

### **The Comprehensive Plan Description:**

*These are areas that should realize only limited development. They consist of larger parcels. Some existing parcels are as small as ½ acre, but the ideal size is 10 acres or larger. A portion of these areas are and should be utilized for food production, including animal, grain, fruits, nuts, and produce. These areas are important because it helps define the edge of Van. The edge is where the distinction of Van begins. It can be imagined as a perimeter with multi-layered benefits. Those include: establishes a visually appealing entry to town, provides a location for animal and grain production, provides a stopping point for development and avoiding isolated "suburban" type residential with disconnected yards rather than connected natural areas; this pattern of conservation will provide for a concentration and effective delivery of municipal services, and it helps provide a cooling mechanism and air cleaning function through transpiration and carbon absorption.*

### **(a) Statement of Intent**

The Rural Zoning District is intended to provide a band of countryside that surrounds the city. It is rural in nature and may be used for agriculture purposes. The City will provide limited utility service in the form of water only. It is low density in nature and has limited residences and businesses within the boundaries of the District. It is critical for achievement of the visions within the Comprehensive Plan for Van to be a small town surrounded by countryside. This countryside contributes to the health, safety, and welfare of the community by providing the air cleaning properties of nature.

### **(b) Conforming Uses**

The primary uses within this district include agriculture and ranching activities, and open space preservation. All other uses are considered accessory uses including:

- (1) Single-family dwelling
- (2) Community services including community center, civic organizations, fraternal organizations, and cemetery / mausoleum not including a crematory or embalming facilities
- (3) Golf courses (public and private) and all associated improvements and activities, but not including miniature golf courses, golf practice ranges (unless associated with a golfcourse), or similar forms of commercial amusement
- (4) Home occupations (see Article IV, Section 8 for Use Standards)
- (5) Place of worship
- (6) Water supply reservoirs and pumping plants when screened from public view
- (7) Wireless communications facilities (WCFs) attached to street poles or facades attached to non-residential buildings or stealth WCFs are permitted subject to the provisions of this ordinance. Freestanding WCFs, including lattice towers and mono-poles, are prohibited.
- (8)** (For lots or tracts three or more acres in size) ranches, dairy farms, stables, riding academies and roping arenas; including the feeding, raising and breeding of agricultural

livestock and exotic hoof stock; however, with exception of commercial feed lots which are not permitted, and the exception that not more than one large animal (e.g., a horse, cow, bull or similar animal) or five small animals (e.g., goats, sheep or similar animal) may be permitted for each acre of grazeable land. Grazeable land shall be land that is fenced and maintained with suitable forage for grazing of the particular species. Barns and stables shall not be located within 25 feet of any property line. (See Chap. 2, City Code for animal control regulations)

- (9) Agricultural, small wind energy systems, solar energy systems and rainwater harvesting systems including or similar to:
  - (i) As accessory uses, solar energy systems designed to supply energy for use on the premises, and rainwater harvesting systems meeting the standards of Article IV, Sec. 5 of Article 14.200. In addition, if approved with a special use permit, small wind energy systems may be approved as an accessory use if meeting the standards of Article IV, Sec. 5 of Article 14.200.
  - (ii) Hunting and/or hunting leases (for lots or tracts three or more acres in size).
  - (iii) Farming or truck gardens, limited to the propagation and cultivation of plants.
- (10) Other similar uses as determined by the City Administrator, or as applicable, the Director of Planning [see Article II, Sec. 2, (f)].

**(b) Uses Not Allowed**

- (1) Commercial dairies, commercial feed lots, commercial slaughter houses, commercial poultry operations.
- (2) Off road motorized vehicle trails, tracks and venues.

**(c) Lot Size Minimum**

All lots within this district shall be 10 acres in size or greater.

**(d) Exceptions**

- (1) Streets may be constructed to Alternate Urban Standards without curb and gutter (see Transportation Criteria Manual).
- (2) Sidewalks are not required.
- (3) Dip driveways (without a culvert) are permitted across "bar" ditches if the depth of the water is no greater than one foot during a twenty-five (25) year storm event.
- (4) Street lights are not required.

**(e) Additional Requirements:**

- (1) All additions to existing buildings will match the architecture and existing materials, or better.
- (2) New barns and other accessory buildings shall match the local vernacular in appearance and materials. Metal buildings shall be screened from view of streets, roads and neighboring parcels.

## **SECTION 2: Nature Zoning District**

**The Comprehensive Plan Description:**

*This area consists of floodplains, flood prone areas, wetlands, woodland areas, groupings of trees and shrubbery. These areas are expected to be kept in their natural condition, other than trail and walkway development. They are stitched together with a series of greenways, areas that connect the natural elements.*

**(a) Statement of Intent**

The nature zone is areas to be left undeveloped. It is floodplains, wooded areas, and vegetation zones all linked together with greenways. There may be pedestrian facilities along and within the district. All residents should be less than 5 minutes from a nature zone. The zone serves as the air purifier of the city as the trees and vegetation remove carbon from the air and sequester it in the tissue of the plants. The contributes tremendously to the health and welfare of the citizenry and provides an environment that man can better co-exist with nature. The use of these nature zones for a pedestrian network provides the basis of preserving the small town, village like nature of the community.

**(b) Conforming Uses**

The primary uses within this is open space, wildlife habitat, drainage and water conveyance and a pedestrian and bicycle transportation network.

- (1) Limited residential uses subject to design criteria.
- (2) Pedestrian and bicycle facilities
- (3) Nature education facilities
- (4) Golf courses (public and private) and all associated improvements and activities, but not including miniature golf courses, golf practice ranges (unless associated with a golfcourse), or similar forms of commercial amusement
- (5) Restroom Facilities
- (6) Parks, playgrounds and associated equipment and facilities, recreational amenity center
- (7) Water supply reservoirs and pumping plants when screened from public view
- (8)** (For lots or tracts three or more acres in size) ranches, dairy farms, stables, riding academies and roping arenas; including the feeding, raising and breeding of agricultural livestock and exotic hoof stock; however, with exception of commercial feed lots which are not permitted, and the exception that not more than one large animal (e.g., a horse, cow, bull or similar animal) or five small animals (e.g., goats, sheep or similar animal) may be permitted for each acre of grazeable land. Grazeable land shall be land that is ~~fed~~ and maintained with suitable forage for grazing of the particular species. Barns and stables shall not be located within 25 feet of any property line. (See Chap. 2, City Code for animal control regulations)
- (9) Agricultural and hunting,
  - i. There is no hunting within the Nature Zone.
  - ii. Farming or truck gardens, limited to the propagation and cultivation of plants.
  - iii. Other similar uses as determined by the City Administrator, or as applicable, the Director of Planning [see Article II, Sec. 2, (f)].

**(c) Lot Size Minimum**

There is no minimum lot size for parcels within this district.

**(d) Exceptions**

**(e) Additional Requirements:** (Each of the uses denoted herein shall conform to the following development standards.

## **SECTION 3: Town Zoning District**

### **The Comprehensive Plan Description:**

*These town areas are adjacent to the corridors and the downtown. They have a variety of lot sizes, housing types and spacing, and neighborhoods. It is where most of the residents live with access, by all modes including cycling and walking to small neighborhood serving retail and businesses. Most of the housing today is detached and was built between 1930 and 2000. It is the area Van is growing within; but should do so with a new pattern and a greater variety of infill housing. It is critical that as it grows, the proper connectivity is provided and property street types.*

#### **(a) Statement of Intent**

The Town Zoning District is the area where neighborhoods are located. This is where people live and where they immediately experience the environment of the community. Existing conditions are a diversity of densities and housing types and the Comprehensive plan calls for the Town Quality of Life area to have a diversity of housing, with all housing types encouraged. In that spirit, four overlays are created that allow the various character areas of the city to be identified and coded to accommodate future development without compromising the character of the immediate neighborhood. The standards within the Town Zoning District are to encourage the development of the pedestrian realm. It is the place of beginning of the door-to-door experience when residents leave their home as a pedestrian, and it is where a sense of place can be reinforced to deepen the bond residents may develop with the place. The effective pedestrian realm is characterized by the sense of space created by building placement, paths and connections forming multiple route options, destinations, a sense of safety, and shade. The standards directly those items enforce the health, safety, and welfare of the community.

#### **(b) Conforming Uses**

A building or premise shall be used subject to the Table of Uses, Article IV.

#### **(c) Lot Size**

Lot sizes may be as small as 3,500 square feet.

#### **(d) Exceptions**

**(e) Additional Requirements:** (Each of the uses denoted herein shall conform to the following development standards.

- Preservation of existing buildings
- Compliance with Table of Uses Article IV
- Compliance with Dimensional Standards Article V
- Compliance with Site Development Ordinance

#### **(f) Overlays Created**

An overlay is a method to place another layer of regulations on top of the base zone regulations. They can be used to protect environmentally special areas, or other community assets justifying a more sensitive treatment. The overlays established here are applied to the undeveloped areas of the Town Zoning District. Their location was determined by the nature of the adjoining developed area. For areas with a difference of characteristics, the least intensive overlay was applied.

(1) **Rural Town Overlay**

These areas represent the least densely developed part of Van. They are residential in nature with large lots. Rarely is there a commercial use within these areas.

The General Standards within this overlay are:

Minimum Lot Size	½ Acre or Larger
Minimum Home Size	1,400 square feet
Maximum Building Height	3 stories
Commercial Uses	None
Block Length	650' Street Break/350' Path Break
Sidewalks	None on Lanes, 5' on Streets
Allowable Uses	Per Table of Uses, Article IV
Diversity Requirements	Per Dimensional Standards, Article V
Lot Coverage Ratio	25%
Average Gross Density	2 Units per Acre

(2) **Hamlet Town Overlay**

These areas are of a medium density for the region. They are residential in nature, but may also have nonresidential uses.

The General Standards within this overlay are:

Minimum Lot Size	9,000 square feet up to ½ acre
Minimum Residence Size	800 square feet, Per Dimensional Standards, Article V
Maximum Building Height	3 stories
Commercial Uses	Yes, Per Table of Uses, Article IV
Block Length	650' Street Break/350' Path Break
Sidewalks	None on Lanes, 5' on Streets
Allowable Uses	Per Table of Uses, Article IV
Diversity Requirements	Per Dimensional Standards, Article V
Lot Coverage Ratio	50%
Average Gross Density	4 Units per Acre

(3) **Village Town Overlay**

These areas are of a higher density for the region. They are residential in nature, but may also have nonresidential uses.

The General Standards within this overlay are:

Minimum Lot Size	3,500 square feet for residential up 9,000 square feet
Minimum Residence Size	800 square feet, Per Dimensional Standards, Article V
Maximum Building Height	4 stories
Commercial Uses	Yes, Per Table of Uses, Article IV
Block Length	650' Street Break/350' Path Break
Sidewalks	None on Lanes, 10' on Streets
Allowable Uses	Per Table of Uses, Article IV
Diversity Requirements	Per Dimensional Standards, Article V
Lot Coverage Ratio	75%
Average Gross Density	9.5 Units per Acre

(4) **Pre-Car Town Overlay**

These areas are for those desiring the creation of a unique special place intended to be car free. It is only limited in size and height.

The General Standards within this overlay are:

Minimum Zone Size	1 acre
Maximum Zone Size	5 acres
Minimum Lot Size	Per Development Agreement
Minimum Residence Size	Per Development Agreement
Maximum Building Height	4 stories
Commercial Uses	Yes, Per Table of Uses, Article IV
Block Length	650' Street Break/350' Path Break
Sidewalks	Per Development Agreement
Allowable Uses	Per Development Agreement
Diversity Requirements	Per Development Agreement
Lot Coverage Ratio	65%
Average Gross Density	35 Units per Acre

## **SECTION 4: Downtown Zoning District**

### **The Comprehensive Plan Description:**

*Downtown is the cultural center of Van. With restaurants and other local services, Downtown is where people meet, enjoy one another, do business and seek new opportunities. It is also where most of the oldest buildings in Van are located. This area has a responsibility of representing the community by the buildings, their condition, as well as new public spaces to provide places for citizens to enjoy life.*

#### **(a) Statement of Intent**

The character of downtown Van is established by the size and placement of the buildings and of the materials used. The regulations are intended to allow the downtown to evolve, yet with the new improvements matching the existing scale and materials. Downtown should also be a place visitors can walk within and residents can walk to and be safe for all ages.

#### **(b) Conforming Uses**

The primary uses within this district are small businesses.

- (1) Retail businesses, offices, restaurants,
- (2) Limited residential uses subject to design criteria.

#### **(c) Lot Size Minimum**

There is no minimum lot size for parcels within this district.

#### **(d) Exceptions**

**(e) Additional Requirements:** (Each of the uses denoted herein shall conform to the following development standards.

- Preservation of existing buildings
- Compliance with Table of Uses Article IV
- Compliance with Dimensional Standards Article V
- Compliance with Site Development Ordinance

## **SECTION 5: Connector Zoning District**

### **The Comprehensive Plan Description:**

*These corridors are the areas where special attention must be given because of the opportunities they represent, or because they are currently, or possibly will soon be experiencing a transition of its characteristics.*

#### **(a) Statement of Intent**

The Comprehensive Plan identifies 3 areas worthy of classification as a Connector Zone. These areas are important because one represents a future development opportunity to create on a larger scale a representation of the village feel as interpreted in new development. The other two areas are where pressures exist for residential areas to transition to a more intensive use and the zoning map expands on those areas identified in the comprehensive and adds two more areas. The Connector Zoning District has two overlays that may be applied for as development is ready to occur.

#### **(b) Conforming Uses**

The primary uses within this district are small businesses.

- (1) Retail businesses, offices, restaurants,
- (2) Residential.

#### **(c) Lot Size Minimum**

The lot size is 3,125 square feet.

#### **(d) Exceptions**

#### **(e) Additional Requirements:**

Each of the uses denoted herein shall conform to the following development standards.

Preservation of existing buildings  
Compliance with Table of Uses Article IV  
Compliance with Dimensional Standards Article V  
Compliance with Site Development Ordinance

#### **(f) Overlays Created**

An overlay is a method to place another layer of regulations on top of the base zone regulations. They can be used to protect environmentally special areas, or other community assets justifying a more sensitive treatment. The overlays established here are made available to parcel owners within the Connector Zoning District to facilitate a change in use or other modifications to the parcel and its improvements. To initiate this change, the owner, shall apply for the appropriate geographical overlay. **Compliance within the standards of the overlay shall cause an administrative approval for the overlay and the applicant may apply for a development permit.**

##### **(1) Linkage Connector Overlay**

This overlay is for areas that can make large scale impact by making a place-based connection between places within the community.

The General Standards within this overlay are:

Minimum Lot Size	12,000 Square Feet
Minimum Residence Size	400 Square Feet
Maximum Building Height	4 stories
Commercial Uses	Yes, Per Table of Uses, Article IV
Block Length	650' Street Break/350' Path Break
Sidewalks	Per Development Standards
Allowable Uses	Per Table of Uses
Diversity Requirements	Per Dimensional Standards
Lot Coverage Ratio	50%
Average Gross Density	4 Units per Acre

**(2) Character Connector Overlay**

This overlay is for those places that have a pressure to change to a more intense use. A parcel owner may seek this overlay when they desire to make a change from existing conditions on their parcel within the Connector Zoning District.

The General Standards within this overlay are:

Minimum Lot Size	3,500 Square Feet
Minimum Residence Size	400 Square Feet
Maximum Building Height	4 stories
Commercial Uses	Yes, Per Table of Uses, Article IV
Block Length	650' Street Break/350' Path Break
Sidewalks	Per Development Standards
Allowable Uses	Per Table of Uses
Diversity Requirements	Per Dimensional Standards
Lot Coverage Ratio	75%
Average Gross Density	15 Units per Acre

**SECTION 6: Corridor Zoning District**

**The Comprehensive Plan Description:**

*These corridors represent the major roadways and adjacent lands that lead into and through town. They provide the first impression to visitors, and are the areas that residents see as they travel about town. The characteristics of these corridors represent part of what needs to be preserved and enhanced. Development of a different intensity may occur within these corridors. Each corridor also has its own characteristics and pressures that may cause it to change in an undesirable way. The major corridors become a living, master structure of Van because of these characteristics and the other character-defined areas should be seen in this context.*

**(a) Statement of Intent**

The Comprehensive Plan identifies 4 areas as Corridors. These corridors are the experience visitors have when they traverse through Van. These can almost be viewed as the visual focus that may distract from a complete view of the rest of the city. Each corridor is unique, and why they serve common functions, each justifies its own corridor overlay.

**(b) Conforming Uses**

The primary uses within this district are small businesses.

- (1) Retail businesses, offices, restaurants,

- (2) Schools and school related facilities, such as sports facilities.
- (3) Residential.

**(c) Lot Size Minimum**

The lot size is 3,125 square feet.

**(d) Exceptions**

**(e) Additional Requirements:**

Each of the uses denoted herein shall conform to the following development standards.

- Preservation of existing buildings
- Compliance with Table of Uses Article IV
- Compliance with Dimensional Standards Article V
- Compliance with Site Development Ordinance

**(f) Overlays Created**

An overlay is a method to place another layer of regulations on top of the base zone regulations. They can be used to protect environmentally special areas, or other community assets justifying a more sensitive treatment. The overlays established here are made available to parcel owners within the Corridor Zoning District to facilitate a change in use or other modifications to the parcel and its improvements. To initiate this change, the owner, shall apply for the appropriate geographical overlay. Compliance within the standards of the overlay shall cause an administrative approval for the overlay and the applicant may apply for a development permit.

**(1) North Corridor Overlay**

The North Corridor has Van Independent School District facilities along the majority of its western edge. The eastern side of the corridor could experience pressure for commercial drive thru facilities.

The General Standards within this overlay are:

Minimum Lot Size	12,000 Square Feet
Minimum Residence Size	400 Square Feet
Maximum Building Height	4 stories
Commercial Uses	Yes, Per Table of Uses, Article IV
Block Length	650' Street Break/350' Path Break
Sidewalks	Per Development Standards
Allowable Uses	Per Table of Uses
Diversity Requirements	Per Dimensional Standards
Lot Coverage Ratio	75%
Average Gross Density	9.5 Units per Acre

**(2) South Corridor Overlay**

This overlay is for those places that have a pressure to change to a more intense use.

The General Standards within this overlay are:

Minimum Lot Size	12,000 Square Feet
Minimum Residence Size	400 Square Feet
Maximum Building Height	4 stories
Commercial Uses	Yes, Per Table of Uses, Article IV
Block Length	650' Street Break/350' Path Break

Sidewalks	Per Development Standards
Allowable Uses	Per Table of Uses
Diversity Requirements	Per Dimensional Standards
Lot Coverage Ratio	75%
Average Gross Density	15 Units per Acre

**(3) East Corridor Overlay**

This overlay is for those places that have a pressure to change to a more intense use.

The General Standards within this overlay are:

Minimum Lot Size	12,000 Square Feet
Minimum Residence Size	400 Square Feet
Maximum Building Height	4 stories
Commercial Uses	Yes, Per Table of Uses, Article IV
Block Length	650' Street Break/350' Path Break
Sidewalks	Per Development Standards
Allowable Uses	Per Table of Uses
Diversity Requirements	Per Dimensional Standards
Lot Coverage Ratio	75%
Average Gross Density	15 Units per Acre

**(4) West Corridor Overlay**

This overlay is for those places that have a pressure to change to a more intense use.

The General Standards within this overlay are:

Minimum Lot Size	12,000 Square Feet
Minimum Residence Size	400 Square Feet
Maximum Building Height	4 stories
Commercial Uses	Yes, Per Table of Uses, Article IV
Block Length	650' Street Break/350' Path Break
Sidewalks	Per Development Standards
Allowable Uses	Per Table of Uses
Diversity Requirements	Per Dimensional Standards
Lot Coverage Ratio	75%
Average Gross Density	15 Units per Acre

**SECTION 7: I-20 Interchange District**

**The Comprehensive Plan Description:**

*This area around the interchanges of I-20 is the gateway to Van. This corridor can be considered the major entryways into Van and are the first chance a first impression will be created by the first-time visitor. It is also the area that will be the most difficult to implement a unique village feel within; but it can be accomplished with certain design features such as fencing, landscaping and a coherent traffic pattern for cars and trucks. See first image below from a project proposed in Durham, NC. Jobs will be created here, tax revenues generated here, and those businesses and jobs can be enhanced through a stakeholder driven approach to a comprehensive design and traffic strategy.*

*It is important the city pursue through annexations the opportunity to get two additional interchanges into the city's jurisdiction. This will provide sales tax collection opportunities and the ability to determine the character of these gateways into the community.*

**(a) Statement of Intent**

The Comprehensive Plan identifies the value of the Interstate interchanges as drivers of economic activity. The standards for this district are designed to make the developed parcels convenient and safe for travelers. These interchanges are also the place where automobile dominated use may cluster, allowing traditional use to be as car free as possible.

**(b) Conforming Uses**

The primary uses within this district are small businesses.

- (1) Retail businesses, offices, restaurants,
- (2) Large Retail Services
- (3) Drive thru services
- (4) Hotels, motels,
- (5) Large Apartment Complexes
- (6) RV Parks
- (7) Communication facilities.

**(c) Lot Size Minimum**

The minimum lot size is 3,125 square feet.

**(d) Exceptions**

**(e) Additional Requirements:**

Each of the uses denoted herein shall conform to the following development standards.

- Preservation of existing buildings
- Compliance with Table of Uses Article IV
- Compliance with Dimensional Standards Article V
- Compliance with Site Development Ordinance

General Development Standards within the district are:

Minimum Lot Size	6,000 Square Feet
Minimum Residence Size	400 Square Feet
Maximum Building Height	8 stories
Commercial Uses	Yes, Per Table of Uses, Article IV
Block Length	650' Street Break/350' Path Break
Sidewalks	Per Development Standards
Allowable Uses	Per Table of Uses
Diversity Requirements	Per Dimensional Standards
Lot Coverage Ratio	75%
Average Gross Density	25 Units per Acre

# ARTICLE IV - USE STANDARDS AND TABLE OF ALLOWABLE USES

## SECTION 1: TABLE OF ALLOWABLE USES

The following table list the uses that are allowed in each district. Any use not listed, shall be determined by Article II, Section 2C.

Primary Use	TABLE OF ALLOWABLE USES							
	Use	Rural	Nature	Town	Downtown	Connector	Corridor	I-20
Auto Dependent	Bank (With drive-thru)						A	A
	Auto Repair					A	A	A
	Automobile Fuel Sales				A	A	A	A
	Carwash			A	A	A	A	A
	Commercial parking				A	A	A	A
	Convenience Store (With Fuel)				A	A	A	A
	Drive Thru Service Window			A*		A*	A*	A
	Heavy Equipment/Truck Repair							
	Office/Warehouse					A*	A*	A
	Paint and Body Shops							A
	Restaurants (With Drive thru)			A*	A*	A*	A*	A
	RV, Trailer, Commercial Motor Vehicle, or Boat Outdoor Storage			A*	A*	A*	A*	A*
	Self-service storage/Mini-Warehouse			A*	A*	A*	A*	A*
	auto accessories and installations						A*	A
	Travel Centers							A
	Vehicle Sales (New & Used), Rental, Repair						A*	A*
	Vehicle Sales (New), Rental, Repair						A*	A*
	Warehouse and Distribution							A
Wrecker Impoundment, Towing						A*	A*	A*
Production Activities	Major equipment sales and leasing							A
	Greenhouse							

Manufacture, Assembly or Processing of Materials of Non Hazardous Materials								A
Manufactured Housing Sales								A
Office			A	A	A	A		
Outdoor Processing of Materials								
Research, Testing & Development Laboratory			A*	A*	A*	A*		A
Wholesale Activities								A
Wood yard								A

Professional Services	Artisan & Handcraft Activities	A		A	A	A	A	A
	Contractor & Building Material Storage			A*	A*	A*	A*	A*
	Cultural Facilities	A			A	A	A	A
	Funeral Home, Including Embalming & Cremation							A
	Funeral Home, No Embalming or Cremation			A	A	A	A	A
	Group Home Class 1			A	A	A	A	
	Group Home Class 2				A	A	A	A
	Group Home Class 3				A			A
	Home Occupations	A		A	A	A	A	A
	Office, Medical			A	A	A	A	A
	Real Estate Sales Office during the development and sale of a residential subdivision			A	A	A	A	
	Veterinarian Office			A	A	A	A	A
	Veterinarian Office, Animal Hospital or Animal Boarding							A

Public Service & Education	Colleges, Universities, Vocational Schools, Higher Learning Institution			A	A	A	A	A
	Hospital				A	A	A	A

Place of Worship			A	A	A	A	
Public Buildings			A	A	A	A	A
Schools, public or private including all levels up to high school			A	A	A	A	A

Recreation, Entertainment, Tourism	Amenity Center	A	A	A	A	A	A	A
	Bed and Breakfast	A		A	A	A	A	A
	Theater or Auditorium Less than 100 seats			A	A	A	A	
	Theater Auditorium More than 100 seats				A		A	A
	Bingo				A			A
	Indoor Entertainment activities	A			A			A
	Outdoor Entertainment	X	X		X	X	X	X
	Golf course/country club	A	A					A
	Park and related facilities			A	A	A	A	
	Party Hall (Rental Hall)				A*	A*	A*	A

Residential	Apartment			A	A	A	A	A
	Boarding House			A	A	A	A	
	Assisted Living or Nursing Home			A	A	A	A	A
	Manufactured Homes	A!		A!	A!	A!	A!	
	Mixed Use/ Apartment			A	A	A	A	
	Residences	A		A	A	A	A	A
	Single-Family, Attached			A	A	A	A	
	Single-Family, Detached	A		A	A	A	A	
	Single-family, zero lot line			A	A	A	A	
	Cottage Courtyard			A	A	A	A	
	Apartment Complex (2 or more buildings)					A	A	A
	One to Four Family Home with Shared Foyer			A	A	A	A	

Tiny Home			A	A	A	A	
Townhouse			A	A	A	A	
Two-Family Dwelling			A	A	A	A	

Retail Products and Services	Bakery			A	A	A	A	A
	Bank (Without drive-thru)			A	A	A	A	A
	Bar, Nightclub or Private Club				A			A
	Car Title Loan Shop				A			A
	Cigar, Smoke Shop			A	A	A	A	A
	Commercial Laundry (Laundry mat)			A*	A*	A*	A*	A
	Convenient Store (Without Fuel)			A*	A	A	A	A
	Cosmetic Services			A	A	A	A	A
	Day Care for 6 or fewer children			A	A	A	A	
	Day Care, all other				A	A	A	A
	Farmer's Market				A	A	A	A
	Florist Shop			A	A	A	A	A
	Grocery Store			A	A	A	A	A
	Gymnasium				A	A	A	A
	Hooka Lounge				A	A	A	A
	Hotel / Motel			A*	A	A*	A*	A
	Liquor Store				A	A	A	A
	Medical Clinic			A	A	A	A	
	Nutrition, Vitamins, CBD			A	A	A	A	A
	Pawn Shop			A	A	A	A	
Payday Lending			A	A	A	A		
Personal Services (Barber Shop, Beauty Shop, Tailoring, Dressmaking, Shoe Repair, Small Appliance Repair, Bicycle Repair, Retail Bakeries, Catering, Dry Cleaning)			A	A	A	A	A	
Pet Shop				A	A	A	A	
Pharmacy			A	A	A	A		

Restaurants (Without Drive thru)			A	A	A	A	A
Retail Sales of New Products and Service			A*	A*	A*	A*	A*
Retail Sales, Second Hand Resale and Services			A*	A*	A*	A*	A*
Stand Alone Crematory or Embalming Establishment						A*	A*
Tattoo and/or Body Piercing				A*	A*	A*	A*
Yoga, Pilates, Exercise			A	A	A	A	A

Utility	Passenger terminal				A		A
	Electric Transformer Yard						
	Utility, Major			A*	A*	A*	A*
	Utility, Minor			A*	A*	A*	A*
	Wireless Communications - Stealth						A
WTF, Self-standing						A	

A= Allowed

\* Subject to Screening and Dimensional Standards

! Subject to Manufactured Housing Standards

## SECTION 2: SPECIAL USE PERMIT

### (a) Uses Qualified

The City Council may, by ordinance adopted by a majority vote, grant a Special Use Permit for the following special uses in any district in which the use is otherwise prohibited by this ordinance, except as herein provided. The Council may impose appropriate conditions and safeguards, including a specified period of time for the permit, to protect the Comprehensive Plan and to conserve and protect property and property values within the neighborhood and City.

- (1) Airport, landing field, or landing strip for aircraft
- (2) Amusement Park, but not within three hundred (300) feet of any residential district
- (3) Circus or carnival grounds, but not within three hundred (300) feet of any residential district
- (4) Commercial, recreational or amusement development for temporary or seasonal periods
- (5) Private operated community building or recreation field
- (6) Radio or television broadcasting tower or station
- (7) Drive-in theater on a site of not less than ten (10) acres
- (8) Cemeteries
- (9) Kiosks or other temporary or seasonal open-air vending
- (10) Accessory buildings that exceed sizes permitted by this ordinance

**(11) Residential uses on the first floor of non-residential districts**

(12) Tents or other temporary structures not permitted by this ordinance

(13) Temporary residential use of a travel trailer or recreational vehicle meeting the following standards:

- (i) The lot, tract or parcel shall be at least 6,000 square feet in area.
- (ii) The use of the travel trailer or recreational vehicle shall be limited to residential use by an individual constructing their own home in an SFR district for not more than a period of one year; or an ill, convalescent or otherwise disabled friend or relative needing care from the occupant of the primary residence, or a friend or relative providing necessary care for an ill, convalescent or otherwise disabled occupant of the primary residence. The need for care shall be documented by a letter from a physician.
- (iii) No more than two (2) people may occupy the travel trailer or recreational vehicle.
- (iv) The temporary unit may only be placed on a legal parcel with an existing primary residence except where the permanent residence is under construction as described in (ii) above.
- (v) The temporary unit shall have an approved connection to a sanitary sewer system or septic system. The unit shall also have an approved connection to a public water system or well.
- (vi) The temporary unit shall meet zoning setback requirements and shall be located no closer to a street than the front wall of the permanent residence.
- (vii) The temporary unit shall be currently licensed as required by the State of Texas, have a valid state inspection and remain in a mobile condition.
- (viii) The temporary unit shall not be considered a separate residential unit for the purpose of calculating impact fees.
- (ix) The temporary unit shall not be rented or leased.
- (x) If approved, an administrative permit for residential use of a travel trailer or recreational vehicle shall be obtained. Such permit shall expire one year from the date of issuance. Permits may be renewed annually in the discretion of the City Council. Permit and renewal applications shall be accompanied by a written statement signed by the applicant under penalty of perjury that the use will conform to the standards set forth in this subsection. Renewal applications shall be submitted prior to permit expiration and shall include an updated letter from a physician.
- (xi) Within sixty (60) days of cessation of the temporary residential use, all occupancy of the unit shall cease, the unit shall be disconnected from all utilities and the unit shall be removed from the premises.

(14) Family Homes and Group Homes allowing any resident who has been convicted of rape, sexual abuse or assault of a child with full disclosure made to the Planning & Zoning Commission and the City Council, and Group Home Type 3, with consideration given to all the facts and circumstances applicable to the site and the facility for which the permit is requested, including, but not limited to, the size of the lot, traffic flow and congestion, neighboring or nearby land uses, and the ability to monitor the location and activities of the residents.

(15) Small wind energy systems.

**(b) Process**

Before authorization of any of the above Special Uses, the request shall be referred to the Commission for study and report concerning the effect of the proposed use on the Comprehensive Plan and on the character and development of the neighborhood. Notice shall be

given and public hearings held in the same manner as for all other zoning and rezoning applications.

**(c) Process for Requesting a Reasonable Accommodation Special Use Permit.** The procedure for requesting reasonable accommodation from requirements of the Form Based Hybrid Zoning Ordinance by persons with disabilities is as follows:

- (1) A person requesting a reasonable accommodation from the city's Form Based Hybrid Zoning Ordinance on the basis of a disability shall file a request for reasonable accommodation with the City Administrator, or as applicable, the Director of Planning or his/her designee. The applicant shall not be charged a fee for the application; provided that the applicant will pay the cost of publishing and mailing notice of the public hearing on the application. The request shall state the accommodation from the zoning ordinance requested and the basis for the request.
- (2) The City Administrator, or as applicable, the Director of Planning shall forward to the Commission the request for reasonable accommodation and place the request on the agenda of the Commission for a hearing as soon as practicable. The City Administrator, or as applicable, the Director of Planning, will make a recommendation on the application based on the criteria set forth in subsection (c)(3), (4), and (5). Notice shall be given and public hearings held in the same manner as for all other zoning and rezoning applications.
- (3) The Commission shall conduct a hearing to determine whether the request for reasonable accommodation should be granted. At that hearing, the applicant (or the person on whose behalf the applicant is requesting the accommodation) shall have the burden to demonstrate that:
  - (i) The housing, which is the subject of the requested accommodation, will be used by one or more individuals with a disability protected under the Fair Housing Act; and
  - (ii) The applicant (or the person(s) on whose behalf the applicant is requesting the accommodation) demonstrates that the accommodation is both reasonable and necessary. An accommodation under this section is "necessary" if without the accommodation the applicant (or the person on whose behalf the applicant is requesting the accommodation) will be denied an equal opportunity to obtain the housing of his or her choice. An accommodation is unreasonable when the accommodation imposes an undue financial or administrative burden on the City; or requires a fundamental alteration in the nature of the City's land use and zoning regulations.
- (4) The Commission shall review the application and make a recommendation to the City Council that is consistent with the Fair Housing Act and based on the following factors:
  - (i) Whether the housing, which is the subject of the requested accommodation, will be used by an individual or individuals with a disability protected under the Fair Housing Act;
  - (ii) Whether the requested accommodation is necessary to afford an individual or individuals with a disability an equal opportunity to use and enjoy a dwelling;
  - (iii) whether the requested accommodation would impose an undue financial or administrative burden on the City; and
  - (iv) whether the requested accommodation would require a fundamental alteration in the nature of the City's land use and zoning regulations.
- (5) If the Commission finds that the requested accommodation will impose an undue financial or administrative burden on the City, or will require a fundamental alteration in the nature of the City's land use and zoning regulations, the Commission must find whether an

alternative reasonable accommodation exists that would effectively meet the disability-related need. An alternative reasonable accommodation may be the requested accommodation with conditions. The conditions must relate to the specific disability that causes the need for the accommodation.

- (6) The Commission's recommendation will be sent to the City Council for consideration as soon as practicable. The City Council will consider the application and recommendation based on the criteria set forth in subsections (3), (4), and (5).

### **SECTION 3: NON-CONFORMING USES**

#### **(a) General Policy**

Non-conformities in the use and development of land and buildings are to be avoided, or eliminated where now existing, whenever and wherever possible, except:

- (1) When necessary to preserve property rights established prior to the date these regulations become effective as to the property in question; and
- (2) When necessary to promote the general welfare and to protect the character of the surrounding property.

#### **(b) Nonconforming Structures**

Where a lawful structure exists on the effective date of the adoption or amendment of this Zoning Ordinance that could not be built under the terms of this Zoning Ordinance or amendment thereto by reason of restrictions on permitted use, area, setback, lot coverage, height, years, its locations on the lot, or other requirements concerning the structure, such structure may be continued as long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming structure shall be enlarged or altered in a way which increases its structural nonconformity, but any structure or portion thereof may be altered to decrease its structural non-conformity. However, maintenance and additions to existing structures are permitted in conformance with the existing standards of the structure including standards that relate to masonry, setback, architectural, landscaping or other zoning standards, as long as an addition does not exceed 50% percent of the existing gross floor area or 900 square feet, whichever is greater, but never more than 100% of the existing structure. However, metal siding and manufactured homes are not permitted to be added to a structure unless permitted under current zoning regulations.
- (2) Should such nonconforming structure or nonconforming portions of a structure be damaged by any means to an extent of more than one hundred percent (100%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with this ordinance. Reconstruction of a structure damaged to an extent of less than one hundred percent (100%) of replacement value may be accomplished based on the zoning standards of the original structure.
- (3) Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

#### **(c) Nonconforming Uses**

A nonconforming use may be continued as long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted to a nonconforming use shall be enlarged or extended, unless such use is a single-family use in which case it may be enlarged or extended by not more than forty percent (40%) of its current floor area.
- (2) The use of the structure shall only be changed to a use permitted in the district in

which it is located.

- (3) Except for single-family, a nonconforming use that has been discontinued may be resumed only if there has been no other use of the premises or structure since the nonconforming use was discontinued. A single-family use that is non-conforming may be resumed even if there has been another use of the structure since the nonconforming use was discontinued.
- (4) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to any land outside such building.
- (5) Removal or destruction of a structure containing a nonconforming use shall terminate any legal status of the nonconforming use unless such use is residential.
- (6) Any structure not designed for human occupancy such as a storage building, shed or similar structure, may not be utilized for human occupancy, whether that occupancy is as a residence, business, work area, or other human occupancy, regardless of whether such use has occurred previously except where such structure is not a residence or open to the public and is being utilized for an activity that would normally occur outdoors.

#### **(d) Repairs and Maintenance**

On any nonconforming structure, or nonconforming portion of a structure, repairs and maintenance shall be performed to maintain the structure in compliance with the electrical, plumbing and building codes; provided that such repairs and maintenance shall be subject to the following: If seventy-five percent (75%) or more of the nonconforming structure becomes physically unsafe or unlawful due to lack of repairs or maintenance, and is declared by a duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

### **SECTION 4: CONDEMNATION VARIANCE**

Any property, or part thereof, that is taken in a condemnation proceeding, or purchased or acquired by or dedicated to a public entity, either by voluntary transfer or by condemnation or threat thereof, which creates non-compliance with set back or other zoning regulations for any then existing building, structure or other site improvements thereon, or any approved plan constituting vested rights, shall act as, be and constitute a variance from such regulations to the extent the taking, transfer dedication or vesting creates non-compliance with such regulations.

### **SECTION 5: ACCESSORY BUILDING/STRUCTURE/USE; SPORTS & OTHER EQUIPMENT REGULATIONS**

- (a) In residential districts, an accessory building / structure is incidental to and customarily associated with a specific principal use or principal building on the same site, attached to or detached from the main building, and not used for commercial purposes and not rented.
- (b) In non-residential districts, an accessory building / structure is a subordinate building, the use of which is secondary to and supportive of the main building.
- (c) An enclosed garage structure is considered as part of the primary building / structure even if it is detached.
- (d) Enclosed accessory buildings shall be prohibited in front of and to the side of the main building. Otherwise, accessory buildings / structures shall have the same setbacks as primary

buildings except as follows:

- (1) Unenclosed canopies (including carports) in non-residential districts that cover a paved surface suitable for vehicular parking shall be in accordance with the setback rules for parking areas,
  - (2) Unenclosed canopies (including carports) in residential districts that cover a paved surface suitable for vehicular parking may be located to the side or rear of the main building.
  - (3) The rear setback line for an accessory building / structure in a single-family or two-family district may be reduced to five (5) feet except as required in paragraph k below.
  - (4) Accessory buildings / structures shall be located at least three feet from any other building or structure on the property.
- (e)** No structure may be in any public utility easement.
- (f)** Accessory buildings / structures shall not be permitted without a main building or primary use being in existence.
- (g)** No accessory building / structure shall exceed one story or fifteen (15) feet in height except in an SFR or non-residential district where an accessory building shall not exceed twenty-eight (28) feet in height.
- (h)** All accessory buildings / structures not considered a permanent structure will be considered temporary structures including but not limited to tents, and must comply with the following requirements:
- (1) Tents or other temporary structures must be securely attached to the surface on which they are located and inspected prior to occupancy excluding personal tents in residential backyards. Temporary structures shall not utilize required parking areas.
  - (2) Except for a special event or with a Special Use Permit, tents or other temporary structures shall only be utilized for a period not to exceed thirty (30) consecutive days and not more than two (2) times in any twelve (12) month period. A building permit is required.
  - (3) Tents or other temporary structures are required to have tie downs as approved by the Building Official. The building official will determine the type of tie down depending upon the structure. Some of the tie downs that can be used are wet setting steel straps or cabling in concrete across runners, wet setting a pressure treated 2x4 18 to 24 inches deep in concrete and securely attached at each corner, or tie down kits similar to what is used for manufactured/mobile homes.
- (i)** Except for agricultural accessory buildings / structures, accessory buildings / structures shall be screened from adjacent properties in accordance with the screening requirements of the landscape regulations (Article IV, Sec. 1).
- (j)** No accessory building / structure shall be placed so as to negatively impact drainage on any adjacent lot by diversion or impoundment of stormwater flows.
- (k)** In Rural zoning district, barns and/or stables shall be limited to a height of not more than twenty-eight feet to the top of the roof. Such barns and/or stables shall not be located within 25' from a property line and 100' from any existing residence on adjacent property.
- (l)** No building permit is required for an accessory building / structure less than or equal to 50 square feet in size.

**(m)** Except for agricultural accessory buildings / structures, roof standards for accessory buildings / structures greater than 120 square feet in size are as follows:

- (1) Except for metal carports and engineered metal buildings, the minimum roof slope shall be the same as the primary structure
- (2) The color and materials of the roof of the accessory building / structure must closely resemble the color and materials of the roof of the main building.

**(n)** Exterior wall standards (except for agricultural accessory buildings / structures)

- (1) Accessory buildings / structures are permitted and may not exceed 120 square feet in area and shall closely resemble the main building unless the following conditions are met:
  - (i) If accessory buildings / structures utilize exterior grade wood, fiber-cement planking or other equivalent or better siding, or masonry then the building may be between 120 - 300 square feet in area.
  - (ii) If accessory buildings / structures utilize Masonry, then the building may be over 300 square feet in area.

**(f)** Sports / Recreational Facilities:

Swimming pools, children's play structures, swing sets, basketball courts, sports courts, tennis courts and similar permanent or semi-permanent sports / recreational facilities shall be located to the rear of the primary residence. Basketball goals, including goals on wheels, shall not be located on any street. Any lighting shall be directed to minimize glare and direct lighting onto any adjoining property.

**(g)** Swimming pool pumps, filters and related equipment and other similar items shall be located or screened so as to be concealed from view of adjacent streets and lots.

**(h)** Nothing in these regulations shall be construed so as to limit the use of any property for a garden, including a vegetable garden.

**(i)** Solar Energy Systems: Both building mounted and free-standing Solar Energy Systems shall be permitted as an accessory use in all zoning districts in the City if meeting the standards of this section.

- (1) Height: Free-standing solar energy systems shall not exceed fifteen (15) feet in height. When attached to a building, solar energy systems shall not extend more than four (4) feet above the roof surface of the building on which they are installed. Solar energy systems are also subject to the maximum height limits of the zoning district in which they are located
- (2) Setback: Solar energy systems shall meet all applicable building setback provisions of Article. VI, Section 6 of this code, in addition, for residential districts, no such system or portion thereof may extend closer to a roadway than the nearest wall of the structure which it serves unless the lot is a double frontage lot and such system is located in the rear yard.
- (3) Interconnected System: It shall be permissible to direct any residual energy generated by solar energy systems to the power grid upon approval of the power company.
- (4) All solar energy systems shall be designed and located in order to prevent reflective glare toward any inhabited structure on adjacent properties as well as adjacent street rights-of-way.
- (5) Permits: A solar energy system requires permitting by the Building Permits Division. To provide an incentive for solar energy systems, there shall be no permitting fee

for such systems except what is required to reimburse the City for any direct costs the City may incur in the permitting process. Direct costs may include, but are not limited to, outside agency or consultant review fees and materials or equipment purchased for inspection or testing of solar energy systems. Such direct costs shall not include salaries and normal support costs for City personnel and equipment otherwise required for City operations. Review of the permit application shall be fast-tracked.

(i) Permit applications for solar energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the applicable National Electrical Code. A solar energy system shall comply with all applicable state and local electrical and building codes.

- (6) Private Restrictions: It shall be unlawful for neighborhood or other private covenants and restrictions adopted after the effective date of this ordinance to restrict solar energy systems beyond what is contained in city, state and federal restrictions except in ways that will not impact the feasibility of the system. For the purposes of this section, any requirement beyond city, state and federal restrictions that would deny the installation of a solar energy system, render the installation of a solar energy system impractical or increase the cost of such system by more than fifteen percent (15%) is considered to impact the feasibility of the system.
- (7) Solar panels shall not be located within three (3) horizontal feet of any peak, eave or valley of the roof in order to retain access pathways unless such panels are completely integrated with the roofing materials.
- (8) Variances to this sub-section may be considered by the Board of Adjustment after a public hearing is held in conformance with the notification rules established for the consideration of a subdivision concept plan.
- (9) shall not be considered significant enough for mitigation.

**(j) Rainwater Harvesting Systems:** Rainwater harvesting systems shall be permitted as accessory uses and accessory structures in all zoning districts in the City if meeting the standards of this section.

- (1) Accessory Structures: Rainwater harvesting barrels/tanks/cisterns shall be considered as accessory structures, except that they shall not be required to meet the exterior wall standards of accessory structures, and they shall not be counted toward the square footage allotment of accessory structures.
- (2) Setbacks: Above ground portions of rainwater harvesting systems shall not be required to meet the setback standards of accessory structures, however, they shall adhere to the building /structure setbacks in Article VI, Section 6 of this code and may take advantage of setback exceptions offered for roof overhangs, fireplaces, bay windows and similar projections as well as porches, patios, balconies and other similar projections if such systems otherwise meet the standards of this section.
- (3) Screening: A rainwater harvesting system shall either be screened from view by at least sixty percent (60%) from any street or public rights-of-way, or shall be integrated into the design of the structure as a compatible architectural element of the structure. To be a compatible architectural element, a rainwater harvest system shall utilize consistent or compatible exterior materials and design elements of the primary structure in the opinion of the Planning Director.
- (4) Permits: A rainwater harvesting system shall be subject to the permitting rules of the Building Permits Division. To provide an incentive for rainwater harvesting systems, there shall be no permitting fee for such systems except what is required to reimburse the City for any direct costs the City may incur in the permitting process. Direct costs may include, but are not limited to, outside agency or consultant review fees and materials or equipment purchased for inspection or

testing of rainwater harvesting systems. Such direct costs shall not include salaries and normal support costs for City personnel and equipment otherwise required for City operations. Review of the permit application shall be fast-tracked. Rainwater systems of less than sixty (60) gallons shall not require a permit and shall not be subject to the preceding requirements of this section.

- (5) Private Restrictions: It shall be unlawful for neighborhood covenants and private restrictions adopted after the effective date of this ordinance to restrict rainwater harvesting systems beyond what is contained in city, state and federal restrictions except in ways that will not impact the feasibility of the system. For the purposes of this section, any requirement beyond city, state and federal restrictions that would deny the installation of a rainwater harvesting system, render the installation of a rainwater harvesting system impractical, or increase the cost of such system by more than fifteen percent (15%), is considered to impact the feasibility of the system.
- (6) Variances: Variances to this sub-section may be considered by the Board of Adjustment.

## **SECTION 6: ACCESSORY DWELLINGS**

- (a) Minimum Standards: An accessory dwelling must meet the following standards:
  - (1) For residential districts, the accessory dwelling must be constructed as architecturally and physically integrated with the primary structure or to the rear of the main dwelling, separate from the main dwelling.
  - (2) The accessory dwelling shall be constructed only with the issuance of a Building Permit and shall be constructed out of the same or better material(s) as the main structure.
  - (3) The accessory dwelling shall not be sold separately.
  - (4) Setback requirements shall be the same as for the primary structure (or garage if connected with the garage).
  - (5) Accessory dwellings are not permitted without the primary structure.
  - (6) Accessory dwellings shall contain a minimum of 400 square feet of living area and a maximum of 900 square feet of living area or 40% of the gross living area of the primary dwelling, whichever is greater.
  - (7) Either the principal or accessory dwelling unit shall be owner occupied.
  - (8) Accessory Dwellings are only allowed on parcels greater than 12,000 square feet that has access from two public thoroughfares.
- (b) Maximum height of an accessory dwelling unit shall be two (2) stories or thirty (30) feet.
- (c) No more than one accessory dwelling unit per lot is allowed in a residential or industrial district.
- (d) Parking for an accessory dwelling unit shall not be less than one (1) parking space per accessory dwelling unit and shall not be required to exceed four off-street parking spaces per single-family lot.
- (e) The LUE requirement (whether a whole LUE or any fraction thereof) for an accessory dwelling unit shall be counted toward the maximum number of LUE's available to be issued in the City, and in the subdivision within which the lot is platted.
- (f) In addition to compliance with all applicable city codes and regulations including, but not limited to, those dealing with building, plumbing, electrical, fire, safety, health and sanitation, property maintenance and rental housing licensing, the construction, occupancy and use of an

accessory dwelling unit shall be controlled by the following restrictions:

- (1) An accessory dwelling unit can be constructed concurrently with, but not before, a principal residence or primary building.
- (2) A separate water and sewer tap shall be obtained for each accessory dwelling unit at the same cost as a primary sewer and water connection.

## **SECTION 7: TEMPORARY BUILDINGS AND STRUCTURES**

### **(a) Purpose**

Temporary buildings and structures, as set forth below, are declared to have characteristics which require certain controls in order to ensure compatibility with other uses in the district within which they are proposed for location.

### **(b) Temporary Building Standards**

- (1) No temporary building or structure shall be erected in any required setback area.
- (2) Temporary buildings providing classrooms for schools, religious institutions and other similar facilities may be permitted only where such buildings are part of an approved site plan for future development of the site.
- (3) Temporary buildings, where permitted, are subject to site plan approval. The City Administrator, or as applicable, the Director of Planning may require buffering or screening.
- (4) Temporary buildings shall not be placed between a principal building and a street, or in any street yard of the principal building. Temporary buildings shall not interfere with on-site circulation.
- (5) Temporary buildings are permitted only on property which has a permanent building and shall be considered as an accessory structure.
- (6) If approved, temporary buildings shall be issued a temporary certificate of occupancy for a period not to exceed two years. Extensions may be issued by the Building Official if the applicant can demonstrate that progress is being made on the planning, design and/or construction of permanent facilities or for the removal of the temporary building(s).

### **(c) Use of Model Home as Temporary Sales Office**

The following regulations shall apply to the use of model homes as temporary sales offices:

- (1) The use of a model home as a temporary sales office may be located within Town districts as part of an on-going residential development, provided that the office is directly and exclusively related to sales of dwelling units within the respective residential subdivision or development.
- (2) The Building Official shall ensure that each use of a model home as a temporary sales office is issued only a temporary certificate of occupancy. The temporary certificate of occupancy shall expire in two years, except as described below or renewal upon it being established that the conditions of approval still exist.
- (3) If a model home is used as a temporary sales office, the sales office shall be removed no later than when certificates of occupancy have been issued to 90 percent of the residential units proposed for the development.
- (4) If any garage space has been used as office space, it shall be converted back to a garage for automobile parking prior to the issuance of a certificate of occupancy for use as a home.
- (5) Temporary sales offices shall only be located in model homes.

### **(d) Contractors' Offices and Equipment Sheds**

Contractors' offices and equipment sheds containing no sleeping or cooking accommodations are permitted in any district when accessory to an ongoing construction project. Such use shall be removed prior to the issuance of a certificate of occupancy for the associated construction project.

## **SECTION 8: HOME OCCUPATIONS**

A home occupation is an occupation that is incidental and secondary to the primary use of the premises as a residence and that is conducted in a residential dwelling unit by a member of the occupant's household. A home occupation is permitted subject to compliance with this section and on the condition that such use does not include any activity that is detrimental or injurious to adjoining property. A home occupation must meet all of the following conditions:

- (a) A home occupation shall be conducted entirely within a completely enclosed structure.
- (b) External evidence of the occupation shall not be detectable at any lot line. The interior/exterior of the dwelling shall not be structurally altered to comply with nonresidential construction codes, nor shall additional structures be built on the property to accommodate the home occupation.
- (c) A home occupation shall have no outside storage either on a temporary or overnight basis. Not more than one vehicle of not greater than three-quarter-ton rated capacity, which indicates, by signage or other means, that it is used in a business, shall be parked on residentially zoned property or in a public street or alley adjacent to residentially zoned property. No vehicle used in connection with a home occupation which requires a commercial driver's license to operate shall be parked on the lot or on any street adjacent to the lot.
- (d) A home occupation shall have no exterior advertisement, sign or display, on or off the premises.
- (e) A home occupation shall have no modification or activity which would indicate from the exterior of the structure that the premises are being used for anything other than a dwelling unit.
- (f) A home occupation shall not employ more than one person with work responsibilities within the residence, in addition to the occupant.
- (g) The occupation shall not change the residential character of the lot and dwelling, nor alter the exterior appearance of the principal building from that of a dwelling for human habitation, nor require the installation of machinery or equipment other than that customary to domestic, hobby, craft, artisan, standard office, or ordinary household activities.
- (h) A home occupation shall have no exhibits or displays of goods, wares or merchandise unless the property is zoned for such use.
- (i) No home occupation shall be allowed which is offensive by reason of odor, noise, dust, smoke, hours of operation, debris, noxious fumes, vibration, excessive lighting or manner of operation.
- (j) A home occupation shall not create a fire hazard; health hazard; air, land or water pollution hazard; explosion hazard or accumulation of pests, rodents, flies or vermin.
- (k) The occupation shall be conducted as an accessory use that is clearly incidental and secondary to the residential use of the premises, shall not use an area exceeding 25 percent of the gross floor area of the dwelling, nor cause a substantial increase in any utility usage.
- (l) Nothing herein shall be construed to allow animal breeding or hospitals, pet grooming, commercial kennels, commercial stables, veterinary offices, clinics, hospitals, barber shops, beauty parlors, contractor's yards, dancing schools, junk yards, lodging houses, "bed and breakfast" lodges, massage parlors/therapy clinics, restaurants, rental outlets, or vehicle repair shops as home occupations.
- (m) The home occupation shall not generate customer related vehicular traffic in excess of three vehicles per twenty-four-hour day.

## **SECTION 9: FAMILY HOMES AND GROUP HOMES**

- (a)** Not more than two supervisory personnel may reside in a Family Home or in a Group Home, Class 1 at one time.
- (b)** Not more than three supervisory personnel may reside in a Group Home, Class 2 at one time.
- (c)** Not more than three supervisory personnel may reside in a Group Home, Class 3 at one time.
- (d)** Family Homes and Group Homes shall comply with the Building and Fire Codes of the City at all times, and shall be inspected by the Fire Department from time to time.
- (e)** Each Family Home and each Group Home must be licensed by the State of Texas, and must remain in compliance with the applicable Standards for Personal Care Facilities set by the Texas Department of Human Services.
- (f)** A person that is using alcohol or a controlled substance not prescribed by a licensed physician shall not be permitted to reside in a Family Home or Group Home.
- (g)** A Family Home or a Group Home shall not permit or allow any person to reside in the Family Home or Group Home if that person has been convicted of rape or sexual abuse or assault of a child. The City Council may waive this requirement and limitation if full disclosure is made to the Planning & Zoning Commission and the City Council and a Special Use Permit is approved for the facility.
- (h)** Except for Family Homes and Group Homes that provide residential service only to disabled persons sixty years of age or older, a Family Home or a Group Home may not be located within 500 feet of any other Family Home or Group Home, unless the City Council waives this requirement.
- (i)** Family Homes and Group Homes that are located within any Single-Family Zoning District shall comply with Article IV, Section 8, Subsections (b), (d) and (e) of the Zoning Ordinance.
- (j)** A Group Home - Class 3 may not be located within 1,000 feet of a park, public or private school, or day care facility.
- (k)** A Group Home - Class 3 may not be located within 400 feet of any property that is deed restricted, permanently zoned or occupied for any single-family, two-family or multi-family use.
- (l)** All distances for separation of uses in this section shall be measured from the front door of the Group Home/Family Home to the nearest point of a property line of the protected use, or to the front door of another Group Home/Family Home. The distance shall be measured as the most direct straight-line distance between these points.
- (m)** It is the policy and practice of the city to provide reasonable accommodations to individuals with disabilities, which allows for the modification or exception to the city's zoning codes and regulations, to ensure equal access to housing and to facilitate the development of housing for individuals with disabilities. A review process exists to consider requests for reasonable accommodation in order to eliminate barriers to housing opportunities for persons with disabilities. A request for reasonable accommodation to accomplish the goals and policies of the Fair Housing Act (42 U.S.C. 3601) may be authorized as a Reasonable Accommodation Special Use Permit pursuant to Article IV, Section 2. Reasonable accommodation is encouraged where such accommodation may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing.

## **SECTION 10: EXCEPTIONS**

- (a)** Where a legal lot or other legal tract less than the required width, depth or area established in this ordinance, and in existence on the effective date of this ordinance, these lot size requirements shall not prohibit the erection of one primary structure for occupancy for a use

permitted within the district in which the lot or tract is located.

- (b)** Where a preliminary plat or concept plan, filed or approved prior to the effective date of this ordinance and compliant with the minimum requirements in effect when filed or approved, shows lots less than the required width, depth or area established in this ordinance and does not expire prior to submission of a final plat, the final plat may be approved with the lot sizes as approved on the preliminary plat or concept plan.
- (c)** Special consideration for the width and depth of cul-de-sac lots will be given as long as they meet the minimum area requirement of their respective district.

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## ARTICLE V – DIMENSIONAL STANDARDS

### SECTION 1: STREET STANDARDS

Thoroughfare Classifications and Standards						
	ROW	Pavement Width	Drainage Type	Sidewalk Width	Parkway Width	Design Speed
Passage - A path between buildings or between lots. Can be midblock walkways also.	10' Min/ 20' Max	10'	N/A	N/A	N/A	N/A
Path - A sidewalk within open space that connects to sidewalks.	40' Min	10'	Surface	N/A	N/A	N/A
Greenway - As defined in the Comprehensive Plan. Connects nature areas and a park of the Nature Zoning Category. A part of the pedestrian network.	100'	10'	Surface	N/A	N/A	N/A
Alley - Usually at the rear of a property to provide access to parking. Limited in length.	20'	20'	Surface	N/A	N/A	2- 10 mph
Lane - A local street with very low capacity that serves a limited number of parcels. Does not have on street parking. May serve the front or rear of the parcels.	40'	20'	Swale	None	10'	2- 10 mph
Street - A local thoroughfare with low speeds and low capacity. Adjoining parcels have back in driveway access. There is on-street parking.	55'	22'	Swale	6'	10'+ Sidewalk	20 mph
Road - A local thoroughfare with low to moderate speeds and capacities. Pedestrian facilities separated with a parkway. Adjoining parcels have head-in and head-out	70'	30'	Swale	10'	10'+ Sidewalk	25 mph

driveway access. There is no on-street parking						
Avenue - Designed for high capacity with low to moderate speeds. Has pedestrian facilities and center medians. The volume and speeds keep this from being a thoroughfare option to be used in Van.						45 mph
Boulevard - Designed for high capacity and moderate speeds. The conventional development equivalent is an arterial. The village concept of Van does not accommodate boulevards or arterials.						45 mph
Highways - Designed to move vehicles through the region. Highways have no pedestrians or bicycle facilities. The Interstate Highway is within Van's Jurisdiction.						55 mph+

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## SECTION 2: DENSITY AND COVERAGE STANDARDS

<b>Density Standards</b>		
<b>Zoning Category</b>	<b>Gross Density</b>	<b>Maximum Impervious Coverage</b>
<b>Rural</b>	N/A	5%
<b>Nature</b>	N/A	0%
<b>Town</b>	5	50%
<b>Rural Town Overlay</b>	2	25%
<b>Hamlet Town Overlay</b>	4	50%
<b>Village Town Overlay</b>	9.5	75%
<b>Car-Free Overlay</b>	35	65%
<b>Downtown</b>	9.5	95%
<b>Connector</b>	5	50%
<b>Linkage Connector Overlay</b>	4	45%
<b>Character Connector Overlay</b>	15	45%
<b>Corridor</b>	5	50%
<b>North Corridor Overlay</b>	9.5	50%
<b>South Corridor Overlay</b>	15	50%
<b>East Corridor Overlay</b>	15	50%
<b>West Corridor Overlay</b>	15	50%
<b>I-20</b>	25	75%

### SECTION 3: LOT STANDARDS

Lot Standards							
Zoning Category	Minimum Lot Size	Maximum Lot Size	Minimum Frontage	Max Frontage	Minimum Depth	Maximum Depth	Maximum Impervious Coverage
Rural	10 Acres	N/A	35'	1000'	400'	1000'	5%
Nature	N/A	N/A	N/A	N/A	N/A	N/A	0%
Town	5000 Sq ft	N/A	45'	100'	100'	N/A	50%
Rural Town Overlay	1/2 Acre	N/A	100'	200'	100'	240'	25%
Hamlet Town Overlay	9,000 Sq ft	1/2 Acre	70'	100'	100'	200'	50%
Village Town Overlay	3,500 Sq ft	9,000 Sq ft	25'	100'	100'	200'	75%
Car-Free Overlay	Subject to development agreement						65%
Downtown	3,500 Sq ft	5 Acres	25'	100'	100'	650'	95%
Connector	3,125 Sq ft	5 Acres	25'	N/A	100'	N/A	50%
Linkage Connector Overlay	12,000 Sq ft	5 Acres	85'	200'	145'	200'	45%
Character Connector Overlay	3,125 Sq ft	5 Acres	85'	200'	145'	200'	45%
Corridor	3,125 Sq ft	5 Acres	70'	100'	100'	200'	50%
North Corridor Overlay	9,000	12,000 Sq ft	70'	100'	100'	200'	50%
South Corridor Overlay	6,000 Sq ft	12,000 Sq ft	70'	100'	100'	200'	50%
East Corridor Overlay	6,000 Sq ft	12,000 Sq ft	70'	100'	100'	200'	50%
West Corridor Overlay	3,125 Sq ft	4 Acres	70'	100'	100'	200'	50%
I-20	12,000 Sq ft	N/A	65'	650'	100'	650'	75%

The ratio of lot depth to lot width shall not exceed 5:1 in all zoning categories except Rural and Nature.

Flag lots may be approved by development agreement.

## SECTION 4: BUILDING STANDARDS

Building Setbacks							
Zoning Category	Front Setback	Front Build To Line	Rear Setback	Side Setback	Side Street Build to Line	Max Height	Minimum Height
Rural	150'	N/A	75'	25'	25'	3 Stories	N/A
Nature	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Town	20'	20'	20'	7.5'	7.5'	3 Stories	1 Story
Rural Town Overlay	35'	35'	35'	60%!!	20'	3 Stories	1 Story
Hamlet Town Overlay	20'	20'	20'	40%!!	15'	3 Stories	1 Story
Village Town Overlay	15'*	15'*	10*	20%!!	10'	3 Stories	1 Story
Car-Free Overlay	Per Development Agreement					4 Stories	2 Stories
Downtown	N/A	0 to 5'	20'	0'	0 to 5'	3 Stories	2 Stories
Connector	20'	20'	20'	7.5'	7.5'	3 Stories	1 Story
Linkage Connector Overlay	20'	20'	20'	60%!!	15'	3 Stories	1 Story
Character Connector Overlay	0-15'	0-15'	20'	30%!!	0 to 5'	3 Stories	1 Story
Corridor	20'	20'	20'	7.5'	7.5'	3 Stories	1 Story
North Corridor Overlay	30'	30'	20'	40%!!	20'	3 Stories	1 Story
South Corridor Overlay	20'	20'	20'	60%!!	20'	3 Stories	1 Story
East Corridor Overlay	20'	20'	20'	40%!!	20'	3 Stories	1 Story
West Corridor Overlay	35'	35'	20'	60%!!	20'	3 Stories	1 Story
I-20	45'	N/A	20'	5'	N/A	8 Stories	1 Story

\* All garages shall have a 20' setback.

!! Side setbacks are a function of the lot frontage and building width. Combined total side setbacks shall not be less than the stated percentage of the total lot width, and no one side shall be less than 80% of ½ of the combined total.

There will be a chart here with setbacks for accessory uses.

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## SECTION 4: PARKING STANDARDS

Parking Standards								
Zoning Category	Residential Use		Retail Use		Restaurant Use		Office Use	
	Min Spaces /Unit	Max Spaces /Unit	Min Spaces /Unit	Max Spaces	Min Spaces /Unit	Max Spaces	Min Spaces /Unit	Max Spaces
Rural	1	4	1	1 space per 300 Sq FT	1	1 space per 200 Sq FT	1	1 space per 400 Sq FT
Nature	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Town	1	4	1	1 space per 300 Sq FT	1	1 space per 200 Sq FT	1	1 space per 400 Sq FT
Rural Town Overlay	1	4	1	1 space per 300 Sq FT	1	1 space per 200 Sq FT	1	1 space per 400 Sq FT
Hamlet Town Overlay	1	4	1	1 space per 300 Sq FT	1	1 space per 200 Sq FT	1	1 space per 400 Sq FT
Village Town Overlay	1	2	1	1 space per 300 Sq FT	1	1 space per 200 Sq FT	1	1 space per 400 Sq FT
Car-Free Overlay	0	N/A	0	0	0	0	1	0
Downtown	1	4	1	1 space per 300 Sq FT	1	1 space per 200 Sq FT	1	1 space per 400 Sq FT
Connector	1	4	1	1 space per 300 Sq FT	1	1 space per 200 Sq FT	1	1 space per 400 Sq FT
Linkage Connector Overlay	1	4	1	1 space per 300 Sq FT	1	1 space per 200 Sq FT	1	1 space per 400 Sq FT
Character Connector Overlay	1	4	1	1 space per 300 Sq FT	1	1 space per 200 Sq FT	1	1 space per 400 Sq FT
Corridor	1	4	1	1 space per 300 Sq FT	1	1 space per 200 Sq FT	1	1 space per 400 Sq FT
North Corridor Overlay	1	4	1	1 space per 300 Sq FT	1	1 space per 200 Sq FT	1	1 space per 400 Sq FT
South Corridor Overlay	1	4	1	1 space per 300 Sq FT	1	1 space per 200 Sq FT	1	1 space per 400 Sq FT
East Corridor Overlay	1	4	1	1 space per 300 Sq FT	1	1 space per 200 Sq FT	1	1 space per 400 Sq FT
West Corridor Overlay	1	4	1	1 space per 300 Sq FT	1	1 space per 200 Sq FT	1	1 space per 400 Sq FT
I-20	1	2	1	1 space per 300 Sq FT	1	1 space per 200 Sq FT	1	1 space per 400 Sq FT

## SECTION 5: DIVERSITY STANDARDS

Diversity of housing and access to convenient services are elements of a village environment and necessary for an effective pedestrian realm. Diversity of housing within a neighborhood allows one to have housing choices regardless of their stage of life. Diversity of housing is an issue of equity and choice.

The size of a parcel triggers the requirement for non-residential services. These regulations are based upon 2 acres and 20 units triggering the requirement for non-residential space. When the trigger conditions exist, the space required is 100 square feet of non-residential building area per residential unit.

The number of proposed living units within a parcel, trigger the requirement for a diversity of unit types. The number of residential units that trigger a diversity requirement 5. The maximum number of unit types required is 8, which is required at 70 units or above.

The following chart shows the quantity of non-residential space required for unit counts up to 100. Unit counts exceeding that amount will be provided with 100 square feet of non-residential per unit.

Base it on lot size and make building size minimum of 800 sqft.

Number of Residential Units	Required Number of Residential Types	Required Non-Residential Space - Based on 50 sq ft/unit
5	2	0
10	3	0
20	4	1,000 1 lot
30	5	1,500 1.5 lot
50	7	2,500 2 lot
70	8	3,500 2.5 lot
100	8	5,000 3 lot

The maximum number of required residential unit types is 8. The description of unit types is shown below. The ratio of the mix is determined by the developer, under the following guidelines.

- The developer may provide up to 75% of the total residential unit count as one unit type.
- The remaining unit mix has minimum requirements as shown in the attached table.

Residential Classifications	Unit Size in Square Feet	Limits

<b>Type A Attached</b>	400-600	3% Maximum and Minimum for project unit counts over 20
<b>Type B Attached</b>	600-1000	5% Required after 20 units
<b>Type C Attached</b>	1000-1400	
<b>Mixed Building</b>	400-	
<b>Type A Detached</b>	400-600	3% Maximum and Minimum for project unit counts over 70
<b>Type B Detached</b>	600-1000	5% Required after 20 units
<b>Type C Detached</b>	1000-1400	
<b>Type D Detached</b>	1400-up	

The following table is an application of the diversity standards applied to the zoning districts and their associated maximum density.

<b>Diversity Standards</b>					
<b>Zoning Category</b>	<b>Property Area Trigger</b>	<b>Unit Count Trigger</b>	<b>Potential Number of Residential Units</b>	<b>Number of Housing Types</b>	<b>Commercial Area Required</b>
<b>Rural</b>	N/A	N/A	N/A	N/A	N/A
<b>Nature</b>	N/A	N/A	N/A	N/A	N/A
<b>Town</b>	2	4	10	3	0
<b>Rural Town Overlay</b>	2	4	4	0	0
<b>Hamlet Town Overlay</b>	2	4	8	2	0
<b>Village Town Overlay</b>	2	4	19	3	0
<b>Car-Free Overlay</b>	2	4	70	8	14,000
<b>Downtown</b>	2	4	19	3	0
<b>Connector</b>	2	4	10	3	0
<b>Linkage Connector Overlay</b>	2	4	8	2	0

<b>Character Connector Overlay</b>	2	4	30	5	6,000
<b>Corridor</b>	2	4	10	3	0
<b>North Corridor Overlay</b>	2	4	19	3	0
<b>South Corridor Overlay</b>	2	4	30	5	6,000
<b>East Corridor Overlay</b>	2	4	30	8	6,000
<b>West Corridor Overlay</b>	2	4	30	5	6,000
<b>I-20</b>	2	4	50	8	10,000

Draft - Subject to Change

# ARTICLE VI – SITE DEVELOPMENT STANDARDS

## SECTION 1: SCREENING, PARKING, ARCHITECTURE

### (a) Intent

- (1) In addition to the landscaping requirements of this section, all development shall comply with the following screening requirements:
  - (i) The following shall be screened from the view of at least sixty percent (60%) of adjacent residences, and any street or public right-of-way: off-street parking areas, loading spaces and docks, trash and storage containers, outside storage areas, satellite dishes larger than eighteen (18) inches in diameter, antennas, mechanical equipment, and metal siding.
  - (ii) Above ground utility facilities up to six (6) feet above grade for multi-family and non-residential development are required to be screened from view except for poles, fire hydrants and existing lines.
  - (iii) Drainage detention facilities including detention ponds and/or water quality ponds shall be screened from view.
  - (iv) Screening by vegetation that could be removed from adjacent undeveloped or partially developed properties when such property is developed is not considered as screening from view.
  - (v) Outside storage areas shall be screened by the use of a privacy fence or wall at least the height of the items to be screened and in conformance with the requirements of this ordinance.
  - (vi) Outside storage areas shall be screened by the use of a privacy fence or wall at least the height of the items to be screened and in conformance with the requirements of this ordinance. If the outdoor storage area is adjacent to throughfare, then the wall is required to be constructed of one or more of the following materials: brick, stone, cast stone, stucco (limited to thirty-five (35%) of the exterior surface area of walls), factory tinted (not painted) split face concrete masonry unit, or other similar material approved by the City Administrator, or as applicable, the Director of Planning. In addition to the materials listed above, textured pre-cast concrete (e.g., Woodcrete) is also permitted.
  - (vii) A minimum five-foot (5') landscaped area located on the exterior of the fence shall be provided and landscaped in accordance with paragraph (2) (i) above unless the fence is on a rear boundary line or adjoining a permanent structure on the site.
  - (viii) Fuel pumps are required to be screened from view of any street or public right-of-way to at least the height of the fuel pump.
  - (ix) Lift stations are required to be screened from view of adjacent single-family or two-family residences, or any street or public right-of-way by the use of a wall. The wall is required to be constructed of one or more of the following materials: brick, stone, cast stone, stucco (limited to thirty-five (35%) of the exterior surface area of walls), factory tinted (not painted) split face concrete masonry unit, textured pre-cast concrete (e.g. Woodcrete) or other similar material approved by the City Administrator, or as applicable, the Director of Planning.
- (2) Public School Districts shall not be required to screen bus storage facilities with solid walls. These facilities may be secured with black or green vinyl coated fencing.
- (3) Approved screening techniques include privacy fences, evergreen vegetative screens, landscape berms, existing vegetation or any combination thereof unless otherwise noted in this section.

- (4) Privacy Fences (See section 14 and 16 of this Article)
- (5) Evergreen Vegetative Screens. Evergreen plant materials shall be shrubs, at least thirty (30) inches in height and at a minimum spacing of 48 inches at the time of installation, in combination with shade trees not more than fifty feet apart.
- (6) Landscape Berms, in combination with trees, shall fulfill the screening requirements of this section if the berms are at least three (3) feet in height and have maximum side slopes of four (4) feet of horizontal run for every one (1) foot in vertical rise.
- (7) Existing on-site vegetation, demonstrating significant visual screening capabilities and as approved by the City Administrator, or as applicable, the Director of Planning, shall fulfill the requirements of this section.

**(b) Corridor Streetscape Standards.**

- (1) The corridors of Van are Highways 110, 16 and 314. All parcels adjoining the ROW of those roadways are subject to these standards.
- (2) Parking lots between the right-of-way and a building are prohibited. If an existing parking lot is located between the right-of-way and a building along a corridor, the parking lot must be screened from view of the corridor to a height of four feet with a four-foot-tall masonry screening wall, or evergreen shrubbery.
- (3) In addition to other restrictions in this ordinance, the following items shall not be located between a primary building and the right-of-way along a major corridor:
  - (i) mechanical equipment other than that of a public utility
  - (ii) drive-through service lanes or queuing spaces
  - (iii) accessory structures
- (4) The following standards apply to the screening of the rear or service side of buildings along a Corridor:
  - (i) the rear or service side of a building may not face a Major Corridor within four hundred (400) feet of the corridor's right-of-way.
  - (ii) loading areas and service drives must be screened from view of the Major Corridor with landscaping that is six (6) feet tall at installation or a wing wall that extends from the building that is a minimum of six (6) feet tall and constructed of the same or significantly similar materials as the primary building.
- (5) Exceptions
  - (i) Drive-through service lanes or queuing spaces may be permitted between the building and arterial as long as the building is comprised of one hundred (100%) percent Masonry and the drive-through lane is screened from view with landscaping.

**SECTION 2: TRANSPORTATION NETWORK DESIGN CRITERIA**

There shall be a grid of streets, roads, and pedestrian thoroughfares. Pedestrian facilities shall be spaced at intervals of 350'. Streets and road spacing shall be no greater than 650'.

**SECTION 3: OFF-STREET PARKING REQUIREMENTS**

- (a)** Minimum and maximum requirements for the number of off-street parking spaces is established in Article V. The minimum requirements may not adequately reflect the specific needs of a proposed business. A commercial building permit applicant shall analyze and project the parking needs created by the proposed development. The applicant shall provide the amount of parking required for such uses. The applicant for any building or structure to be erected, or an existing building to be enlarged by fifty (50%) percent or more in floor area, shall insure adequate off-street parking is provided.

Where shared parking is provided, a shared parking and cross access agreement between the cooperating property owners shall be approved by the City Administrator, or as applicable, the Director of Planning, and recorded prior to issuance of a building permit. This agreement must be recorded in the real property records of the county in which the property sits and the agreement may not be modified or revoked without the approval of the City Administrator, or as applicable, the Director of Planning. If any requirements for shared parking are violated, the affected property owners must provide a remedy satisfactory to the City Administrator, or as applicable, the Director of Planning or provide the full amount of required parking for each individual use.

**(b) Handicap Accessible Parking:**

- (i) Handicapped parking must be provided and maintained in compliance with all Federal and State laws and regulations.
- (ii) Not less than one out of every eight handicap accessible spaces, and not less than one, are required to be van accessible spaces (with a 96" inch wide access aisle) and is required to be designated with a sign as van accessible.
- (iii) Two handicap accessible parking spaces may share a common access aisle.
- (iv) Handicap accessible parking spaces are to be located on the shortest possible accessible circulation route to an accessible entrance of the building.
- (v) Handicap accessible parking spaces shall be designated as reserved for physically handicapped people by a sign showing the symbol of accessibility. Such signs shall not be obscured by a vehicle parked in the space.

**(c) Property owners are the final determinant of what parking is provided and shall comply with the following:**

- (1) The owner of the property is required to submit a letter to the Building Official with an analysis of parking requirements for the specific users proposed and include a statement that the parking provided is, in the owner's opinion, adequate for the intended uses.
- (2) The parking facilities shall be paved with a hard surface such as asphalt or concrete or other material as approved by the Building Official.

**(d) Bicycle parking slots shall be provided at retail centers at a rate of not less than one slot per 1,000 square feet of building served.**

#### **SECTION 4: OFF-STREET PARKING GUIDELINES**

**(a) All off-street parking shall conform to the following guidelines.**

- (1) All parking lots shall be paved with a hard surface such as asphalt or concrete or other material as approved by the Building Official
- (2) All parking should be behind the primary structure.
- (3) All parking lots contiguous to other parking lots should be joined to allow flow between lots. The property owners would execute cross access easements.
- (4) All parking lots should be designed to have head in and head out access.

#### **SECTION 5: OFF-STREET LOADING SPACE REQUIREMENTS**

**(a) Commercial development shall provide adequate spaces to receive deliveries without hindering pedestrian and vehicular flow of any streets, roads or sidewalks.**

#### **SECTION 6: SETBACKS**

- (a)** The purpose of this section is to provide for building, paving, and outdoor storage setbacks. Article V provides for setback standards. All setback areas are required to be landscaped in accordance with the landscape and screening requirements even if the area of the setbacks exceeds the minimum landscaped area requirements.
- (b)** For separation between buildings, standards of the current Building Code and Fire Code shall be applied unless additional setback is required by this ordinance.
- (c)** Sight line visibility triangles shall be maintained at all street intersections so that no fence, wall, architectural screen, landscape plantings, earth mounding or parking space shall potentially cause an obstruction of visibility above three feet and below eight feet from the top of the curb closest to the corner. Such triangle shall extend forty (40) feet each direction from the intersection curb lines. If the intersection of curb lines is curved at the corner, the triangle will be determined as if the curved curb was absent and the curb lines were extended to their intersection. At the intersection of an alley, the clearance shall be maintained for a distance of thirty feet each direction from the intersection of edge of the alley with the curb line.
- (d)** Air conditioning units are not permitted forward of the front wall of the building.
- (e) Exceptions:**
- (1) An applicant may obtain a reduced building or site improvements setback upon approval of the City Administrator, or as applicable, the Director of Planning, when a variable setback that contains the same total area as the required setback would create a more esthetically pleasing development; when site conditions make strict compliance with the setback undesirable or impractical; or when the character of the development (or surrounding development) makes the standard setback undesirable or inconsistent. Examples of such site conditions include, but are not limited to, the following:
    - (i) Existing buildings, existing adjacent development built to other standards, utilities or other improvements
    - (ii) Unusual shape of lot, tract or building site
    - (iii) Topography, soil, geologic, vegetation (including existing trees or other vegetation) or other natural feature
    - (iv) Safety (e.g. vehicle sight distance, impediments to emergency or other vehicle maneuvering, visibility of traffic or safety related signage)

The request shall, as a whole, meet or exceed the standards of this ordinance. If a setback is reduced, landscape plantings shall be increased to off-set any undesirable impacts from the reduced setback and the Masonry shall be increased to eighty-five (85%) percent of the exterior surface area for first story walls and fifty (50%) percent of the exterior surface area for each additional story. The City Administrator, or as applicable, the Director of Planning, shall consider approval or disapproval of a reduced setback with the following conditions:

    - (i) The minimum setback area shall not be reduced by more than 5%.
    - (ii) Additional landscaping required to off-set any undesirable impact shall be established to provide effective screening in the area of the reduced setback.
    - (iii) The setback shall not result in a negative impact to adjoining property.
    - (iv) A front or rear yard setback in a single-family or two-family district may be reduced by no more than five feet from the minimum standard requirement.
    - (v) A side yard setback may not be reduced to less than five feet without the Fire Chief's approval, and in no case shall principal buildings be located closer than ten feet to one another.
  - (2) Roof overhangs, fireplaces, bay windows and similar projections may extend into any building line a maximum of two feet on any side. Porches, patios, balconies and

similar projections may extend into the front or rear setback a maximum distance of seven feet if there are no walls within such extension. Supporting columns, hand rails and roofs are permitted within such extension.

- (3) A detached or non-street facing garage may encroach into the rear or side setback a maximum distance of seven feet, but in no case closer than five feet from the rear or side lot line.
- (4) Nothing in these standards shall restrict zero lot line construction where authorized.
- (5) Nothing in these standards shall restrict common wall construction, with the condition that permits for common wall buildings are obtained and such buildings are constructed simultaneously.

**(f) Setback Incentives**

- (1) If the exterior surface area of buildings / structures are comprised of at least eighty-five (85%) percent Masonry of first story walls and fifty (50%) percent Masonry of the exterior surface area of each additional story, then the following setbacks may be applied:
- (2) If the exterior surface area of building / structure is comprised of one hundred (100%) percent Masonry, then the following setbacks may be applied.

## **SECTION 7: DRAINAGE AND DETENTION FACILITIES**

**(a) Purpose.**

The purpose of this section is to provide for the design of drainage and detention facilities that contribute to visual aesthetics of projects and limit the amounts of visible concrete that do not meet the requirements listed below. For the purposes of this section, visible shall be defined as noticeable by a person of average height walking on a street, sidewalk, or trail, or able to be seen by a neighboring property that is two stories in height. In addition, stamped and tinted concrete shall be defined as concrete that is patterned and/or textured to resemble brick or stone. Tinting shall be defined as adding color to the concrete mix prior to pouring that is an earth tone.

**(b) Drainage and Detention Facilities:**

- (1) Drainage facilities include all detention ponds, water quality ponds, pond outlet structures, berms, improved channels or other improvements associated with the drainage improvements. Roadside swales, storm sewer outfalls, unless visible from a ROW, inlets, and areas of concrete that are no more than one hundred (100) square feet in size are not included.
- (2) Drainage facilities are not allowed within ten feet (10') of street ROW except those which are necessary to convey drainage in the shortest possible route to or from street ROW.
- (3) Drainage facilities located within the front setback shall not exceed 25% of the area of the front setback.
- (4) Any fencing around detention ponds shall be constructed of wrought iron or decorative tubular metal or other similar product.
- (5) Structural stabilization including vertical walls and riprap for drainage facilities shall be limited to not more than thirty (30%) percent of the perimeter of the pond excluding outlet structures. The remainder of the perimeter shall be earthen embankment no steeper than 3:1 slope. All exposed concrete that is visible is required to be made of stone or clad in stone including but not limited to ledger stone, fieldstone, cast stone, or other decorative materials such as stamped and tinted concrete that resembles stone or brick as approved by the City Administrator, or as applicable, the Director of Planning. All other exposed concrete is required to be made of stone or clad in stone as listed above or textured and tinted in earthen colors.

## **SECTION 8: RESIDENTIAL COMPATIBILITY STANDARDS**

Buildings with 4 or less living units shall have a common foyer when located within a predominately detached housing area.

## **SECTION 9: SPECIAL VEHICLE STORAGE, LOADING**

**(a)** A special vehicle is any trailer (including boats or any other item stored thereon) designed to be towed on public streets or any self propelled vehicle which exceeds 22 feet in length.

**(b)** Vehicle length shall be measured to include trailer connections and any overhang of the vehicle or trailer, including any items on the trailer.

**(c)** Storage is defined as any parking of the vehicle for 48 hours or longer.

**(d)** All special vehicles must meet the following requirements:

- (1) No special vehicle shall be stored on any required off-street parking.
- (2) No part of the vehicle shall extend over a public right-of-way or easement.
- (3) No special vehicle or any other vehicle shall be used for housekeeping, living or sleeping quarters for more than a total of three weeks in any one calendar year unless permitted in a park designed for such purpose.
- (4) If required, federal and state licensing and registration must be current.
- (5) All special or stored vehicles must be maintained in an operable condition unless kept within an approved building.
- (6) Stored vehicles must be secured with wheel stops.
- (7) (Reserved)
- (8) A maximum of one special vehicle may be stored in the front yard. In addition, a maximum of two special vehicles may be stored on a residential lot except for an SFR district.
- (9) A special vehicle stored in the front yard must be perpendicular to the front property line.
- (10) No boat, RV, trailer, special vehicle or commercial vehicle may be stored in any district other than an industrial district for more than a total of three weeks in any one calendar year unless the property, including any building(s) on the property, is owned or leased by the owner of the vehicle, or the owner or lessee of the property utilizes the vehicle in conjunction with their employment or business.
- (11) (Reserved)
- (12) The storage of a vehicle in excess of 22 feet in length requires a permit issued by the Permits Division certifying that the vehicle will be stored in compliance with this ordinance. To obtain a permit, the applicant must submit a plan of the lot illustrating how the vehicle will be stored. The permit shall specify the vehicle to be stored and the name of the owner of the lot. The permit is valid only for the vehicle and the owner specified. Permits may be revoked if the vehicle is not stored in accordance with this ordinance.

**(e)** Outdoor storage or overnight outdoor parking of tractor-trailers, semi-trucks, semi-trailers, or other vehicles having a gross vehicle weight rating of 17,000 pounds or more, or that are designed to transport 16 or more passengers, including the driver, or that are transporting hazardous materials and are required to be placarded under 49 C.F.R. Part 172, Subpart F, shall not be permitted in any residential district or on any public ROW. In addition, outdoor storage or overnight outdoor parking of such vehicles shall not be permitted in any commercial district unless the vehicle is utilized by a commercial enterprise located on the property.

**(f)** No part of any vehicle shall be allowed to extend into the right-of-way of a street or road,

while being loaded or unloaded.

## **SECTION 10: SIGNS**

Signs shall be constructed in accordance with the City sign ordinance in effect at the time of sign permit application.

## **SECTION 11: (RESERVED)**

## **SECTION 12: OUTDOOR LIGHTING**

- (a) The purpose of this section is to provide design standards for site and building lighting that are Dark Sky compliant and compatible with adjacent uses.
- (b) Non-residential outdoor lighting will be in accordance with other provisions of this ordinance and City building codes. A detailed lighting plan and photometric plan shall be included with the Building Permit application and shall meet the following requirements:
  - (1) Outdoor Lighting
    - (i) Fixture.
      - a. All permanent exterior lighting shall be non-flashing and shielded such that the light source (cone of direct light) is not visible from the public ROW or adjacent residential uses at the property line (see Figure R – following page).
      - b. Wall pack lighting or other lighting that directs the light in a horizontal direction without an adequate shield is not permitted (since it directs the light glare directly outward) if there are streets or residential uses in the direction of the light.
    - (ii) Illumination Levels
      - a. All site lighting shall be designed and installed so that the level of illumination as measured in foot candles at a height of three (3') feet at the property line does not exceed two (2') foot candles.
- (c) Residential outdoor lighting on residential property will be installed in accordance with applicable **City Code Standards**. It will be located so as not to create a nuisance for adjoining property owners.

## **SECTION 13: COMMERCIAL PARKING LOT CONNECTIONS**

A non-residential or multi-family site contiguous with another non-residential or multi-family site shall provide parking aisle connections to the boundary of the site for connection to such contiguous non-residential or multi-family site unless such connection is determined to be inappropriate by the Department of Planning. The Department of Planning shall make its determination after considering all relevant factors, including, but not limited to, the following: when there exists topographic constraints, environmental constraints, existing development that has not provided for such connections, or adjacent uses that are incompatible for the purposes of mixing traffic.

## **SECTION 14: ADDITIONAL NON-RESIDENTIAL STANDARDS**

- (a) Commercial and other multi-unit outdoor trash containers and loading areas shall be located no closer to an adjacent street than the nearest wall of the building on the site utilizing such facility. The City Administrator, or as applicable, the Director of Planning, may consider an alternate location if such location is not reasonably feasible or is considered to be contrary to the public interest. Garbage dumpsters are required to be screened by a wall constructed of one or more of the following materials: un-painted clay brick, ledge stone, fieldstone, cast stone, marble, granite, or tile, painted or tinted stucco, factory tinted (not painted) split faced concrete masonry unit, textured pre-cast concrete (e.g. WoodCrete), or similar material

approved by the City Administrator, or as applicable, the Director of Planning. The wall shall be of the same material as, or visually compatible with, the primary structure and shall be at least as high as the dumpster it is enclosing. The open side to the dumpster or other trash receptacle shall be a solid wood or solid metal gate. A ninety (90) gallon or less roll out container may be stored outside if screened by any type of evergreen landscaping or privacy fence with a gate at least as tall as the container(s) and that will effectively screen the container(s) from view from all sides. These provisions do not apply to paper recycling dumpsters located on school campuses.

**(b)** A drive-through commercial service lane within fifty feet (50') of a residential district is prohibited from operating from 10 p.m. until 6 a.m. unless such residential district is utilized for a non-residential use or does not have a preliminary plat or final plat approved for residential use. All existing commercial service lanes in operation as of the effective date of this ordinance are exempt from this requirement. In addition, any commercial service lane located in front of a building is exempt from this requirement. For purposes of this ordinance, a drive-through commercial service lane shall be considered to be the portion of the lane including the pick-up or service window, the ordering station, at least six vehicle stacking spaces and all areas between such locations.

**(c)** Utilities: All utility lines and other lines required to provide services to property in the City (including but not limited to water, wastewater, gas, electric, cable, internet, and propane) are required to be underground. In unique or unusual circumstances, an applicant may request an exception to the requirements of this section by submitting a written request for an exception with the site development permit or building permit application, as appropriate. The City Engineer may grant an exception if an exception is required by applicable building codes or for public safety reasons. The City Engineer's decision may be appealed in writing to the Commission within ten days of the City Engineer's decision. The Commission's decision may be appealed to the City Council within ten days of the Commission's decision. The City Council's decision will be final.

**(d) Masonry Privacy Wall**

(1) A six-foot masonry privacy wall is required to be constructed by any non-residential use that abuts property utilized for residential, or platted for such use with an approved concept plan, preliminary plat or final plat, unless an existing structure is proposed to be expanded by less than 50%, or 1,000 sq. ft., whichever is less.

(i) Such wall shall be constructed at the common property line between the uses, or if such location is not feasible because of floodplain, trees or other natural feature, at a location that will effectively screen the non-residential use from view from the single-family or two-family residence.

(ii) Such wall is required to be constructed of one or more of the following materials: textured pre-cast concrete that is constructed to appear as brick, stone, or cast stone as approved by the City Administrator, or as applicable, the Director of Planning, brick, stone, cast stone, factory tinted or painted split-faced concrete masonry unit, granite, tile or other similar material approved by the City Administrator, or as applicable, the Director of Planning.

(iii) An eight-foot wall may be utilized for security purposes.

(iv) Gates shall be provided in the wall as appropriate to connect to public sidewalks or other pedestrian connections unless such wall is also used as described above for security.

(2) The masonry privacy wall is not required for non-residential uses that are permitted by right in any Single-Family Districts.

**SECTION 15: SIDEWALKS**

- (a) Where new structures are proposed (including a change in use, and building additions) a concrete sidewalks shall be installed parallel to both sides of roadways (unless such sidewalks are already existing) abutting the development. The size and location shall be in accordance with the Thoroughfare Standards in Article V Section 1. The City Administrator, or as applicable, the Director of Planning shall consider flexibility to this setback requirement if necessary to save existing trees or if an alternative alignment is considered to be in the public interest. A pedestrian access easement shall be recorded for the public use of the sidewalk. Pedestrian connections shall also be provided at street crossings as well as to buildings within the development. The City Administrator, or as applicable, the Director of Planning, may consider a reduction in width or deletion of the sidewalk requirement for residential streets that are otherwise exempt from the sidewalk requirement if the proposed use is not expected to generate significant vehicular traffic and the street pavement width is such that the street may serve as the pedestrian path.

## **SECTION 16: FENCES**

- (a) Except for agricultural uses in any district, barbed wire fencing is prohibited for the Town, Downtown, Connector, and Collector Zoning Districts.
- (b) Any fencing installed adjacent to a public ROW shall be installed with the finished (smooth) side facing the ROW.
- (c) All fences along a common property boundary shall be less than or equal to eight (8') feet in height except as provided below.
- (d) Fences greater than eight (8') feet in height shall be allowed for impeding access to hazardous or secured facilities including, but not limited to, electrical substations and chemical or equipment storage yards. For high security applications, barbed wire or razor wire (or equivalent) may be installed above the eight (8') foot height limit but not to exceed a total of ten (10) feet in height.
- (e) Fences less than or equal to three (3') feet in height shall be allowed in front yards.
- (f) No fence or other structure more than twenty percent (20%) solid or more than three (3) feet high shall be located within twenty-five (25) feet of the intersection of any rights-of-way.
- (g) All fences shall be constructed to maintain structural integrity against natural forces such as wind, rain and temperature variations.
- (h) The finished side of all fences built to comply with screening regulations shall face away from the screened object.
- (i) All fencing shall be maintained in an attractive state and shall not be allowed to lean, sag, warp or otherwise fall into disrepair. Any missing, rotted, loose or broken pieces shall be replaced.
- (j) All posts shall have concrete footings.
- (k) There is no height limit to fences for exotic hoof stock.
- (l) Any chain link fencing (including posts) utilized for uses other than single family or duplex uses shall be black or green vinyl coated.
- (m) Fences associated with single-family homes are encouraged to provide a masonry column separating the wooden fence from the home as a means to disconnect the structure from a potential flammable material.

## **SECTION 17: WAREHOUSE, MINI-WAREHOUSE AND OVERHEAD DOORS**

Warehouse, mini-warehouse and overhead (commercial service) doors shall not be oriented so as to face a street(s) or residential property or shall be screened from view from the street(s) or residential property unless the City Administrator, or as applicable, the Director of Planning, determines that there is no other feasible alternative.

## **SECTION 18: ROOFTOP EQUIPMENT**

Parapets or other similar screening enclosures shall be utilized to conceal rooftop equipment from view from the street or surrounding properties. Such enclosures shall be constructed at least 42" high or as high as the equipment it is designed to conceal from view, whichever is greater. Such equipment includes, but is not limited to, equipment such as A/C compressors and satellite dishes (see Figure X – following page). The enclosures shall be constructed out of materials consistent with the wall siding material. Rooftop mechanical equipment such as A/C compressors is not permitted in residential districts. Nothing in these regulations shall be construed so as to limit the use of solar power panels.

## **SECTION 19: BUILDING OVER LOT LINES**

A building or structure may be constructed over lot lines with the following conditions:

- (a) Any easements in the area of the building shall be released, and
- (b) The lots are owned by the same owner.
- (c) The construction of buildings with a common wall at the property line is permitted without condition (b), if otherwise permitted by this ordinance.

## **SECTION 20: MASONRY AND OTHER ARCHITECTURAL STANDARDS**

- (a) Brick, stone, cast stone or other similar masonry products, when used, shall not be painted.
- (b) The number of combinations of single-family or two-family residential floor plans and elevations in any final plat section shall, at a minimum, equal at least twenty-five percent (25%) of the total lots in the final plat, but is not required to exceed fifteen. (For example, five floor plans with three different elevation options for each floor plan results in fifteen different floor plan/elevation combinations.)
- (c) No two homes side by side or across the street within one house (directly across the street or "caddy corner" across the street) shall have the same elevation plan or the same floor plan except for those developments that have a consistent architectural theme.
- (d) In the event of a natural disaster (tornado, fire, etc.) the resident may replace the current structure with a new structure built of the same masonry percentages as the pre-existing residence.
- (e) All exterior walls on remodels and additions must be consistent with the exterior of the existing dwelling.
- (f) Recreational vehicles, travel trailers and manufactured/mobile homes shall not be used for on-site dwelling or for any nonresidential or other purpose except as authorized.
- (g) Residential dwelling street-facing garage standards. To prevent residential streetscapes from being dominated by garage doors, and to allow the visually interesting features of the house to dominate the streetscape, the following standards shall apply:
  - (1) All residential dwellings on any lot or building envelope less than fifty (50) feet wide may provide access to garages from a rear alley.
  - (2) No residential dwellings shall have front entry, street facing garages forward of the front wall of the primary structure.
  - (3) No more than two (2) street facing garage bays may be adjacent to each other on attached dwellings such as duplexes and townhouses.
  - (4) Street-facing garages that incorporate enhanced architectural features as described in this section, may be flush or protrude up to five (5') feet in front of the ground floor living area of the dwelling or roof-covered porch that is at least seven (7') feet wide by six (6) feet deep, but in no case shall the garage be setback from the street less than the minimum setback for the zoning district.
  - (5) For garages that meet the standards of subsection (9) and where the site topography (typically slopes greater than 10% or for other similar topography as allowed by the Planning Director) requires stairs from the garage into the living space, the garage

may protrude up to eight (8) feet in front of the ground floor living area of the dwelling or roof-covered porch that is at least seven (7) feet wide by six (6) feet deep, but in no case shall the garage be setback from the street less than the minimum building setback for the zoning district.

- (6) The Planning Director may approve garage placement that does not meet the standards of this section in the case of unique site conditions including the existence of significant trees, extreme topography and similar natural features.
- (7) For the purposes of this subsection, enhanced architectural features shall include:
  - a. Architectural garage doors that are painted to match the color scheme of the house and include decorative hardware; or
  - b. Doors that have a natural wood appearance; and
  - c. Both subsection a. and b. above must also be combined with at least one of the following features:
    - (i) a garage door recess of at least two (2') feet;
    - (ii) a roof overhang over the garage doors with supporting architectural columns that extends at least two (2) feet in front of the garage doors; or
    - (iii) any similar architectural feature, approved by the Planning Director, that diminishes the prominence of the garage doors on the street-facing building facade.
- (8) Garages accessed from rear alleys are exempt from the standards of this section.
- (9) Second or higher floor living areas do not count toward the measurement of ground floor street-facing linear building frontage.

## **SECTION 6: SOFFITS AND FACIA; MANSARD ROOFS**

- (a) All non-residential roof fascia and soffits shall be constructed of a non-combustible material.
- (b) Fascia shall not be increased (e.g. sign bands) nor shall mansard roofs, Quonset roofs, "A" frame designs or other similar roofs be utilized when having the effect of reducing the normal amount of exterior wall surface area. Sign bands may not exceed three feet in height and may not extend across more than forty percent (40%) of a structure frontage.

## **SECTION 7: ROOFS**

- (a) Unless constructed as a roof deck, all residential roofs shall be peaked and have at least a 3:12 pitch except for porches and shed roofs which may be constructed to a minimum pitch of 2:12.
- (b) Flat roofs shall be enclosed by parapets a minimum of 24" inches high, or as required to conceal mechanical or other rooftop equipment.

## **SECTION 8: BUILDING HEIGHT**

- (a) No building / structure height shall exceed the heights specified in Article V, Section 3.

## **SECTION 9: EXCEPTIONS**

- (a) The height limits prescribed herein shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers, scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, necessary public or private utilities, conveyors, flag poles, agricultural buildings or related structures and necessary mechanical appurtenances unless they extend twenty (20') feet above the maximum height established for the district.
- (b) Public or semi-public service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding sixty (60') feet.

- (c) No structure shall be erected to a height in excess of that permitted by regulations of the Federal Aviation Agency that apply to the area in which the structure is located.
- (d) The Building Official and the City Administrator, or as applicable, the Director of Planning, may approve variations of up to 5% in architectural standards including, but not limited to, the amount of masonry required, building height and roof pitch.
- (e) Agricultural buildings and recreational storage buildings are exempt from exterior wall standards.
- (f) Maintenance and additions to existing structures are permitted in conformance with the existing standards of the structure including standards that relate to masonry, setback, architectural, landscaping or other zoning standards, as long as an addition does not exceed 50% percent of the existing gross floor area or 900 square feet, whichever is greater, but never more than 100% of the existing structure. However, metal siding and manufactured homes are not permitted to be added to a structure unless permitted under current zoning regulations.
- (g) Solar energy systems and small wind energy systems meeting the standards of Article IV, Sec. 5 of this code are exempt from this Article.

Draft - Subject to Change

# ARTICLE VII - SITE DEVELOPMENT

## SECTION 1: GENERAL PROVISIONS

### (a) Purpose

The purpose of this chapter is as follows:

- (1) To establish rules and procedures for the orderly planning and development of commercial sites and residential sites involving more than two dwelling units;
- (2) To provide for a permit separate and distinct from the building permit so that site issues such as drainage, driveways, access, utilities and internal circulation may be resolved without the need for the preparation and review of detailed architectural plans;
- (3) To permit site preparation and drainage improvements without imposing the expense and time burden required for a full building permit;
- (4) To permit the planning of a phased site development without imposing the expense and time burden required for the preparation and review of complete architectural plans for all phases of the development;
- (5) To provide development applicants a site development permit to help expedite and enhance success and marketability of the project;
- (6) To provide city staff with procedures for the review and approval of site development;
- (7) To enhance the ability of a developer to obtain financing for a development project;
- (8) To maintain consistency with other area jurisdictions; and
- (9) To simplify and expedite the building permit process.

### (b) Applicability; Site Development Permit Required

Any person who develops, or causes to be developed, property located within the corporate limits of the City shall comply with this Chapter. Within the city corporate limits, the use of property shall not be changed, no development shall take place and no building permit shall be issued until a site development permit has been issued in accordance with the code of ordinances of the City. Property for which a site development permit has been issued shall be developed in compliance with the approved site plan. The following are exceptions to the applicability of this Chapter:

- (1) Construction, alteration or addition to a single-family or two-family residential structure, or an accessory building to any such structure.
- (2) Alteration or finish-out of an existing building when the alteration or finish-out does not increase the square footage of the building or change the building footprint as long as one of the following applies:
  - (i) The use does not change, or if the use changes, the new use does not require more parking than is currently existing and no additional parking spaces, aisles or driveways are proposed;
  - (ii) The alteration, finish-out or change of use is in compliance with all applicable codes and regulations of the city; and
  - (iii) The proposal does not increase the degree of any existing non-conforming use or non-conforming structure.
- (3) Construction of a fence, but no exception is granted by this subsection for construction of a retaining wall or for a fence that may obstruct or change the flow of water.
- (4) Substantial restoration that is commenced within a period of one year of a building damaged by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.
- (5) A canopy or carport placed over existing parking spaces or other paved area.

- (6) Any other minor site activity similar to those listed above and eligible for a minor site development permit approved by the City Administrator, or as applicable, the Director of Planning, prior to beginning such site activity or work.

## **SECTION 2: SITE PLAN PROCESSING**

### **(a) Site Plan Processing**

(1) Site plan submission:

- a. The applicant is required to attend a pre-development meeting with city staff to help familiarize the applicant with applicable codes and regulations. The City Administrator, or as applicable, the Director of Planning, may waive this requirement if they deem that the meeting is not necessary.
- b. The City Administrator, or as applicable, the Director of Planning, shall prepare an application Submittal Schedule. The Submittal Schedule shall be reviewed and approved by the Commission annually. The City Administrator, or as applicable, the Director of Planning, is authorized to adjust an approved schedule to accommodate holidays, City Hall closures, and cancelled or special called meetings.
- c. The City Administrator, or as applicable, the Director of Planning, shall prepare site development application forms which shall include a checklist of the required information and documents that are required to be submitted by applicants in order for an application to be accepted as complete for review and processing under this Chapter. The Commission shall review and approve the application forms and amendments prepared by the City Administrator, or as applicable, the Director of Planning, from time to time. The submittal shall also include a list of any requested variances from the ordinances. The City Administrator, or as applicable, the Director of Planning, shall update the application from time to time as required due to amendments to this Ordinance, state law, or applicable technical codes and manuals.
- d. Site plans shall be submitted by appointment and will only be accepted for submittal with the City Administrator, or as applicable, the Director of Planning, on the days authorized by the adopted Submittal Schedule. City staff shall review the application for completeness and either accept the application as complete or reject the application and provide the applicant with written notice of rejection that specifies the reasons for rejection within ten business days of the date the application is submitted. An application will be considered complete if it is submitted in the required form, includes all information and documents required in the application, and is accompanied by the applicable fees. An application that is not complete, does not include the information or documents required in the application, or is not accompanied by the applicable fees shall not be accepted by the City for review and processing. If the application is determined to be incomplete, the City Administrator, or as applicable, the Director of Planning, shall provide written notice of the rejection of the application that includes a description of the application's deficiencies. No further processing of the application will occur until the deficiencies are corrected.
- e. In addition to the items required on the Site Development Permit application and checklist, the following must be reviewed and approved prior to the submittal of the Site Development Permit application in order for the Site Development Permit application to be accepted as complete, unless the City Engineer, City Administrator, or as applicable, the Director of Planning, or Director of Parks and Recreation determines that one of the items is either not needed or may be reviewed concurrently to process the Site Development Permit application:
  - i. Lift station report
  - ii. Water and wastewater capacity analysis
  - iii. Drainage study
  - iv. Flood plain permit/ CLOMR

- v. Traffic impact analysis
- vi. Preliminary Park Plan

f. As coordinator of the site development permit process, the City Administrator, or as applicable, the Director of Planning, shall distribute copies of a site plan accepted for review and processing to all reviewing departments. Within 45 calendar days of the filing date, the site development permit shall be disapproved, with reasons provided for such disapproval, or approved. Issuance of comments by city staff identifying items to be addressed by the applicant shall constitute disapproval of such application until the applicant addresses such comments. Failure to disapprove or approve the site development application within 45 days shall constitute approval of the application.

(2) Expiration of application:

- a. Prior to an application being accepted for review and processing, an application shall expire on the 45<sup>th</sup> day after the date the application is submitted to the City if:
    - (i) the applicant fails to provide documents or other information necessary to comply with requirements relating to the form and content of the application set forth in this Ordinance;
    - (ii) within ten (10) business days of the date the application is submitted to the City, the City provides the applicant written notice of the failure that specifies the necessary documents or other information that are missing from the application and the date the application will expire if the documents or other information is not provided; and
    - (iii) the applicant fails to provide the specified documents or other information within the time provided in the notice.
  - b. After a site development permit is accepted for review and processing, the site development permit application shall expire within nine (9) months of the date that all initial staff review comments from all reviewing departments have been issued on the application if a site development permit has not been issued due to the applicant's failure to cause the proposed site development application to comply with applicable city regulations. The City Administrator, or as applicable, the Director of Planning, may grant one six (6) month extension if the applicant can show substantial progress in obtaining a site development permit. Substantial progress shall consist of, at a minimum, a resubmission of the site development plans and all relevant materials by the applicant that address all initial staff review comments from all reviewing departments.
- (3) Construction not to begin prior to permit issuance: Site construction shall not begin until all necessary permits have been obtained, all fees paid, approval has been granted by all reviewing departments and a site development permit is issued by the City Administrator, or as applicable, the Director of Planning. A stop work order may be issued and an applicant shall be required to pay two (2) times the normal permit fee for any property upon which construction has begun prior to the issuance of a site development permit, unless prior written approval is obtained from the City Administrator, or as applicable, the Director of Planning. If a stop work order is issued as a result of construction beginning prior to issuance of a site development permit, construction activities shall cease until the required approval is obtained.
- (4) Site plan submission: The applicant is encouraged to request a pre-development meeting with city staff to help familiarize the applicant with applicable codes and regulations and to expedite the site development permit approval process. Site plans shall be submitted by appointment with the City Administrator, or as applicable, the Director of Planning, in conformance with all information and materials required by the most recent site development permit application/checklist and this Chapter. An incomplete site development permit application shall not be accepted for review and processing. As coordinator of the site development permit process, the City Administrator, or as applicable, the Director of Planning, shall distribute copies of the site plan to all reviewing departments. Within 45

calendar days of the application date, the site development permit shall be disapproved, with reasons provided for such disapproval, or approved. Issuance of comments by city staff identifying items to be addressed by the applicant shall constitute disapproval of such application until the applicant addresses such comments. Failure to disapprove or approve the site development application within 45 days shall constitute approval of the application.

- (5) Expiration of application: A site development permit application shall expire within nine (9) months of the date that all initial staff review comments from all reviewing departments have been issued on the application if a site development permit has not been issued due to the applicant's failure to cause the proposed site development application to comply with applicable city regulations. The City Administrator, or as applicable, the Director of Planning, may grant one six (6) month extension if the applicant can show substantial progress in obtaining a site development permit. Substantial progress shall consist of, at a minimum, a resubmission of the site development plans and all relevant materials by the applicant that address all initial staff review comments from all reviewing departments.
- (6) Review fee and professional recovery fee: A professional recovery fee as set forth in Appendix A shall be required at the time of site development permit application submittal. In addition to the professional recovery fee and the review fee, a phasing fee shall be required at the time of site development permit application submittal for all projects with more than one phase. The phasing fee shall be as set forth in Appendix A and shall not be assessed for the first phase. Fees associated with proposed site development permit revisions shall apply to proposed changes to an approved site plan that are considered minor deviations or design modifications and impervious cover shall be calculated based only on the portions of the plan proposed to be changed. Fees for proposed changes to an approved site plan may be waived by the City Administrator, or as applicable, the Director of Planning, if such deviations are so minor so as not to require the submission or review of new plans. All fees shall be non-refundable. Changes to an approved site plan which are necessary to relocate approved building square footage or parking areas due to the exercise of the power of eminent domain by the City shall be considered minor deviations and design modifications for the purposes of this section and, in addition, shall not be assessed any additional fee.
- (7) Approved plans signed: After all comments from all reviewing departments have been addressed and all fees have been paid, the applicant shall deliver a digital file of the corrected site plan and landscape plan with a letter from the person preparing the plan stating that the digital file is the most recent version reflecting all changes made to the site plan and landscape plan and is the same version as represented on the prints provided. The applicant shall also deliver the required number of prints of the sets of plans, including civil plan sheets and all accompanying materials, as required on the most recent site plan checklist, for final review and approval. The applicant or applicant's agent shall include a letter with the re-submission explaining how all staff comments have been addressed. The applicant or applicant's agent shall also provide a signed statement indicating what additional changes, other than those required to address staff comments, if any, have been made to the site plan and any accompanying materials and plan sheets. If no additional changes have been made, the applicant or applicant's agent shall provide a signed statement verifying this. Once city staff has verified that the application and plans conform to all applicable ordinances of the city, staff reviewers shall sign all sets of approved plans, and one signed set shall be provided to the applicant or applicant's agent. The applicant shall provide the applicant's signed set (or a copy thereof) to the contractor responsible for completing site improvements. Approval of a site development permit does not constitute, nor does it guarantee, approval of a building permit to construct a building.

- (8) Certificate of completion: A certificate of completion shall be issued upon completion of the project according to the site development plans approved by the city. The site shall not be occupied until the certificate of completion is issued. The city shall not consider site improvements for a certificate of completion until: all disturbed areas are satisfactorily re-vegetated in accordance with the landscape plan or fiscal surety is posted with the City to complete such improvements, as determined by the City Engineer and the landscape reviewer; a concurrence letter is received from the applicant's appropriate design professional(s) that all improvements have been installed in accordance with the approved plans; and the city has inspected and approved the construction. If the landscape reviewer determines that it is desirable to delay installation of certain landscaping until after occupancy of the project, the applicant shall make a cash escrow payment to the City for the amount of the estimate for the cost of such landscape improvements plus fifteen percent (15%) and a conditional certificate of completion shall be issued. The final certificate of completion shall not be issued until all landscaping is installed in compliance with the approved site plan. If the applicant can demonstrate that an emergency situation exists so as to necessitate a conditional certificate of completion in order to occupy the site prior to completion of other minor site improvements that are not necessary for the protection of the health, safety or welfare of the public including all individuals utilizing the facilities (the "remaining improvements"), the City Administrator, or as applicable, the Director of Planning, may issue such conditional certificate of completion if the following conditions are met prior to issuance of the conditional certificate of completion:
- (i) The applicant's engineer shall supply a certified engineer's estimate for the cost of completing the remaining improvements plus fifteen percent (15%) for project administration (the "Estimate") and an agreement from the applicant's contractor to complete said remaining improvements, if required by the City, under contract with the City for the amount stated in the estimate;
  - (ii) The applicant shall deposit into an escrow account held by the City or provide the City with a performance bond or letter of credit issued in the format and from an institution approved by the City for the amount of the Estimate (the "surety instrument"), and the City shall hold such surety instrument until the work is completed, at which time the surety instrument shall be released. If the work is not completed within the term of the conditional certificate of completion, the City may declare the applicant in default, invoke the surety instrument, and use the surety instrument to install all improvements.
  - (iii) The applicant and the project contractor shall verify by providing a notarized signed statement stating that such remaining improvements can and shall be completed within a period not to exceed thirty (30) calendar days, or other time frame specifically approved by staff;
  - (iv) The applicant shall verify by providing a notarized statement that the applicant has not and will not enter into any lease agreement with a tenant for a period exceeding thirty (30) days or other time frame specifically approved by city staff. In addition, the applicant will agree that the site and all buildings and improvements on the site will cease to be occupied if the remaining improvements are not completed within the duration of the conditional certificate of completion. The applicant will also acknowledge that utility service for the project (including water and wastewater service) may, at the city's discretion, be disconnected if the remaining work is not completed within the duration of the conditional certificate of completion. The applicant shall further notify any and all tenants of the terms of this section and shall acknowledge to the City that such notice has been given;
  - (v) The applicant's engineer shall provide a certified engineer's statement stating that there is no direct or indirect threat to the health, safety or welfare of the public, including individuals utilizing the facilities on the subject site, by occupation or use of the site prior to all improvements having been completed;

- (vi) The applicant shall provide an additional non-refundable fee in the amount of thirty (30%) percent of the original review fee submitted with the request for a conditional certificate of completion to cover the cost of the additional staff review required for review and administration of this process; and
- (vii) All applicable city staff reviewers recommend granting a conditional certificate of completion. A conditional certificate of completion shall be effective for a maximum of thirty (30) days (unless otherwise approved by staff and recommended by the project engineer) except for landscaping improvements. For landscaping improvements, the term of the conditional certificate of completion shall be established by the landscape reviewer. The City Administrator, or as applicable, the Director of Planning, may, at its discretion, extend the term of a conditional certificate of completion for unusual circumstances that could not be anticipated when the certificate was issued. The final certificate of completion shall not be issued until all improvements are installed in compliance with the approved site development plans and applicable City ordinances.

**(b) Site Development Permit Expiration**

- (1) A site development permit, including all phases identified on the site plan, expires two (2) years after the date of its approval, or as identified on an approved phasing plan, unless one or more of the following events occur:
  - (i) Building permits required to construct all buildings shown on the site plan are issued prior to the expiration date and those active building permits are in effect until the work is completed and certificates of occupancy are issued.
  - (ii) If no building permits are required to complete the development authorized by the site development permit, any required site work is commenced and diligently pursued to completion and a certificate of completion is issued. For purposes of this section, the term “diligently pursued” shall mean that activity towards completion of the development approved by the site development permit does not cease for more than thirty (30) consecutive days, that substantial progress is being made and that all improvements required by the site development permit are completed with two years of issuance of the permit. The City Administrator, or as applicable, the Director of Planning, will be responsible for making the determination of whether site work is diligently pursued to completion. The determination may be appealed to the City Administrator, whose decision is final.
- (2) If a site development permit expires, the applicant may request a reinstatement of the site development permit with the following conditions:
  - (i) No changes are permitted to be made to the site development permit except for minor changes as defined in this Chapter and approved by the City Administrator, or as applicable, the Director of Planning.
  - (ii) The applicant shall pay a non-refundable fee in the amount of one-half of the original fee.
  - (iii) The application is in conformance with all applicable rules and regulations of the City in effect at the time that the application for reinstatement is made.

**SECTION 3: PROCEDURES FOR APPROVAL OF SITE PLANS**

**(a) Site Plan Approval**

The City Administrator, or as applicable, the Director of Planning, shall not approve a site plan until all reviewing departments of the city have indicated that the proposed site plan, with all applicable attachments, complies with all applicable provisions of the code of ordinances of the city including the Zoning Ordinance, the Site Development Ordinance, and the Subdivision Ordinance. The City Administrator, or as applicable, the Director of Planning, shall approve a

site plan if the proposed development complies with all applicable codes of the city. If the City Administrator, or as applicable, the Director of Planning, finds that the site plan does not comply with all applicable codes of the city, the site plan shall be disapproved pending submittal of a site plan in compliance with the code of ordinances of the city. Approval of a site development permit authorizes the applicant to begin site development.

**(b) Revisions to Approved Site Plans**

Minor deviations or design modifications requiring changes in an approved site plan may be approved by the City Administrator, or as applicable, the Director of Planning, after review by the applicable reviewing departments if determined that the deviations or modifications are in compliance with the code of ordinances of the city. For purposes of this section, minor deviations or design modifications have no significant impact on neighboring properties, the public or persons who will occupy or use the proposed development, do not significantly affect runoff quantities and drainage patterns, do not relocate buildings by more than 25 horizontal feet, and do not increase impervious cover by more than 1,000 square feet. Changes to an approved site plan which are necessary to relocate approved building square footage or parking areas due to the exercise of the power of eminent domain by the City shall be considered minor deviations and design modifications for the purposes of this section. An applicant requesting changes to an approved site plan shall submit a written request identifying the requested changes to the City Administrator, or as applicable, the Director of Planning, along with a revised site plan that identifies the proposed changes. Any changes approved by the City Administrator, or as applicable, the Director of Planning, shall be in writing.

**(c) Development Phasing**

If site development is proposed to be constructed in phases, the applicant shall clearly identify the phases on the site plan and all other applicable materials that accompany the site plan. The phasing shall also be defined in a proposed timetable of completion for each phase. The phasing plan shall not contain any proposal for a phase to be completed more than four years from approval of the site development permit.

**(d) Easements**

No structures shall be permitted within a utility easement or drainage easement.

## **ARTICLE VIII - ADMINISTRATION**

### **SECTION 1: GENERAL**

The City Administrator, or as applicable, the Director of Planning, shall administer the provisions of this ordinance, and in furtherance of such authority, shall:

- (a)** Maintain permanent and current records with respect to this ordinance, including amendments thereto.
- (b)** Receive, file, and review all zoning applications to determine whether such applications comply with this ordinance.
- (c)** Forward zoning applications to the Commission as required by this ordinance with a planning analysis.
- (d)** Forward zoning applications to the Council, together with the recommendations of the Commission and the staff planning analysis.
- (e)** Make such other determinations and decisions as may be required of the City by this ordinance, the Commission or the Council.

### **SECTION 2. ESTABLISHMENT OF THE PLANNING AND ZONING COMMISSION**

A Planning and Zoning Commission is hereby created in order to:

- (1) Identify community needs and to advise the city council of their short-range and long-range implications for the total development of the city;
- (2) Recommend achievable community goals as a basis for long-range planning and development programs;
- (3) Recommend plans, programs, and policies that will aid the entire community in achieving its defined goals; and
- (4) Interpret the adopted plans and programs to concerned citizens so that private activities and desires may be accomplished in harmony with public needs and policies.
- (5) Make recommendations to the City Council on Zoning Applications, Subdivision Applications and other items identified in this ordinance.

#### **(a) Membership; qualifications of members**

The commission shall be composed of seven (7) qualified electors of the city appointed by the city council as provided herein. The city council will consider for appointment to the commission only those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, interest in planning and zoning, and availability to prepare for and attend meetings. A minimum of two-thirds of the commission members shall be citizens not directly or indirectly connected with real estate and land development. It is the intent of the city council that members shall, by reason of diversity of their individual occupations, constitute a commission which is broadly representative of the community.

#### **(b) Appointment and term of members**

- (a) The members of the commission shall be identified by place numbers one (1) through seven (7). Commission members who are appointed to serve a term that begins after May 31, 2022, shall serve three-year terms, with the term beginning on November 1st of the year of appointment and expiring on October 31st three years later. The term for commission places 2, 4, 6, and 7 shall begin on November 1st following the general election of the mayor and city council places 2, 4, and 6, and shall expire on October 31st three years later. The term for commission places 1, 3, and 5 shall begin on November 1st following the general election of city council places 1, 3, and 5, and expire on October 31st three years later.
- (b) The members of the city council elected at the general election shall each be entitled to nominate one appointee to a place on the commission whose term of office for that position expires in October following the general election, as follows:
- (1) The city council members elected to places 2, 4 and 6 shall each be entitled to nominate one appointee to commission places 2, 4, and 6, respectively.
  - (2) The mayor shall be entitled to nominate one appointee to commission place 7.
  - (3) The councilmembers elected to places 1, 3, and 5 shall each be entitled to nominate one appointee to commission places 1, 3, and 5, respectively.
- (c) Commission members may be appointed to succeed themselves. Vacancies shall be filled for unexpired terms, to serve the remainder of the unexpired term, on nomination by the member of the city council holding the office entitled to make the original nomination, but no member shall be appointed for a term in excess of three (3) years. Newly appointed members shall be installed at the first regular commission meeting after their appointment.

**(c) Organization; officers; records and minutes**

The commission shall hold an organizational meeting in October of each year and shall elect a chairman and vice-chairman from among its members before proceeding to any other matters of business. The commission shall elect a secretary and such other officers as it deems necessary either from its membership or from staff representatives assigned by the mayor to work with the commission. The commission shall meet regularly and shall conform to chapter 551, Texas Gov't Code, as amended from time to time. The commission shall keep a record of its proceedings consistent with the provisions of this article and the requirements of law. Also, the commission's secretary shall file with the city secretary's office minutes of each meeting within three (3) working days of the meeting.

**(d) Meetings; quorum; compensation of members**

A quorum for the conduct of business shall consist of a simple majority of the planning and zoning commission. The commission shall meet not less than once each month. The members of the commission shall regularly attend meetings and public hearings of the commission and shall serve without compensation, except for reimbursement of authorized expenses attendant to the performance of their duties.

**(e) Motions; majority vote required; continuation of actions to next meeting**

- (a) A motion may be made by any member of the planning and zoning commission other than the presiding officer.
- (b) A motion to approve any matter before the commission or to recommend approval of any request requiring city council action shall require a majority [of] favorable votes of the members present. When fewer than all the members are present for the voting and when all motions to recommend on a given application fail to carry by majority votes, consideration of the application shall be continued to the next regular meeting upon motion carried by a majority of those present. Provided further that no request or application shall be continued under this rule beyond the next regular meeting; failure of the commission to secure majority concurring votes to approve or recommend approval at such next regular meeting shall be recorded in the minutes as a denial of the proposal under this rule.

**(f) Disqualification from voting**

- (a) A member of the planning and zoning commission shall disqualify himself from voting whenever he finds that he has a personal or monetary interest in the property under appeal, or that he will be directly affected by the decision of the commission.
- (b) A member may disqualify himself from voting whenever any applicant, or his agent, has sought to influence the vote of the member on his application, other than in the public hearing.

**(g) Powers and duties**

The planning and zoning commission is hereby charged with the duty and invested with the authority to:

- (1) Inspect property and premises at reasonable hours where required in the discharge of its responsibilities under the laws of the state and of the city.
- (2) Formulate and recommend to the city council for its adoption a city plan for the orderly growth and development of the city and its environs, and from time to time recommend such changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety and general welfare of the citizens of the city.
- (3) Formulate a zoning plan as may be deemed best to carry out the goals of the city plan; hold public hearings and make recommendations to the city council relating to the creation, amendment, and implementation of zoning regulations and districts as provided in V.T.C.A., Local Government Code 211.001 et seq., authorizing cities and incorporated villages to pass regulations; all powers granted under such act are specifically adopted and made a part hereof.
- (4) Exercise all the powers of a commission as to approval or disapproval of plans, plats, or replats and vacations of plans, plats or replats set out in V.T.C.A., Local Government Code 42.001 et seq. and 212.001 et seq.

(5) Study and recommend on the location, extension and planning of public rights-of-way, parks or other public places, and on the vacating or closing of same.

(6) Study and recommend on the general design and location of public buildings, bridges, viaducts, street fixtures and other structures and appurtenances. Study and recommend on the design or alteration and on the location or relocation of works of art which are, or may become, the property of the city.

(7) Initiate, in the name of the city, for consideration at public hearings, all proposals for:

- (A) The opening, vacating or closing of public rights-of-way, parks or other public places;
- (B) The original zoning of annexed areas; and
- (C) The change of zoning district boundaries on an areawide basis.

No fee shall be required for the filing of any such proposal in the name of the city.

(8) Formulate and recommend to the city council for its adoption policies and regulations consistent with the adopted city plan governing the location and/or operation of utilities, public facilities and services owned or under the control of the city.

(9) Keep itself informed with reference to the progress of city planning in the United States and other countries and recommend improvements in the adopted plans of the city.

(10) Submit each September a progress report to the city council summarizing its activities, major accomplishments for the past year and a proposed work program for the coming year. The report shall contain for the year the attendance record of all members and the identity of commission officers.

### **SECTION 3: INTERPRETATION OF PROVISIONS**

In the interpretation and application of the provisions of this ordinance, the following regulations shall govern:

**(a) Interpretation**

In the City's interpretation and application, the provisions of this ordinance shall be regarded as minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity and welfare. This ordinance shall be regarded as remedial and shall be liberally construed to further its underlying purposes.

**(b) Duplicative Restrictions**

Whenever more than one provision of this ordinance covers the same subject matter, or when any provision in any other law, ordinance, rule or regulation of any kind contains any restrictions covering any of the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern.

**(c) Written Decision of Meaning or Intent**

Where there is a question concerning the meaning or intent of a provision of this ordinance, the City shall render a written decision setting forth the exact manner in

which said provision shall be interpreted and administered. In the event exception is taken by any interested party to such a decision the matter shall be appealed to the Commission, and, as appropriate, to the Council, whose decision shall be final.

(1) Any written decision shall be attached to and made a part of this ordinance, until rescinded by amendment of this ordinance as provided for herein.

(2) The terms, provisions and conditions of this ordinance shall be interpreted and applied in a manner consistent with *Chapter 211, Texas Local Government Code*, and, particularly as to property within the extraterritorial jurisdiction of the City.

**(d) Consistency with the Comprehensive Plan**

All zoning applications shall conform to the Comprehensive Plan for the community and be consistent with all of the elements thereof. Where the proposed zoning application is inconsistent with one (1) or more of the elements of the Comprehensive Plan, the developer may petition the City for amendment to the particular element or elements of the Comprehensive Plan either prior to, or concurrent with, submitting a request for subdivision plat or development plan approval. Inconsistency with the provisions of the Comprehensive Plan shall be grounds for disapproval of the zoning application by the City

**(e) Consistency with the Subdivision Ordinance**

All development projects within the corporate limits and extraterritorial jurisdiction of the City shall be in conformance with the City's Subdivision Ordinance. Where the proposed development requires a zoning classification or approval other than that currently applying to the property to be developed, the developer shall make appropriate application to secure the necessary zoning classification or approval such that the proposed development would comply with the Zoning Ordinance.

**SECTION 4: ADMINISTRATIVE PROCEDURES FOR CHANGES & AMENDMENTS TO ALL ZONING ORDINANCES.**

**(a) Declaration of Policy and Review Criteria**

The City of Van declares the enactment of these regulations governing the use and development of land, buildings, and structures as a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning district except:

(1) To correct any error in the regulations or map.

(2) To recognize changed or changing conditions or circumstances in a particular locality.

(3) To recognize changes in technology, the style of living, or manner of conducting business.

(4) To change the property to uses in accordance with the approved Comprehensive Plan. In making a determination regarding a requested zoning change, the Commission and City Council shall consider the following factors:

(i) Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the City as a whole.

(ii) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supplies, sanitary sewers, and other utilities to the area.

(iii) The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances, which may make a substantial part of such vacant land unavailable for development.

(iv) The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.

(v) How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved.

- (vi) Any factors which may substantially affect public health, safety, morals, or welfare.

**(b) Authority To Amend Ordinance**

The City Council may from time to time, after the Commission has had opportunity to make a recommendation, and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the Zoning Map. Any ordinance regulations or zoning district boundary amendment may be ordered for consideration by the City Council, be initiated by the Commission, or be requested by the owner of real property or the authorized representative of an owner of real property.

Consideration for a change in any district boundary line or special zoning regulation may be initiated only with written consent of the property owner, or by the Commission or City Council on its own motion when it finds that public benefit will be derived from consideration of such matter. In the event the ownership stated on an application and that shown on the City records are different, the applicant shall submit proof of ownership.

No person who owes delinquent taxes, delinquent paving assessments, impact fees, or any other delinquent debts or obligations to the City of Van, and which are directly attributable to a piece of property requested for zoning, shall be allowed to submit a zoning request until the taxes, assessments, debts, or obligations directly attributable to said property and owed by the owner or previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the City has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that the taxes have been paid.

**(c) Application**

Each application for zoning or for an amendment or change to the existing provisions of this Zoning Ordinance shall be made in writing by the owner or person authorized to represent the owner on an application form available at the City, filed with the City and shall be accompanied by payment of the appropriate fee as established by the City of Van, Texas. Applications shall contain all information required by the application form.

**(d) Public Hearing and Notice**

- (1) Prior to making its report to the City Council, the Commission shall hold at least one public hearing on each application as required by state law (Texas Local Government Code Chapter 211 as amended). Written notice of all public hearings on proposed changes in district boundaries shall be sent to the owners of property, or to the person rendering the same for City taxes, that is located within two hundred feet (200') of the property that is the subject of the application. The notices will be mailed within not less than ten (10) days before such hearing is held. Such notice may be served by using the last known address as listed on the latest approved tax roll and depositing the notice, postage paid, in the United States mail. Notice of hearings before the City Council shall be accomplished by one publication not less than fifteen (15) days prior thereto in the official newspaper of the City.

- (2) The applicant shall post signs noticing the public hearing meeting the following criteria:
- a. For property located on roadways with a speed limit less than 45 miles per hour, 18" X 24" signs shall be placed at intervals of 200 feet along the roadway frontage of the property.
  - b. For properties located on roadways with a speed limit 45 miles per hour and greater, 24" X 36" signs shall be placed at intervals of 200 feet along the roadway frontage of the property.
  - c. If the property has less than 200 feet of frontage per roadway, then only one (1) sign is required per frontage.

- (3) Neighborhood Outreach Requirements: If the perimeter of the property that is proposed for a rezoning is located within 500 feet of any property zoned or used for single-family

residential development, the applicant is required to submit a neighborhood outreach summary.

- a. The purpose in this summary is to:
    - (i) Provide an opportunity for communication between the applicant and area residents;
    - (ii) Attempt to resolve issues in a manner that is respectful of all interests; and
    - (iii) Identify all unresolved issues.
  - b. A meeting with the neighborhood is recommended to aid in communication between the applicant and area residents.
  - c. By the close of business on the 14th day prior to the Planning and Zoning Commission public hearing, the applicant shall provide the City Administrator, or as applicable, the Director of Planning, with a neighborhood outreach summary that includes the following information:
    - (i) Efforts implemented to notify neighborhoods about the proposal, including who was notified, how they were notified, and when they were notified;
    - (ii) Information about the project that was shared with owners and residents via mailings, workshops, meetings, open houses, flyers, and/or door-to-door meetings;
    - (iii) A list of who was involved in the discussions;
    - (iv) The suggestions and concerns raised by the neighborhoods; and
    - (v) The specific actions that were taken, or that are proposed to be taken, in response to feedback from the residents.
  - d. The applicant shall present the summary report to the authorized decision-making body at the public hearing.
- (4) HOA/Neighborhood Representative Notification. If the exterior boundary of any property that is proposed for zoning or rezoning is located within 500 feet of the external boundaries of the jurisdiction of a Home Owners Association (HOA) and/or a neighborhood a courtesy notification shall be mailed to the HOA and/or neighborhood representative within the same timeframe as referenced in Section above. Failure to issue a courtesy notification shall not render any zoning action void or voidable.

**(e) Failure To Appear**

Failure of the applicant or his representative to appear before the Commission or City Council for more than one hearing without notice to and approval by the City Administrator, or as applicable, the Director of Planning or a waiver being granted by the Commission or Council, as applicable, shall constitute sufficient grounds for the Commission or the City Council to table or deny the application. Provided the City Administrator, or as applicable, the Director of Planning or City Secretary is notified in writing by the applicant at least seventy-two (72) hours prior to the hearing, applicants shall be entitled to one postponement.

**(f) City Council Consideration**

- (1) Every application or proposal which is recommended for approval by the Commission shall be automatically forwarded to the City Council for setting and holding of public hearings thereon. No change, however, shall become effective until after the adoption of an ordinance for the same and its publication as required by law.
- (2) When the Commission makes a recommendation that a proposal should be denied, the request in its original form, will automatically be placed on the City Council agenda unless a request not to place the item on the agenda is made by the applicant within ten (10) days of such action.
- (3) No applications for a change of zoning classification, variance, or special use permit shall be accepted if a similar application for the same property has been denied by a three-fourths (75%) vote of the City Council within the preceding six (6) month period.

- (4) Notice of the City Council public hearing shall be given by publication in the official newspaper of the City, stating the time and place of such hearing, which shall be at least fifteen (15) days after the date of publication.
- (5) Upon approval of a zoning request by the City Council, the applicant shall submit all related material with revisions, if necessary, to the City for the preparation of the amending ordinance. A metes and bounds description, lot and block description or a tax map of all property and appropriate exhibits must be submitted with the zoning change request application. The amending ordinance will not be approved until a correct description has been prepared. The zoning request shall be approved at the time the City Council makes a decision to approve the request as submitted or with certain conditions.

## **SECTION 5: BOARD OF ADJUSTMENT**

### **(a) Established**

A Board of Adjustments (Board) is established in accordance with the provisions of *Section 211.008, et.seq., Tex. Loc. Gov't. Code*, and the City Charter, regarding the zoning of cities. The Board shall have the powers and duties as provided in Chapt. 211 and this Ordinance.

### **(b) Organization and Membership.**

- (1) Regular Membership. The Board shall consist of five citizens appointed or reappointed by the City Council. The Mayor shall have the authority to nominate persons for appointment. Members of the Board shall be removable for cause by the City Council, upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of the member whose term becomes vacant. The Board shall elect its own chair, who shall serve for a period of one (1) year or until his or her successor is elected.
- (2) Alternate Members. The Board shall also consist of not more than four alternate members who will serve in the absence of one or more regular members, as and when requested to do so by the Mayor or City Administrator. Alternate members shall be appointed in the same manner as regular members; shall serve for the same period as a regular member; and are subject to removal in the same manner as a regular member. Vacancies among the alternate members shall be filled in the same manner as vacancies among the regular members.

### **(c) Meetings**

Meetings of the Board shall be held at the call of the chair and at such other times as the Board may determine.

### **(d) Hearings**

All meetings and hearings held by the Board of Adjustment shall be public; provided that upon the advice and consent of the City Attorney the Board may go into executive session pursuant to *Chapt. 551, Tex. Gov't. Code*.

### **(e) Rules and Regulations**

The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and such minutes shall be immediately filed in the office of the Board and shall be a public record. The Board shall act by resolution in which four members must concur. The Board may adopt rules in accordance and consistent with this Ordinance as necessary and required. A copy of any such rules shall be furnished to any person requesting same. All rules and regulations shall operate uniformly in all cases and all resolutions and orders shall be in accordance therewith.

### **(f) Appeals**

- (1) Procedure. Any person aggrieved by a decision of an administrative officer in the enforcement of *Chapt. 211, Tex. Loc. Gov't. Code*, or this ordinance, or any officer, department, board or bureau of the City affected by any such decision by an administrative officer, may appeal such decision to the Board. Such appeal shall be made by filing with the office of the Board and the officer whose action is being appealed, a notice of appeal specifying the grounds thereof. The officer from which the appeal is taken shall forthwith transmit to the Board a certified, true and correct copy of all of the papers constituting the record upon which the action appealed from is taken.
- (2) Stay of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer whose decision is appealed shall certify to the Board that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by restraining order granted for just cause by the Board, or by a court of record, after notice to the officer from whom the appeal is taken.
- (3) Notice of Hearing on Appeal. The Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and shall give public notice of the hearing and due notice to the parties in interest. The Board shall mail notices of such hearing to the petitioner, to the owners of the property that is the subject of the hearing, to the owners of property lying within two hundred (200) feet of any point of the lot or portion thereof that is the subject of the appeal or variance request, the Building Official and the City Administrator, or as applicable, the Director of Planning. The owners of property shall be determined according to the current tax rolls of the City, and the deposit of the notice in the U.S. mail, addressed to the name and address on the tax rolls, postage prepaid, shall be deemed actual notice and full compliance with the requirements of this Ordinance for notice.
- (4) Decision by Board. The Board shall decide appeals within a reasonable time. Any party to the appeal may appear in person or by agent or attorney at any hearing. The Board may, upon the concurring vote of four (4) members, reverse or affirm, in whole or in part, or modify the administrative official's order, requirement or decision, and make the correct order, requirement, decision, or determination on the matter appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made, and to that end, shall have all powers of the officer or department from whom the appeal is taken. The Board shall promptly file in the office of the Building Official and City Secretary a written decision on each appeal and variance request. The decision shall be signed by the Board Chair or, as applicable in his/her absence, the Vice Chair of the Board.

**(g) Powers and Duties of the Board**

The Board shall have authority and jurisdiction to hear appeals from the decisions of an administrative official in the interpretation and application of this Ordinance, and to hear and consider variance requests only as authorized by *Chapt. 211*, and this Ordinance.

- (1) Appeals Based on Error. The Board shall have the power to hear and decide appeals based solely upon the applicable law and facts, where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of *Chapt. 211, Tex. Loc. Gov't. Code*, or this Ordinance.
- (2) Special Exceptions. The Board shall have the power to hear and decide special exceptions to the terms of this Ordinance when this ordinance by specific provision authorizes the Board to do so. Such special exceptions shall be as follows:
  - (i) To permit a public utility or public service use or structure in any district as necessary to house equipment, pumps, switching gear, and similar devices only, required for the provision of the utility service or a public utility or public service building of a ground area and of a height at variance with those provided for in

the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the provision of utility service and the public health, convenience, safety or general welfare.

- (ii) Authorize a variance from the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, and where the topography or unusual shape of the lot and regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.
- (iii) The Board shall have the authority to recommend to the Council the classification of any use not specifically named in this ordinance, in cases of uncertainty; and that Council consider authorizing and granting a special use permit or otherwise amending this Ordinance, in those instances where:
  - a. A business, commercial or industrial use that requires less restrictive zoning be permitted within 300 feet of the boundary of such a required zoning district but in an abutting more restrictive commercial or industrial district, because of the methods by which it would be operated and its limited effect upon uses within surrounding zoning districts; or
  - b. In those cases where an extension of use authorized in subsection (h)(iii) below should be considered for an extension beyond the 100 foot limitation, or beyond the lot line.

#### **(h) Variances**

The Board shall have the power to authorize upon application for variance in specific cases when such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done, including the following:

- (1) Yard and Setback. Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardship in the carrying out of these provisions due to an irregular shape of the lot, topography or other conditions; provided that such variance will not significantly affect any adjoining property or the general welfare.
- (2) Structures. Authorize upon appeal, whenever a property owner can show that a strict application of the terms of this Ordinance relating to the construction or alteration of a building or structure or the use of land will impose unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this Ordinance as are in harmony with its general purpose and intent, but only when the Board is satisfied that a granting of such variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance as established by this Ordinance, and at the same time, the surrounding property will be properly protected; provided that the Board shall not in any event permit a use on any property that is not permitted within the Zoning category for which such property is zoned.
- (3) Extension of Use. To grant a permit for the extension of a use, height, area, site and/or architectural regulation into an adjoining district to include an entire legal lot but not to exceed an extension of 100 feet, where the boundary line of the district divided a lot under single ownership on the effective date of this ordinance.

#### **(i) Subpoena Witnesses**

The Board shall have the power to subpoena witnesses, administer oaths, and punish for contempt, and may require the production of documents, under such regulations as it may establish.

**(j) Changes**

The Board shall have no authority to change any provision of this Ordinance and its jurisdiction is limited to hardship and borderline cases which may arise from time to time.

**SECTION 6: CONDITIONS FOR ISSUING A BUILDING PERMIT**

No Building Permit shall be issued for any new structure or change, improvement or alteration of any existing structure, on any lot or tract of land and no municipal utility service will be furnished to such lot or tract which does not comply with the provisions of this ordinance and all applicable elements of the Comprehensive Plan, except as herein exempted or upon the written application and approval of a variance as authorized by this ordinance.

**SECTION 7: CERTIFICATES OF OCCUPANCY**

**(a) Application**

Certificates of occupancy shall be required for any of the following:

- (1) Occupancy and use of a building hereafter erected or structurally altered.
- (2) Change in use of an existing building to a use of a different classification.
- (3) No such occupancy, use or change of use, shall take place until a Certificate of Occupancy therefore shall have been issued by the City Building Official.

**(b) Procedure**

- (1) Written application for a Certificate of Occupancy for a new building or for an existing building, except a dwelling and lodging house, which is to be altered shall be made at the same time as the application for the Building Permit for such building. Said Certificate shall be issued within three (3) days after a written request for the same has been made to said City Building Official or his agent after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this ordinance.
- (2) Written application for a Certificate of Occupancy for the use of vacant land or for a change in the use of land or a building, or for a change in a non-conforming use, as herein provided shall be made to the City Building Official. If the proposed use is in conformity with the provisions of this ordinance, the Certificate of Occupancy shall be issued within three (3) days after the application for same has been made.

**(c) Approval**

Every Certificate of Occupancy shall state that the building or the proposed use of a building or land complies with applicable provisions of law. A record of all Certificates of Occupancy shall be kept in file in the office of the City Building Official or his agent and copies shall be furnished on request to any person having proprietary or tenancy interests in the building or land affected.

**(d) Temporary Certificate of Occupancy**

Pending the issuance of a regular Certificate of Occupancy, a temporary certificate may be issued by the City Building Official for a period not exceeding six (6) months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificates shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the City relating to the use or occupancy of the premises or any other matter covered by this ordinance. Applicant is responsible for all additional inspections required for temporary certificates of occupancy.

**(e) Non-conforming Uses**

A Certificate of Occupancy shall be required for all lawful non-conforming uses of land or buildings created by adoption of this ordinance. Application for such Certificate of Occupancy for a non-conforming use shall be filed with the City Building Official by the owner or lessee of the

building or land occupied by such non-conforming use within one (1) year of the effective date of this ordinance. It shall be the duty of the City Building Official to issue a Certificate of Occupancy for a lawful non-conforming use, or refusal of the City Building Official to issue a Certificate of Occupancy for such non-conforming use shall be evidence that said non-conforming use was either illegal or did not lawfully exist on the effective date of this ordinance.

## **SECTION 8: FEES**

To defray the costs of administering this ordinance, the applicant seeking zoning approvals shall pay to the City, at the time of submittal, the prescribed fees as set forth in the current administrative fee schedule approved by the Council, and on file in the office of the City.

## **SECTION 9: AMENDMENTS OR REPEAL**

Ordinance numbered \_\_\_\_\_ are hereby amended in their entirety and all ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of the more restrictive ordinance shall govern. The Council may, from time to time, adopt, amend and make public rules and regulations for the administration of this ordinance. This ordinance may be enlarged or amended by the Council after public hearing, due notice of which shall be given as required by law.

## **SECTION 10: VIOLATIONS**

Except as otherwise provided for in this ordinance, it shall be unlawful for any person, firm or corporation to develop, improve or sell any lot, parcel, tract or block of land within the City's territorial jurisdiction for other than agricultural purposes, regardless of the size or shape of said lot, parcel, tract or block, unless such lot, parcel, tract or block of land conforms with this ordinance.

## **SECTION 11: ENFORCEMENT**

### **(a) Penalty**

- (1) Penalty. Any person who shall violate any of the provisions of this ordinance, or shall fail to comply therewith, or with any of the requirements thereof, within the City limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein

### **(b) Administrative Action**

The City Administrator, or as applicable, the Director of Planning, Building Official, City Engineer and/or the City Administrator shall enforce this ordinance by appropriate administrative action and the issuance of stop work orders, including, but not limited to, rejection of plans, plats, certificates of occupancy and specifications not found to be in compliance with this ordinance and good engineering practices.

### **(c) Court Proceedings**

Upon the request of the City Council, the City Attorney or other authorized attorney shall file an action in the district courts to enjoin the violation or threatened violation of this ordinance, or to obtain declaratory judgment, and to seek and recover court costs and attorney fees, and/or to recover damages in an amount sufficient for the City to undertake any construction or

other activity necessary to bring about compliance with a requirement regarding the property and established pursuant to this ordinance.

**(d) Conflicting Provisions**

- (1) Conflict with State or Federal Regulations: If the provisions of this ordinance are inconsistent with state or federal law, this ordinance shall be construed, applied and administered consistent with such state or federal law.
- (2) Conflict with Other City Regulations: If the provisions of this ordinance are inconsistent with one another or if they conflict with provisions found in other adopted ordinances or regulations of the City, the more restrictive provision will control.
- (3) Conflict with Private Agreements: It is not the intent of this ordinance to interfere with, abrogate or annul any easement, covenant, deed restriction or other agreement between private parties. If the provisions of this ordinance impose a greater restriction than imposed by a private agreement, the provisions of this ordinance will control. The City shall not be responsible for monitoring or enforcing private agreements.
- (4) The terms and provisions of the Code and the Community Plan adopted for the Transit Oriented Development shall, as to permitted uses and other provisions specifically applicable therein, govern and control within the geographic area that is included within such Community Plan, when in conflict with this ordinance.

**SECTION 12: SEVERABILITY**

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

**SECTION 13: TRANSITIONAL PROVISIONS**

**(a) Violations Continue:**

Any violation of the previous zoning regulations of the City shall continue to be a violation under this ordinance and shall be subject to penalties and enforcement unless the use, development, construction or other activity is consistent with the express terms of this ordinance, in which case enforcement action shall cease, except to the extent of collecting penalties for violations that occurred before the effective date of this ordinance.

**(b) Applications Prior to Effective Date**

A completed application submitted prior to the effective date of this ordinance will be reviewed on the basis of any regulations or requirements in effect at the time the completed application is filed; unless, at the applicant's option, the applicant elects to proceed under the terms and provisions of this ordinance.

**(c) Zoning Regulations Affecting Appearance of Buildings or Open Space**

- (1) This subsection applies only to a zoning regulation that affects:
  - (i) The exterior appearance of a single-family house, including the type and amount of building materials;
  - (ii) The landscaping of a single-family residential lot, including the type and amount of plants or landscaping materials or tree preservation; or
  - (iii) Lot size, lot coverage or building size.
- (2) A zoning regulation adopted after the approval of a residential subdivision plat does not apply to that subdivision until the second anniversary of the later of:
  - (i) The date the plat was approved; or
  - (ii) The date the City accepts the subdivision improvements offered for public dedication.

- (3) This section does not prevent the City from adopting or enforcing applicable building codes or prohibiting the use of building materials that have been proven to be inherently dangerous.

**(d) Applicant Claiming Exemption**

Any applicant that claims exception from any provision of this ordinance based upon a claim of vested rights shall file a Request for Vested Rights Determination with the City Administrator, or as applicable, the Director of Planning demonstrating:

- (1) In reliance upon properly issued permits or approvals:
  - (i) The applicant made substantial financial commitments or assumed substantial financial obligations within the purview of the activities authorized by said permit or approval; and
  - (ii) The applicant has proceeded in good faith, and no approvals or permits have lapsed or been revoked; or
  - (iii) The applicant has established any other factor which may establish vested rights under State or federal law; or
- (2) The applicant used its property or filed an application as provided in Texas Local Government Code, Section 43.002 prior to annexation, and that the regulations against which vested rights are claimed are not subject to an exemption as provided in Texas Local Government Code, Section 43.002(c); or
- (3) The applicant filed an application as provided in Texas Local Government Code Chapter 245 prior to adoption of the regulations against which vested rights are claimed, that the regulations against which vested rights are claimed are not subject to an exemption as provided in Texas Local Government Code Section 245.004 and that the project has not become dormant as defined in Texas Local Government Code section 245.005, or
- (4) Prior to six months after adoption of this ordinance by the City Council, the applicant applied for permit(s) under rules in effect immediately prior to the adoption of this ordinance instead of the rules contained in this ordinance and the applicant can demonstrate that he/she made a significant investment or is contractually committed to make such investment, for design work or facilities prior to July 13, 2005 and the applicant proposes to utilize the old rules in effect prior to the adoption of this ordinance only to the extent that such design work or facilities are in non-compliance with this ordinance, are in compliance with the rules in effect immediately prior to the adoption of this ordinance and such work or facilities would be irretrievable or could not be reasonably altered to comply with this ordinance.
- (5) After receiving a Request for Vested Rights Determination, the City Administrator, or as applicable, the Director of Planning shall review the request and approve, deny or request additional information to be provided for consideration of the request within 20 working days. Upon review of the request, if the City Administrator, or as applicable, the Director of Planning finds that the applicant has provided sufficient information to establish that one or more permits exist on a project, the Director shall issue a certificate to the applicant recognizing vested rights for the project and the terms and conditions required for the continuance of the vested rights.
- (6) This section shall not extend the time of validity for any permit. Any rights recognized by the application of this section shall not extend beyond the time periods prescribed for the validity of the permit or permits that were submitted for recognition except by the granting of a variance from the time limit as provided herein.

**SECTION 14: CODE OF ORDINANCES**

This ordinance shall become a part of the Code of Ordinances of the City of Van, Texas, and may be renumbered and codified therein accordingly.

**SECTION 15: EFFECTIVE DATE**

This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the City Charter of the City. Prior to January 13, 2006, applicants may apply for permits under rules in effect immediately prior to the adoption of this ordinance instead of the rules contained in this ordinance if he/she can demonstrate that he/she made a significant investment or is legally committed to make such investment, for design work or facilities prior to [REDACTED], 2022, and then only to the extent that such design work or facilities are in non-compliance with this ordinance, are in compliance with the rules in effect immediately prior to the adoption of this ordinance and such work or facilities would be irretrievable or could not be reasonably altered to comply with this ordinance

**SECTION 16: OPEN MEETINGS**

It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

Draft - Subject to Change