



**NOTICE OF A REGULAR
OF THE PLANNING & ZONING
Tuesday, September 27, 2022
5:30 PM**

Pat Hargrave
Jennifer Hudgens
Ciaran Holden
Marcos Dos Santos
Lori Thompson

AGENDA

Notice is hereby given as required by Title 5, Chapter 551.041 of the Government Code that the Van Planning & Zoning Commission will meet in a Regular Meeting on Tuesday, September 27, 2022, at 5:30 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.

Notice is hereby given as required by Title 5, Chapter 551.041 of the Government Code that a possible quorum of the Van City Council may be present at this meeting. No official business of the City of Van will be conducted by the City Council at this meeting.

- I. CALL MEETING TO ORDER**
 - A. Roll Call and Establish a Quorum
- II. INVOCATION**
- III. PLEDGE OF ALLEGIANCE**
 - A. US Flag
- IV. CONSENT AGENDA**
 - A. Meeting minutes from August 23, 2022.
- V. ACTION ITEMS**
 - A. Discussion, Consideration, and Possible Action on draft zoning 6 2, Subdivision draft 6 1, site development 3 26.
- VI. ADJOURN**

CERTIFICATION

I hereby certify that the above notice was posted in the bulletin board at Van City Hall, 310 Chestnut., Van, Texas 75790 by 5:00 pm on September 23, 2022.

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.*



**NOTICE OF A REGULAR
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Jennifer Hudgens
Ciaran Holden
Marcos Dos Santos
Lori Thompson

MINUTES

I. CALL MEETING TO ORDER

Meeting called to order by Marcos Dos Santos

A. Roll Call and Establish a Quorum

Present: Pat Hargrave, Lori Thompson, Jennifer Hudgens, Marcos Dos Santos

Absent: Ciaran Holden

II. INVOCATION

The invocation was led by Pat Hargrave

III. PLEDGE OF ALLEGIANCE

Led by Marcos Dos Santos

A. US Flag

IV. CONSENT AGENDA

A. Meeting minutes from July 26, 2022

RESULT:	Passed
MOVER:	Lori Thompson
SECONDER:	Jennifer Hudgens
AYES:	Pat Hargrave, Lori Thompson, Marcos Dos Santos, Jennifer Hudgens
NAYS:	None
ABSTAINED:	None

V. **ACTION ITEMS**

- A. Discussion, Consideration, and Possible Action on granting a special use permit for Brenda Oriedo Abundiz located at 225 Spruce.

RESULT:	Passed
MOVER:	Jennifer Hudgens
SECONDER:	Pat Hargrave
AYES:	Pat Hargrave, Lori Thompson, Marcos Dos Santos, Jennifer Hudgens
NAYS:	None
ABSTAINED:	None

- B. Discussion, Consideration, and Possible Action on new subdivision at the corner of W Ohio & N Birch, property ID: R000020015, legal description: acres 1.250, ABST: 297, SUR: M Gross. Brooke Shafer.

RESULT:	Passed
MOVER:	Jennifer Hudgens
SECONDER:	Lori Thompson
AYES:	Pat Hargrave, Lori Thompson, Marcos Dos Santos, Jennifer Hudgens
NAYS:	None
ABSTAINED:	None

Mrs. Shafer requested to plat lots 1 and 2.

VI. **ADJOURN**

RESULT:	Adjourn
MOVER:	Jennifer Hudgens
SECONDER:	Lori Thompson
AYES:	Pat Hargrave, Marcos Dos Santos, Jennifer Hudgens
NAYS:	None
ABSTAINED:	None

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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. Form based codes are helpful when creating a sense of place with the attention to the public realm and a walkable environment, which is a desire of the city of Van. The benefit of a hybrid ordinance 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 facilitates a simplified version of Euclidian Zoning by allowing a variety of uses in the “zones” that are created in the city’s comprehensive plan as Quality-of-Life Areas, which are more form based in nature, and used to establish the zoning districts.

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 fourteen Zoning Districts in the City of Van, as listed below:

- Rural
- Nature
- Town Area - Country District
- Town Area – Hamlet District
- Town Area – Village District
- Town Area – Car Free District
- Downtown
- North Corridor
- South Corridor

- East Corridor
- West Corridor
- Linkage Connector
- Transition Connector
- I-20

In addition to the districts and their representative standards, there are General Standards established in the ordinance including:

- **Use Standards** (Article IV)
- **Dimensional Standards** (Article V)
- **Site Development Standards** (Article VI)

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.

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:

ON THIS _____ DAY OF _____, 2022 THE HYBRID ZONING ORDINANCE WAS ADOPTED.

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 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:
- (1) 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.
 - (2) 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;
 - (3) 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
 - (4) 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. It shall 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 constructed 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.

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 arranged or used as lodging for compensation, with or without meals, and not occupied as a single-family unit.

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.

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

CLOMAR means Conditional Letter of Map Revision which is a formal review and comment as to whether a proposed flood protection project or other project complies with the minimum National Flood Insurance Program (NFIP) requirements.

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.

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 the county a parcel is within.

County Appraisal District means the Appraisal District of the county which a parcel is within.

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.

Demolition means the process of destroying or razing, in whole or in part, a building or structure, including a property owner allowing weather related elements to cause deterioration of the building or structure.

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.

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 use 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.

Flag Lot <https://www.lawinsider.com/dictionary/flag-lot> means a lot that abuts a street by means of a narrow strip of land, called the "staff", with the "flag" being the larger portion of the parcel at the end of the narrow strip. The staff portion of a flag lot shall not be used in computing lot size for zoning and building purposes, but shall be for drainage purposes, when applicable.

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 a facility for social rehabilitation, substance abuse or mental health problems that contains a group housing arrangement that provides custodial care but does not provide medical care and classified as one of the following classes: 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. 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.

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 8.

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].

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].

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, cementitious siding, 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.

Modular Home means a residence, assembled on-site, from a series of structures built in a factory or other off-site facility designed and constructed to be installed on a permanent foundation system and meets current city building codes.

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 City Manager, or designee,

Omni Directional Antenna means a class of antenna which radiates equal radio power in all directions perpendicular to an axis (azimuthal directions).

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.

Ordinary repair and maintenance means activities considered common for maintaining a property, painting, repairing a roof, repairing of masonry components, or repairing elements of a building envelop, and other activities that do not require a building permit.

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

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.

Overlay means a zoning district which is applied over one or more previously established zoning districts, establishing additional or stricter standards and criteria for covered properties in addition to those of the underlying zoning district

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 means an association of persons for some common purpose. The law allows a private club to serve and offer to serve alcohol to its members, even in a dry area, as long as it holds a valid private club permit from the Texas Alcoholic Beverage Commission ("TABC"). Any club that does not hold a TABC permit is prohibited by law from serving or offering to serve alcohol to its members.

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.

Quality of Life Area means those areas designated in the City of Van Comprehensive Plan that represent the various land uses with similar characteristics and purposes.

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.

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.

Residential Types means for the purpose of this ordinance a classification of residential building attributes a developer may use to achieve diversity standards within a neighborhood as described in Article V, Section 5.

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 or ROW 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.

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 eve of a structure and out of a material different from the remainder of the wall or along the eve 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 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.

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 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 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 City Manager, or designee, 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, for the purposes of this ordinance, between four hundred (400) square feet and seven hundred (700) square feet in size. This house is a permanent attached 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.

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 with two attached living units with each occupied one household.

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 City Manager, or designee, 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 City Manager, or designee, 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")

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 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 following districts are enumerated below:

- Rural
- Nature
- Town Area - Country District
- Town Area - Hamlet District
- Town Area - Village District
- Town Area - Car Free District
- Downtown
- North Corridor
- South Corridor
- East Corridor
- West Corridor
- Linkage Connector
- Transition Connector
- I-20

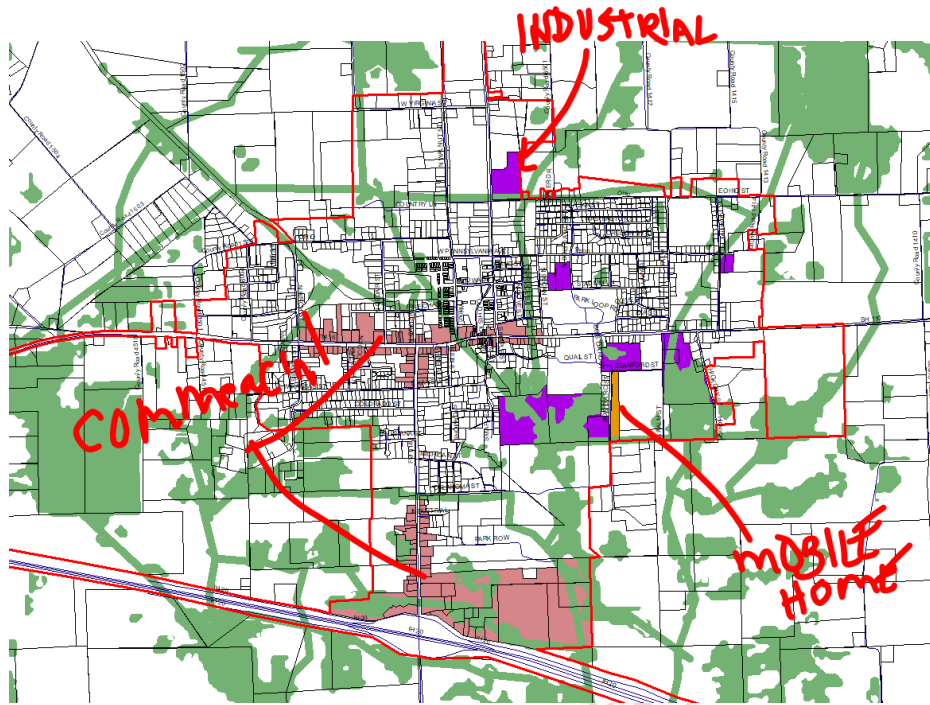
(b) Zoning Map

- (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 Manager, or designee, 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 compliance with the Zoning Map, as amended with this adoption and in accordance with 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.

ZONING DISTRICT CONVERSION		
Existing Zoning		New Form Based Hybrid Zoning Districts
		Rural District
		Nature District
R-1	Single-Family Residential	Town Area - Country District
		Town Area – Hamlet District
		Town Area – Village District
		Town Area – Car Free District
CBD	Central Business District	Downtown District
		Connector District
		Corridor District
		I-20 Interchange District
R-2		
Mobile Home		
Industrial		
Multi-Family		



The above map is not part of the ordinance, it is what has been given as some of the existing zoning districts

(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) Sexually oriented businesses.
- (3) 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.
- (4) 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; 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; pot ash 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; except as otherwise approved by the City Council.

(e) Determination of Appropriate District

For uses not classified in this ordinance, the City Manager, or designee, 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, ordinances, the requirement that is most restrictive or that imposes higher standards as determined by the City Manager, or designee, 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 Manager, or designee, 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 classified as the zoning district that most approximates the area as designated in the Comprehensive Plan.

(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 golf course), 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).
- (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.

- (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.
 - (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 Manager, or designee.

(b) Uses Not Allowed

- (1) Commercial dairies, commercial feed lots, commercial slaughter houses, commercial poultry operations.

(c) Lot Size Minimum

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

(d) Exceptions

- (1) Streets may be constructed without curb and gutter.
- (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.

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. 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 Nature Zone 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 golf course), 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 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 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.
- (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 Manager, or designee.

(c) Lot Size Minimum

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

SECTION 3: Town Zoning Districts

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 proper street types.

(a) Statement of Intent

The Town Zoning Districts are the areas 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. 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, there are four Town Zoning Districts to allow the various character areas of the city to be identified and regulated to accommodate future development without compromising the character of the immediate neighborhood. The standards within the Town Zoning Districts are to encourage the development of the pedestrian realm. These are the places 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 dictating those items enforce the health, safety, and welfare of the community.

Section 3a: Town Zone – Country District

(a) Statement of Intent

This district is the least dense of the Town Zones. The district is primarily residential in nature, but there are some business uses allowed.

(b) Conforming Uses

The primary uses within this district are small businesses.

- (1) Detached residential
- (2) Retail businesses, offices, restaurants,

(c) Lot Size Minimum

The minimum lot size is 12,000 square feet.

(d) Maximum Density

4 units per acre

(e) Lot Coverage Ratio

Maximum lot coverage is 25%

(f) Minimum Residence Size

Minimum Residence Size is 1,200 Square Feet

(g) Additional Requirements:

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

- Compliance with Table of Uses Article IV
- Compliance with Dimensional Standards Article V
- Compliance with Site Development Standards in Article VI
- Preservation of existing buildings, as provided in Article V, Section 20

The General Standards within this overlay are:

Minimum Lot Size	½ Acre or Larger
Minimum Home Size	1,400 square feet
Maximum Building Height	2 stories, (3 with special approval)
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

Section 3b: Town Zone – Hamlet District

(a) Statement of Intent

This district is the least dense of the Town Zones. The district is primarily residential in nature, but there are some business uses allowed.

(b) Conforming Uses

The primary uses within this district are small businesses.

- (1) Detached residential
- (2) Retail businesses, offices, restaurants,

(c) Lot Size Minimum

The minimum lot size is 8,000 square feet.

(d) Maximum Density

4 units per acre

(e) Lot Coverage Ratio

Maximum lot coverage is 35%

(f) Minimum Residence Size

Minimum Residence Size is 1,200 Square Feet

(g) Additional Requirements:

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

Compliance with Table of Uses Article IV
 Compliance with Dimensional Standards Article V
 Compliance with Site Development Standards in Article VI
 Preservation of existing buildings, as provided in Article V, Section 20

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	2 stories, (3 with special approval)
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	35%

Average Gross Density	8 Units per Acre
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Section 3c: Town Zone – Village District

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	2 stories, (3 with special approval)
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

Section 3d: Town Zone – Car-Free District

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.

- Compliance with Table of Uses Article IV
- Compliance with Dimensional Standards Article V
- Compliance with Site Development Standards in Article VI
- Preservation of existing buildings, as provided in Article V, Section 20

SECTION 5: Transition 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 an area near downtown as an area that deserve special attention because it will experience pressures to convert land uses due to the proximity to downtown and the presence of state thoroughfares.

(b) Conforming Uses

The primary uses within this district are small businesses, residences, group homes, and apartment buildings.

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

(c) Lot Size Minimum

The lot size is 3,125 square feet.

(d) Maximum Density

15 units per acre

(e) Lot Coverage Ratio

Maximum lot coverage is 75%

(f) Minimum Residence Size

Minimum Residence Size is 800 Square Feet for detached units, and 400 square feet for attached units.

(f) Additional Requirements:

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

Compliance with Table of Uses Article IV
Compliance with Dimensional Standards Article V
Compliance with Site Development Standards in Article VI
Preservation of existing buildings, as provided in Article V, Section 20

Section 6: Linkage 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 an area that can connect the eastern side of the community with the I-20 Corridor. This area offers the opportunity to an additional corridor that leads into the city and as a place for future businesses and residences.

(b) Conforming Uses

The primary uses within this district are small businesses.

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

(c) Lot Size Minimum

The minimum lot size is 12,000 square feet.

(d) Maximum Density

4 units per acre

(e) Lot Coverage Ratio

Maximum lot coverage is 50%

(f) Minimum Residence Size

Minimum Residence Size is 800 Square Feet for detached units, and 400 square feet for attached units.

(f) Additional Requirements:

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

Compliance with Table of Uses Article IV
Compliance with Dimensional Standards Article V
Compliance with Site Development Standards in Article VI
Preservation of existing buildings, as provided in Article V, Section 20

SECTION 7: North 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. 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.

(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) Maximum Density

9.5 units per acre

(e) Lot Coverage Ratio

Maximum lot coverage is 75%

(f) Minimum Residence Size

Minimum Residence Size is 800 Square Feet for detached units, and 400 square feet for attached units.

(f) Additional Requirements:

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

- Compliance with Table of Uses Article IV
- Compliance with Dimensional Standards Article V
- Compliance with Site Development Standards in Article VI
- Preservation of existing buildings, as provided in Article V, Section 20

SECTION 8: South 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. The South Corridor connects I-20 to downtown Van and as such, has a diversity of land uses including car repair, office, schools, and residences.

(b) Conforming Uses

The primary uses within this district are small businesses.

- (3) Retail businesses, offices, restaurants,
- (4) Schools.
- (5) Residential.

(c) Lot Size Minimum

The lot size is 12,000 square feet.

(d) Maximum Density

15 units per acre

(e) Lot Coverage Ratio

Maximum lot coverage is 75%

(f) Minimum Residence Size

Minimum Residence Size is 800 Square Feet for detached units, and 400 square feet for attached units.

(f) Additional Requirements:

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

- Compliance with Table of Uses Article IV
- Compliance with Dimensional Standards Article V
- Compliance with Site Development Standards in Article VI
- Preservation of existing buildings, as provided in Article V, Section 20

SECTION 9: East 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. The East Corridor Has school facilities, businesses and residences and connects to the countryside.

(b) Conforming Uses

The primary uses within this district are small businesses.

- (5) Retail businesses, offices, restaurants,
- (6) Schools and school related facilities, such as sports facilities.
- (7) Residential.

(c) Lot Size Minimum

The lot size is 12,000 square feet.

(d) Maximum Density

15 units per acre

(e) Lot Coverage Ratio

Maximum lot coverage is 75%

(f) Minimum Residence Size

Minimum Residence Size is 800 Square Feet for detached units, and 400 square feet for attached units.

(f) Additional Requirements:

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

- Compliance with Table of Uses Article IV
- Compliance with Dimensional Standards Article V
- Compliance with Site Development Standards in Article VI
- Preservation of existing buildings, as provided in Article V, Section 20

SECTION 10: West 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. The West Corridor connects to I-20 and has, businesses and residences. Most of the residences were built in the 1920s and 1930s and are brick. They offer an architectural glimpse into the past for above average buck homes.

(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 12,000 square feet.

(d) Maximum Density

15 units per acre

(e) Lot Coverage Ratio

Maximum lot coverage is 75%

(f) Minimum Residence Size

Minimum Residence Size is 800 Square Feet for detached units, and 400 square feet for attached units.

(f) Additional Requirements:

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

Compliance with Table of Uses Article IV

Compliance with Dimensional Standards Article V

Compliance with Site Development Standards in Article VI

Preservation of existing buildings, as provided in Article V, Section 20

SECTION 11: 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 Van 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 6,000 square feet.

(d) Maximum Density

25 units per acre

(e) Lot Coverage Ratio

Maximum lot coverage is 75%

(f) Minimum Residence Size

Minimum Residence Size is 800 Square Feet for detached units, and 400 square feet for attached units.

(f) Additional Requirements:

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

- Compliance with Table of Uses Article IV
- Compliance with Dimensional Standards Article V
- Compliance with Site Development Standards in Article VI
- Preservation of existing buildings, as provided in Article V, Section 20

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.

Draft - Subject to Change

TABLE OF ALLOWABLE USES															
Primary Use	Use	Rural	Nature	Country District	Hamlet District	Village District	Car Free District	Downtown	Transition Connector	Linkage Connector	North Corridor	South Corridor	East Corridor	West Corridor	I-20
Auto Dependent Services	Bank (With drive-thru)									A	A	A	A	A	A
Auto Dependent Services	Auto Repair								A		A	A		A	A
Auto Dependent Services	Automobile Fuel Sales							A	A	A	A	A	A	A	A
Auto Dependent Services	Carwash							A	A						A
Auto Dependent Services	Commercial parking							A	A		A				A
Auto Dependent Services	Convenience Store (With Fuel)							A	A	A	A	A	A	A	A
Auto Dependent Services	Drive Thru Service Window								A*	A	A	A	A	A*	A
Auto Dependent Services	Heavy Equipment/Truck Repair														A
Auto Dependent Services	Office/ Warehouse								A*					A*	A
Auto Dependent Services	Paint and Body Shops													A	A
Auto Dependent Services	Restaurants (With Drive thru)							A*	A*		A	A		A*	A
Auto Dependent Services	RV, Trailer, Commercial Motor Vehicle, or Boat Outdoor Storage							A*	A*		A	A		A*	A*
Auto Dependent Services	Self-service storage/Mini-Warehouse				A*			A*	A*					A*	A*
Auto Dependent Services	Auto accessories and installations										A	A		A*	A

TABLE OF ALLOWABLE USES															
Primary Use	Use	Rural	Nature	Country District	Hamlet District	Village District	Car Free District	Downtown	Transition Connector	Linkage Connector	North Corridor	South Corridor	East Corridor	West Corridor	I-20
Auto Dependent Services	Travel Centers														A
Auto Dependent Services	Vehicle Sales (New & Used), Rental, Repair														A*
Auto Dependent Services	Warehouse and Distribution														A
Auto Dependent Services	Wrecker Impoundment, Towing														A*

Production Activities	Major equipment sales and leasing														A
Production Activities	Greenhouse									A	A	A	A	A	A
Production Activities	Manufacture, Assembly or Processing of Materials of Non-Hazardous Materials														A
Production Activities	Manufactured Housing Sales														A
Production Activities	Office			A	A	A	A	A	A	A	A	A	A	A	A
Production Activities	Outdoor Processing of Materials														A
Production Activities	Research, Testing & Development Laboratory				A*			A*	A*	A	A	A	A	A*	A
Production Activities	Wholesale Activities														A
Production Activities	Wood yard														A

TABLE OF ALLOWABLE USES															
Primary Use	Use	Rural	Nature	Country District	Hamlet District	Village District	Car Free District	Downtown	Transition Connector	Linkage Connector	North Corridor	South Corridor	East Corridor	West Corridor	I-20
Production Activities	Artisan & Handcraft Activities	A		A	A	A	A	A	A	A	A	A	A	A	A
Production Activities	Contractor & Building Material Storage							A*	A*						A*
Production Activities	Cultural Facilities	A						A	A	A	A	A	A	A	A
Production Activities	Funeral Home, Including Embalming & Cremation									A	A				A
Production Activities	Funeral Home, No Embalming or Cremation							A	A	A	A				A
Production Activities	Group Home Class 1	I	I		A			A	A	A	A	A	A	A	I
Production Activities	Group Home Class 2	I	I		I			P	P	P	P	P	P	P	A
Production Activities	Group Home Class 3	I	I		I			P	P	P	P	P	P	P	A
Production Activities	Home Occupations	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Production Activities	Office, Medical			A	A	A	A	A	A	A	A	A	A	A	A
Production Activities	Real Estate Sales Office during the development and sale of a residential subdivision			A	A	A	A	A	A	A	A	A	A	A	A
Production Activities	Veterinarian Office							A	A	A	A	A	A	A	A
Production Activities	Veterinarian Office, Animal Hospital or Animal Boarding								A	A	A	A	A	A	A

TABLE OF ALLOWABLE USES															
Primary Use	Use	Rural	Nature	Country District	Hamlet District	Village District	Car Free District	Downtown	Transition Connector	Linkage Connector	North Corridor	South Corridor	East Corridor	West Corridor	I-20
Public Service & Education	Colleges, Universities, Vocational Schools, Higher Learning Institution							A	A	A	A	A	A	A	A
Public Service & Education	Hospital							A	A	A	A	A	A	A	A
Public Service & Education	Place of Worship			A	A	A	A	A	A	A	A	A	A	A	A
Public Service & Education	Public Buildings			A	A	A	A	A	A	A	A	A	A	A	A
Public Service & Education	Schools, public or private including all levels up to high school						A	A	A	A	A	A	A	A	A
Recreation, Entertainment, Tourism	Amenity Center	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Recreation, Entertainment, Tourism	Bed and Breakfast	A		A	A	A	A	A	A	A	A	A	A	A	A
Recreation, Entertainment, Tourism	Theater or Auditorium Less than 100 seats							A	A	A	A	A	A	A	A
Recreation, Entertainment, Tourism	Theater Auditorium More than 100 seats							A	A	A	A	A	A	A	A

TABLE OF ALLOWABLE USES															
Primary Use	Use	Rural	Nature	Country District	Hamlet District	Village District	Car Free District	Downtown	Transition Connector	Linkage Connector	North Corridor	South Corridor	East Corridor	West Corridor	I-20
Recreation, Entertainment, Tourism	Bingo							A							A
Recreation, Entertainment, Tourism	Indoor Entertainment activities	A						A							A
Recreation, Entertainment, Tourism	Outdoor Entertainment														
Recreation, Entertainment, Tourism	Golf course/country club	A	A												A
Recreation, Entertainment, Tourism	Park and related facilities	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Recreation, Entertainment, Tourism	Party Hall (Rental Hall)	I	I		I			A*	A*						A
Residential	Apartment				A*	A	A	A	A	A	A	A	A	A	A
Residential	Boarding House				A*	A	A	A	A	A	A	A	A	A	A
Residential	Container Home				A*	A	A	A	A	A	A	A	A	A	A
Residential	Assisted Living or Nursing Home					A	A	A	A	A	A	A	A	A	A
Residential	Manufactured Homes	A!				A!									
Residential	Mixed Use/ Apartment				A*	A*	A	A	A	A	A	A	A	A	A
Residential	Modular Homes			A	A	A	A	A	A	A	A	A	A	A	A
Residential	Residences	A		A	A	A	A	A	A	A	A	A	A	A	A
Residential	Single-Family, Attached (up to					A	A	A	A	A	A	A	A	A	A

TABLE OF ALLOWABLE USES															
Primary Use	Use	Rural	Nature	Country District	Hamlet District	Village District	Car Free District	Downtown	Transition Connector	Linkage Connector	North Corridor	South Corridor	East Corridor	West Corridor	I-20
	4 units per building)														
Residential	Single-Family, Detached	A		A	A	A	A	A	A	A	A	A	A	A	A
Residential	Single-family, zero lot line			A	A	A	A	A	A	A	A	A	A	A	A
Residential	Cottage Courtyard					A	A	A	A	A	A	A	A	A	A
Residential	Apartment Complex (2 or more buildings)				A*	A	A	A	A	A	A	A	A	A	A
Residential	One to Four Family Home with Shared Foyer			A	A	A	A	A	A	A	A	A	A	A	A
Residential	Tiny Home				A	A	A								
Residential	Townhouse				A	A	A	A	A	A	A	A	A	A	A
Residential	Two-Family Dwelling				A	A	A	A	A	A	A	A	A	A	A

Retail Products and Services	Bakery				A			A	A	A	A	A	A	A	A
Retail Products and Services	Bank (Without drive-thru)						A	A	A	A	A	A	A	A	A
Retail Products and Services	Bar, Nightclub or Private Club							A	A						A
	Brew Pub														
Retail Products and Services	Car Title Loan Shop							A	A						A
Retail Products and Services	Cigar, Smoke Shop				A			A	A	A	A	A	A	A	A
	Coffee Shop														

TABLE OF ALLOWABLE USES															
Primary Use	Use	Rural	Nature	Country District	Hamlet District	Village District	Car Free District	Downtown	Transition Connector	Linkage Connector	North Corridor	South Corridor	East Corridor	West Corridor	I-20
Retail Products and Services	Commercial Laundry (Laundry mat)				A*		A	A	A*	A*	A*	A*	A*	A*	A
Retail Products and Services	Convenient Store (Without Fuel)				A*		A	A	A	A	A	A	A	A	A
Retail Products and Services	Cosmetic Services				A		A	A	A	A	A	A	A	A	A
Retail Products and Services	Day Care for 6 or fewer children						A	A	A	A	A	A	A	A	A
Retail Products and Services	Day Care, all other						A	A	A	A	A	A	A	A	A
Retail Products and Services	Farmer's Market						A	A	A	A	A	A	A	A	A
Retail Products and Services	Florist Shop				A		A	A	A	A	A	A	A	A	A
Retail Products and Services	Flea Market							P	P	P	P	P	P	P	P
Retail Products and Services	Food Truck Park						A	A	A						A
Retail Products and Services	Grocery Store				A		A	A	A	A					A
Retail Products and Services	Gymnasium				A		A	A	A	A	A	A	A	A	A
Retail Products and Services	Hookah Lounge						A	A	A	A					A
Retail Products and Services	Hotel / Motel				A*		A	A	A*	A*	A*	A*	A*	A*	A
Retail Products and Services	Liquor Store						A	A	A	A	A	A	A	A	A
Retail Products and Services	Medical Clinic						A	A	A	A	A	A	A	A	A
Retail Products and Services	Nutrition, Vitamins, CBD						A	A	A	A	A	A	A	A	A

TABLE OF ALLOWABLE USES															
Primary Use	Use	Rural	Nature	Country District	Hamlet District	Village District	Car Free District	Downtown	Transition Connector	Linkage Connector	North Corridor	South Corridor	East Corridor	West Corridor	I-20
Retail Products and Services	Pawn Shop							A	A	A					
Retail Products and Services	Payday Lending							A	A	A					
Retail Products and Services	Personal Services Less than 1,500 square feet of building (Barber Shop, Beauty Shop, Tailoring, Dressmaking, Shoe Repair, Small Appliance Repair, Bicycle Repair, Retail Bakeries, Catering, Dry Cleaning)				A			A	A	A	A	A	A	A	A
Retail Products and Services	Pet Shop							A	A	A	A	A	A	A	A
Retail Products and Services	Pharmacy							A	A	A	A	A	A	A	A
Retail Products and Services	Restaurants (Without Drive thru)							A	A	A	A	A	A	A	A
Retail Products and Services	Retail Sales of New Products and Service				A*			A*	A*	A*	A*	A*	A*	A*	A*
Retail Products and Services	Retail Sales, Second Hand Resale and Services							A*	A*	A*	A*	A*	A*	A*	A*
Retail Products and Services	Tattoo and/or Body Piercing							A*	A*	A*	A*	A*	A*	A*	A*
Retail Products and Services	Yoga, Pilates, Exercise				A			A	A	A	A	A	A	A	A
Utility	Passenger terminal							A							A

TABLE OF ALLOWABLE USES															
Primary Use	Use	Rural	Nature	Country District	Hamlet District	Village District	Car Free District	Downtown	Transition Connector	Linkage Connector	North Corridor	South Corridor	East Corridor	West Corridor	I-20
Utility	Electric Transformer Yard								A*	A*	A*	A*	A*	A*	A
Utility	Communication Switching Building/Facility														
Utility	Utility, Major							A*	A*	A*					A*
Utility	Utility, Minor							A*	A*	A*					A*
Utility	Wireless Communications - Stealth														A
Utility	WTF, Self-standing														A

A= Allowed P=Requires Special Use Permit

* 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) Off road motorcycle and 4-wheeler tracks for use by the general public or for the purposes of holding competitive events, with or without general public attendance.
- (4) Circus or carnival grounds, but not within three hundred (300) feet of any residential district
- (5) Commercial, recreational or amusement development for temporary or seasonal periods
- (6) Private operated community building or recreation field
- (7) Radio or television broadcasting tower or station
- (8) Drive-in theater on a site of not less than ten (10) acres
- (9) Cemeteries
- (10) Kiosks or other temporary or seasonal open-air vending
- (11) Accessory buildings that exceed sizes permitted by this ordinance
- (12) Residential uses no greater than 50% of the first floor of a commercial structure
- (13) Tents or other temporary structures not permitted by this ordinance
- (14) 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, 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 rented or leased.
 - (ix) 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.

- (x) 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.
- (15) Family Homes and Group Homes allowing any resident 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.
- (16) 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 Manager, or designee, or his/her or 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 Manager, or designee, 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 Manager, or designee, 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.
- (4) Any nonconforming structure damaged or destroyed by acts of God and other natural forces may be allowed to be replaced, provided said replacement replicates the damaged structure.

(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 for a period of 90 days or less. 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, even if for more than 90 days; provided the structure meets all current building and fire codes.
- (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, or destroyed by acts of God and other natural forces.
- (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 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 twenty-four (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 (28) feet to the top of the roof. Such barns and/or stables shall not be located within twenty-five (25) feet from a property line and one hundred (100) from any existing residence on adjacent property.
- (l)** No building permit is required for an accessory building / structure less than or equal to fifty (50) square feet in size.
- (m)** 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.
- (n)** 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.
- (o)** Nothing in these regulations shall be construed so as to limit the use of any property for a garden, including a vegetable garden.

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 twelve thousand (12,000) square feet that has access from two public thoroughfares.
- (b)** Maximum height of an accessory dwelling unit shall be 1.5 times the height of the primary structure, but in no event shall it be greater than 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)** 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 Manager, or designee, 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 with 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 two people from outside the household 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, 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, 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.

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'	30'	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 driveway access. There is no on-street parking	70'	22'	Swale	5' - 10' Dependent upon adjoining parcel improvements	10'+ Sidewalk	25 mph
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+

SECTION 2: DENSITY AND COVERAGE STANDARDS

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

Gross density is defined as the number of living units contained within a parcel divided by the total acreage of the parcel.

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%
Linkage Connector	12,000 Sq ft	5 Acres	85'	200'	145'	200'	45%
Transition Connector	3,125 Sq ft	5 Acres	85'	200'	145'	200'	45%
North Corridor	9,000	12,000 Sq ft	70'	100'	100'	200'	50%
South Corridor	6,000 Sq ft	12,000 Sq ft	70'	100'	100'	200'	50%
East Corridor	6,000 Sq ft	12,000 Sq ft	70'	100'	100'	200'	50%
West Corridor	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'	2 stories, (3 with special approval)	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'	2 stories, (3 with special approval)	1 Story
Rural Town Overlay	35'	35'	35'	60%!!	20'	2 stories, (3 with special approval)	1 Story
Hamlet Town Overlay	20'	20'	20'	40%!!	15'	2 stories, (3 with special approval)	1 Story
Village Town Overlay	15'*	15'*	10*	20%!!	10'	2 stories, (3 with special approval)	1 Story
Car-Free Overlay	Per Development Agreement					2 stories, (3 with special approval)	2 Stories
Downtown	N/A	0 to 5'	20'	0'	0 to 5'	2 stories, (3 with special approval)	2 Stories
Linkage Connector	20'	20'	20'	60%!!	15'	2 stories, (3 with special approval)	1 Story
Transition Connector	0-15'	0-15'	20'	30%!!	0 to 5'	2 stories, (3 with special approval)	1 Story

North Corridor	30'	30'	20'	40%!!	20'	2 stories, (3 with special approval)	1 Story
South Corridor	20'	20'	20'	60%*!!	20'	2 stories, (3 with special approval)	1 Story
East Corridor	20'	20'	20'	40%!!	20'	2 stories, (3 with special approval)	1 Story
West Corridor	35'	35'	20'	60%!!	20'	2 stories, (3 with special approval)	1 Story
I-20	45'	N/A	20'	5'	N/A	2 stories, (3 with special approval)	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 1/2 of the combined total.

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

SECTION 5: 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 6: 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.

A parcel or development that is 2 acres or greater with 20 units or more proposed, shall provide a platted location within the development where non-residential building spaces may be constructed. When the trigger conditions exist, the space required is 50 square feet of non-residential building area per residential unit.

A parcel or development with more than 20 units proposed shall include more than one (1) building type within the proposed development under the following table. The maximum number of unit types required is 7, 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.

The minimum living unit size is 800 square feet for primary residences.

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

The maximum number of required residential unit types is 7. 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 the primary unit type.
- The non-primary units shall consist of the mix as shown in the Limit column of the table below:

Residential Classifications	Unit Size in Square Feet	Limits
Type A Attached	400-600	3% Maximum and Minimum for project unit counts over 20
Type B Attached	600-1000	5% Required after 20 units
Type C Attached	1000-1400	
Mixed Building	400-	
Type A Detached	800 - 1000	3% Minimum for project unit counts over 50, 20% Maximum for all projects.
Type B Detached	1000-1400	5% Required after 20 units
Type C Detached	1400-2000	
Type D Detached	2000 and up	

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

Diversity Standards					
Zoning Category	Property Area Trigger	Unit Count Trigger	Potential Number of Residential Units	Number of Housing Types	Commercial Area Required
Rural	N/A	N/A	N/A	N/A	N/A
Nature	N/A	N/A	N/A	N/A	N/A
Town	2	4	10	3	0
Rural Town Overlay	2	4	4	0	0
Hamlet Town Overlay	2	4	8	2	0
Village Town Overlay	2	4	19	3	0
Car-Free Overlay	2	4	70	8	14,000
Downtown	2	4	19	3	0
Linkage Connector	2	4	8	2	0
Transition Connector	2	4	30	5	6,000
North Corridor	2	4	19	3	0
South Corridor	2	4	30	5	6,000
East Corridor	2	4	30	8	6,000
West Corridor	2	4	30	5	6,000
I-20	2	4	50	8	10,000

ARTICLE VI – SITE DEVELOPMENT STANDARDS

SECTION 1: SCREENING, PARKING, ARCHITECTURE

(a) Intent

It is the intent of this Article to provide minimum standards for the development of parcels to help minimize erosion, to prevent sedimentation and flooding risk, and to direct the attractiveness of the community. This article shall apply to all parcels developed after the adoption of this ordinance.

- (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 Manager, or designee. 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) 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 Manager, or designee.
- (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 Manager, or designee, shall fulfill the requirements of this section.

(b) Corridor Streetscape Standards.

It is the intent of this section to ensure the Corridors of Van retain their character and feel, as the nature of the corridors dictate how one may experience the built environment. The building placements, the grassy yards, the trees and other vegetation, and the architectural character of the buildings all contribute to what makes Van feel like Van, and is important to protect.

- (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 an appropriate screening, as determined by the City Manager, or designee, based upon individual site condition.
- (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 Manager, or designee, 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 Manager, or designee. If any requirements for shared parking are violated, the affected property owners must provide a remedy satisfactory to the City Manager, or designee, 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 City Manager, or designee, provided that all ADA and fire code standards are met with the chosen materials.
- (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 Manager, or designee, 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 Manager, or designee, 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.

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 that is visible from a public right of way shall be decorative in nature and be made of metal, masonry, or other low maintenance material or combination thereof.
- (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 ledgerstone, fieldstone, cast stone, or other decorative materials such as stamped and tinted concrete that

resembles stone or brick as approved by the City Manager, or designee. 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 COMPATABILITY 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.
 - 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) 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.

SECTION 15: SIDEWALKS

- (a) Where new structures are proposed (including a change in use, and building additions) a concrete sidewalk 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 Manager, or designee, 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 Manager, or designee, 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) All fencing shall be provided in accordance with the city's fence ordinance.

SECTION 17: 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 18: 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.
- (c) All facias and soffits shall be properly maintained including prevention of sags, peeling and fading paint and other indications of neglect.

SECTION 19: BUILDING HEIGHT

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

SECTION 20: PRESERVATION OF EXISTING BUILDINGS

The character and identity of Van and the “village feeling” one gets while on a thoroughfare in Van is largely determined by the nature and character of the built environment. The architecture and placement of buildings and the associated site landscaping of parcels make up that built environment. The loss or degradation of the City's existing buildings and places would have an adverse effect on the shared sense of community and the identity and affiliations of the citizens. The City is also conscience of conservation needs of the planet and the embodied energy contained in existing buildings. The City recognizes that existing building preservation is a critical element in preservation of Van and accomplishment of the vision established in the City’s Comprehensive Plan. This section is intended to allow for a review and preservation process prior to the destruction or removal of existing buildings.

(a) Permit Required for Alteration or Destruction of Existing Buildings

This section applies to all properties within the Downtown, North Corridor, South Corridor, East Corridor, and West Corridor Zoning Districts.

It shall be unlawful to alter, demolish, or remove any exterior feature of any building structure within the applicable districts, or to change materially by additions, reconstruction, alteration or maintenance the exterior of any building without a permit. A Permit for Demolition or Removal is required for the removal or destruction of an existing building and associated site improvements; and a Remodel Permit is required for the alteration or modification of an existing building and associated site improvements. Ordinary repair or maintenance which does not involve changes in architectural, style or material is exempt from the provision of this Section.

(b) Procedure for Application for Remodel Permit

- 1) Proposed exterior changes and alterations shall be submitted in writing to the City Manager, or designee, for submission to the Commission for the appropriate authorization. The applicant shall submit a copy of all proposed alterations and changes, describing what is proposed. Any applicant, or appointed agent, must appear at a meeting of the Commission before submitting an application. The applicant, or appointed agent, may consult with the Commission during the application’s review.
- 2) The applicant should include the following information in their application for a Remodel Permit:
 - (a) name, address, and telephone number of the applicant (and property owner(s), if different), detailed description of proposed work with a concept site plan; and a description of how the proposed work will be in character with the architectural or historical aspect of the structure or site and the applicable zoning requirements;
 - (b) location and photograph of the property and adjacent properties;
 - (c) elevation drawings of the proposed changes, if available;
 - (d) samples of materials to be used;
 - (e) if the proposal includes signs or lettering, a sign permit application in conformance with the sign ordinance (cite sign ordinance) a description of materials to be used, method of illumination (if any), and a plan showing the sign’s location on the property;
 - (f) the intended and desired starting date and completion date of the alterations to be made;
 - (g) color chips of the colors which will be used on the structure;
 - (h) payment of the applicable fees as required by the fee schedule ordinance. The application will not be deemed complete nor will it be processed until such fee is paid in full;
 - (i) any other information which the commission may deem necessary in order to visualize the proposed work; and
 - (j) property owner’s signed authorization of the proposed work.

- 3) Within thirty (30) days of submittal of the application, the Commission shall hold a hearing regarding the application. Upon review, if the Commission finds that the proposed work will not adversely affect the immediate surroundings and any significant architectural or historical feature of a designated historic property and is appropriate and consistent with the spirit and purposes of this ordinance, it may grant the Remodel Permit.
- 4) If the Commission finds that the proposed work will adversely impact any significant architectural or historical feature of the designated property, or is inappropriate or inconsistent with the spirit of this ordinance, it shall notify the applicant within ten days of receipt of the application that it has been disapproved and shall include the changes necessary for approval of the application.
- 5) No change shall be made in the application for issuance of a Remodel Permit without the re-submittal to the Commission and approval thereof in the same manner provided in this ordinance.
- 6) If the Commission denies approval of an application for a Remodel Permit, a re-submittal of the application will not be accepted for an additional hearing for the same property within a twelve-month period from the date of the final decision, unless supporting evidence indicates there has been a substantial change in conditions or that all changes needed in the application have been made.

(c) Procedure for application for Demolition or Removal Permit

- 1) An application to demolish or remove a structure shall be submitted to the City Manager, or designee for submission to the Commission. The Commission shall hold a public hearing on the application within thirty days after the application is filed. The applicant shall be given written notice ten days before the hearing. The Commission shall consider the presence of the structure within its context and its contribution to the "feel" of the immediate area. The Commissions shall also consider the historic value, state of repair, reasonableness of the cost of restoration or repair, the existing and potential usefulness of the building, the purposes behind preserving the structure, and any other factors. If the Commission determines that the interest in demolishing or removing the building outweighs the interest in preserving it, the Commission shall authorize the issuance of a Permit for Demolition or Removal to the City Manager, or designee.
- 2) If the application for a Permit for Demolition or Removal is denied, the applicant must wait twelve months after the final decision before resubmitting the application for an additional hearing, the applicant submits a written request, indicating a change in conditions to warrant an earlier rehearing.

(d) Demolition by Neglect Prohibited

- 1) No person with an interest in real property shall allow the property to fall into a state of disrepair due to deterioration of any exterior architectural feature or physical component of the structure allowing weather related elements to cause deterioration of the structure. Examples of deterioration include: deterioration of roofs, chimneys, stucco or mortar, ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors, deterioration of any feature which creates a condition which could lead to the claim that demolition is necessary for public safety.
- 2) Upon notification of such a state of disrepair, the City Manager, or designee, shall notify the owner in writing, informing them of the alleged deterioration, requesting the owner appear before the Commission for a more accurate determination of the existence of deterioration.
- 3) If the Commission determines that the deterioration is producing a detrimental effect, the owner or anyone with an interest in the property shall be given a reasonable time

to cure the deterioration. The owner who will restore the property must comply with all requirements of requesting a Remodel Permit from the Commission.

- 4) Any notice required to be given under this section shall be by certified mail, return receipt, to the addressee at the address of record with the County Tax Appraisal District.
- 5) Any applicant aggrieved by a ruling of the Commission the provisions in this ordinance may within 15 days after the ruling appeal to the Commission.
- 6) Any applicant or the owner of any property located within 300 feet of any property that may be aggrieved by a ruling concerning that property may within 60 days after the ruling appeal to the Commission.

(e) Standards for Existing Building Preservation

The City's standards apply for the preservation of buildings and the associated materials, construction types, sizes, occupancies, the exterior features, related landscape features and the building's site and environment as well as attached, adjacent, or related new construction. The standards are to be applied in a reasonable manner, taking into consideration economic and technical feasibility. The standards for remodel or rehabilitation of existing structures shall be dictated by regional best practices and standards of the regional construction and remodel practitioners. The Commission shall take the following into consideration on applications to remodel.

- 1) In considering an application for a Remodel Permit, the commission shall be guided by design guidelines that may be adopted by the city,
- 2) Every reasonable effort shall be made to adapt the property in a manner which requires minimal alteration of the building, structure, object, or site and its environment.
- 3) The distinguishing original qualities or character of a building, structure, object, or site and its environment should be preserved. The removal or alteration of any distinctive architectural features should be avoided when possible.
- 4) All buildings, structures, objects, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier or later appearance shall be discouraged.
- 5) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, object, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
- 6) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, object, or site shall be kept where possible.
- 7) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should reflect the material being replaced in composition, design, color texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, sustained by historical, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
- 8) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.
- 9) Wherever possible, new additions or alterations to buildings, structures, objects, or sites shall be done in such a manner that, if such alterations were to be

removed in the future, the essential form and integrity of the building, structure, object, or site would not be impaired.

- 10) Paint color shall be based on duplication of paint color, sustained by historical, physical, or pictorial evidence, when available, rather than on conjectural designs.

(f) Standards for Redevelopment and Building Preservation

Approval from the Commission is required for proposed developments on parcels with existing structures. The Commission shall review all construction plans and concept site plans to ensure zoning compliance and compatibility with the existing and surrounding buildings and environment in relation to height, gross volume, and proportion. The following should be taken into consideration:

- 1) Storefronts are the predominant elements of a commercial streetscape and should be restored whenever possible. If materials or elements are beyond repair, replacement materials should match the originals as closely as possible.
- 2) Signs shall be installed in accordance with the City's sign ordinance provided that these regulations do not detract from the historic nature of the district.
- 3) Place the parking area where it will have minimal visual impact on the streetscape.
- 4) Parking should be located to the rear of the property. Parking areas should not be placed in front or side yards. Parking located in the front of a structure should be screened with compatible fencing or landscaping. Combining vegetation with fencing materials will enhance the quality of the site. Parking will be conducted in accordance with the City's parking ordinance.
- 5) New construction and design should not detract or adversely affect existing structures and adjoining properties in any way.
- 6) Any new construction must be compatible in size, texture, color, design, proportion, and detail to adjacent buildings and streetscapes: it must attempt to emulate the surrounding architectural styles
- 7) New structures should respect the integrity of existing buildings.
- 8) The streetscape should be taken into consideration.
- 9) New additions should be designed and constructed so that the character-defining features of buildings are not radically changed, obscured, damaged, or destroyed in the process of rehabilitation.
- 10) Additions should complement the original structure, but not necessarily attempt to duplicate or copy it. The older structure should be identifiable from the new addition.

SECTION 21: 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 Manager, or designee, 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.

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 Manager, or designee, 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 Manager, or designee, may waive this requirement if they deem that the meeting is not necessary.
- b. The City Manager, or designee, shall prepare an application Submittal Schedule. The Submittal Schedule shall be reviewed and approved by the Commission annually. The City Manager, or designee, is authorized to adjust an approved schedule to accommodate holidays, City Hall closures, and cancelled or special called meetings.
- c. The City Manager, or designee, 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 Manager, or designee, from time to time. The submittal shall also include a list of any requested variances from the ordinances. The City Manager, or designee, 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 Manager, or designee, 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 Manager, or designee, 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 Manager, or designee, 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 Manager, or designee, shall distribute copies of a site plan accepted for review and processing to all reviewing departments. Within 30 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 30 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 30th 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 Manager, or designee, 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 Manager, or designee. 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 Manager, or designee. 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 Manager, or designee, 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 Manager, or designee, shall distribute copies of the site plan to all reviewing departments. Within 30 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 30 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 Manager, or designee, 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 the city's fee schedule 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 Manager, or designee, 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 Manager, or designee, 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 Manager, or designee, 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 Manager, or designee, 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 Manager, or designee.
 - (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 Manager, or designee, 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 Manager, or designee, shall approve a site plan if the proposed development complies with all applicable codes of the city. If the City Manager, or designee, 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 Manager, or designee, 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 Manager, or designee, along with a revised site plan that identifies the proposed changes. Any changes approved by the City Manager, or designee, 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 Manager, or designee, 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 five (5) qualified electors of the city appointed by the city council as provided herein, and two (2) students from Van High School, as advisory members. 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 four 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 (5). Commission members shall serve two-year terms. The even numbered place shall expire on odd numbered years and the even numbered places on even numbered years.
- (b) Prospective members shall submit an indication of a desire to serve to the City Manager, or designee. The prospective members shall be submitted to the Planning and Zoning
- (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.
- (d) The maximum number of consecutive terms a member may serve is three. If in the event the City Council determines there are no qualified citizens to serve, this provision may be waived.
- (e) Commission members may only be removed in accordance with the Texas Local Government Code,

(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) Any member who has sustained communication with any party in a zoning case may disqualify themselves from voting, however each member shall refrain from such circumstances and encourage all communication on business before the commission to be conducted during a properly held commission meeting,

(f) Powers and duties

The planning and zoning commission is hereby charged to perform its duties and powers as prescribed in the Texas Local Government Code.

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 three hundred feet (300') 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.

(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 Manager, or designee, 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

Manager, or designee, 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 twelve (12) 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: ZONING BOARD OF ADJUSTMENT

In accordance with the Texas Local Government Code, the Van City Council shall serve as the Zoning Board of Adjustment:

- (a) The City Council is hereby authorized to act as the Board of Adjustment for the City of Van, as from time to time may be required by the Zoning Ordinance of the City of Van in compliance with the requirements and rules contained in said Zoning Ordinance and V.T.C.A., Local Government Code § 211.008 and V.T.C.A., Government Code Chapter 551.
- (b) All actions heretofore taken by the City Council acting as a Board of Adjustment are here now ratified and affirmed.
- (c) The Board of Adjustment for the City of Van shall consist of the present and future serving members of the City Council of the City of Van, who shall act in compliance with the Zoning Ordinance of the City of Van and V.T.C.A., Local Government Code § 211.008.
- (d) The Mayor and the Planning and Zoning Commission Chairman be and or here now appointed as alternate Board of Adjustment members to serve in the event of the absence of a Council member.
- (e) The City Secretary shall act as the secretary for the Board of Adjustment.

- (f) The Mayor Pro Tem shall act as Chairman of the Board of Adjustment until the board adopts rules for the selection of a chairman from the membership, as well as other rules for guidance and compliance with Section 211.008 of the Local Government Code of the State of Texas.
- (g) Each alternate members shall be a resident of the City of Van to be eligible to serve.
- (h) The City Council members terms of service as members of the Board of Adjustment shall commence immediately upon the passage of this Ordinance and continue until his or her City Council term expires.
- (i) The Mayor's terms of service as an alternate member of the Board of Adjustment shall commence immediately upon the passage of this Ordinance and continue until his or her term as Mayor expires.
- (j) The Planning and Zoning Commission Chairman's term of service as an alternate member of the Board of Adjustment shall commence upon his or her appointment as an alternate after the passage of this Ordinance and continue for a period no longer than two years.
- (k) Each member of the Board of Adjustment and each alternate's term shall terminate automatically at such time as the member or alternate no longer resides in the City of Van.

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), or the maximum allowed by state law. 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 Manager, or designee, 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 number 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 Manager, or designee, 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
- (4) After receiving a Request for Vested Rights Determination, the City Manager, or designee, 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 Manager, or designee, finds that the applicant

has provided sufficient information to establish that one or more permits exists 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.

- (5) 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. 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.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF VAN, TEXAS, AMENDING ORDINANCE _____ AS AMENDED, IN ITS ENTIRETY; PROVIDING COMPREHENSIVE REGULATIONS, DEVELOPMENT AND CONSTRUCTION STANDARDS FOR THE SUBDIVISION OF LAND WITHIN THE CITY AND ITS EXTRATERRITORIAL JURISDICTION; PROVIDING SEVERABILITY, OPEN MEETINGS AND EFFECTIVE DATE CLAUSES; PROVIDING PENALTIES; AND PROVIDING FOR RELATED MATTERS.

Whereas, the ordinances of the City regulating the development and subdivision of land within the City and its extraterritorial jurisdiction should be amended to better provide an attractive living environment and to protect the health, safety and welfare of the present and future residents of the City; and

Whereas, it is reasonable and necessary for the public health, safety, and welfare to provide for the development of park land and open space in the City when developments cause increased density within the City and its extraterritorial jurisdiction;

Whereas, the City of Van adopted a Comprehensive Plan on November 11, 2021 that contains certain aspirations of the community related to preservation of a "village" atmosphere, providing equal access to all parts of the community through pedestrian-based transportation planning, provisions for a diversity of housing types, and preservation and connection of natural areas.

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

Section 1. Findings. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this ordinance are reasonable and necessary to protect the public health, safety and quality of life.

Section 2. Subdivision Regulations Adopted. The City Council hereby adopts comprehensive regulations and standards for the platting of property and the development of subdivisions within the City and its extraterritorial jurisdiction to read as set forth in Exhibit "A" attached hereto entitled "Subdivision Ordinance", and incorporated in this ordinance as though fully transcribed herein for all purposes.

Section 3. Amendment of Ordinances. The Council hereby amends Ordinance Number _____ and each amending ordinance thereto, in their entirety; provided that such ordinances shall remain in force and effect as herein provided with respect to Plats submitted prior to the effective date of this ordinance.

Section 4. Savings Clause. All rights and remedies of the City of Van are expressly saved as to any and all violations of the provisions of any ordinances affecting platting and subdivision of property within the City and its extraterritorial jurisdiction which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 5. Severability. If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions

or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 6. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov't. Code.

Section 7. 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.

PASSED AND APPROVED on this the _____ day of _____, 2022.

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City of Van, Texas Subdivision Ordinance

ARTICLE I. GENERAL

SECTION 1. 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, terms, and phrases that appear in this Ordinance and that are defined in the Hybrid Zoning Ordinance shall have the meanings ascribed to them in the Hybrid Zoning Ordinance, except where the context clearly indicates a different meaning. Words that are defined both in this Ordinance and the Hybrid Zoning Ordinance shall have the meaning ascribed to them in this Ordinance. Words used in the present tense include the future tense. Words used in the plural number 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.

Adjacent means abutting and directly connected to or bordering.

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 public utility purposes.

Application refers to an application for a Plan or Plat approval under this Ordinance, and unless context dictates otherwise, will include the Resubmittal Application for a Plan or Plat.

Applicant means a person applying for Plan or Plat approval under this Ordinance.

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

Arterial Street means a street designed to provide connections between municipalities or major highways. Such street may also be referred to as a "major arterial street" or "major arterial roadway" in other sections of the Code of Ordinances.

As-Built-Plans means a set of certified construction plans specifying how the public improvements required for the subdivision were actually constructed.

Attendant Documents means either materials needed to address the specific requirements of this ordinance which are not shown on Plats or Plans, or any information which the applicant feels necessary to explain the submittal.

Block means a parcel of land, intended to be used for development purposes, which is entirely surrounded by public streets, highways, railroad right-of-way, public walks, parks or green strips, significant waterways, existing fully developed land or platted land not providing for

street connections, or a combination thereof and as determined by the City Manager, or designee.

Block Perimeter Length means the additive length of the right-of-way lines or features that form the outside perimeter of the block. For purposes of making this measurement, the length of cul-de-sacs shall not be included in the perimeter calculation. A single block may continue through multiple subdivisions.

Bond means any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Council.

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.

Building Permit means a permit issued by the City of Van which is required prior to commencing construction, "finish-out", or reconstruction or modification of a structure.

Buffering technique means a barrier constructed of wood, masonry, vegetation, and/or other landscape material in such a manner that adjacent uses will be separated to such a degree that objectionable noise, heat, glare, visual clutter, dust, loss of privacy, air circulation, and other negative externalities shall be abated.

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 Article III, Section 10. The term "Buffer Zone" shall include the term "Riparian Corridor" as it is defined in the City's Zoning Ordinance.

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 trunk diameter of a tree at twelve (12") inches above natural grade for newly planted trees.

City means the City of Van, Texas.

City Council or Council means the Van City Council.

City Engineer means the City Engineer, as appointed by the City Council, for the City or his/her designated representative.

City Limits means within the incorporated boundaries of the City.

City Manager, or designee, means the chief administrative officer of the City of Van, Texas or his/her designated representative.

City Staff means the officers, employees and agents of the City assigned and designated from time to time by the City Manager, or designee, and/or Council to review and/or comment and report on Plans and Plats.

City Standard Details and Specifications means any City approved drawings and technical data representing typical drainage, transportation, erosion & sedimentation control, and utility appurtenances to be constructed for City acceptance.

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

Comprehensive Plan means the City's comprehensive plan adopted pursuant to Chapter 213, Texas Local Government Code.

Concept Plan means a generalized plan that meets the requirements of this Ordinance and that indicates the boundaries of a tract or tracts under common ownership, identifies the purpose of the proposed development and the proposed land use, general lot or parcel layout, community use or public areas, and street alignments.

Construction Plans means the maps, drawings, plans and specifications indicating the proposed location and design of improvements to be installed as subdivision improvements.

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

Council means the City Council of the City of Van.

Corner Lot means a lot located at the intersection of and abutting on two (2) or more streets.

County means the county the land subject to these regulations may be located within.

County Appraisal District means, Appraisal District of the county land may be within.

Cul-de-Sac means a throughfare having one (1) end open to vehicular traffic and having one (1) closed end terminated by a permanent turnaround. The turnaround constitutes an intersection for the purpose of roadway design.

Dedication means the grant of an interest in property for public use.

Design Storm means a probable rainfall event the frequency of which is specified in periods of years and which is used to design drainage facilities and determine flood elevations.

Developer means the legal owner of land to be improved and/or subdivided or his/her/her authorized representative.

Development means a subdivision of land as defined herein or the construction or placement of any buildings, utilities, access, roads or other structures, 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.

Development Density means the number of dwelling units per acre.

Drainageway see Waterway.

Driveway means any vehicular driving surface connecting a drive approach.

Drain field means private sewage facility disposal area, trench or bed utilized for final wastewater disposal.

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

Dry Utilities means electricity, natural gas, cable and telephone and internet facilities.

Due Diligence Report means a report that provides details of a property including zoning, future land use categories, utilities, subdivision requirements, and other similar information. This report may be requested in lieu of a Pre-Development Meeting.

Dwelling Unit means a residential unit designed to accommodate one (1) household.

Easement means a grant by the property owner of the use of a strip of land for stated purposes.

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

ETJ Limits means the limits of the City's extra-territorial jurisdiction as granted under Chapters 42 and 43, Local Government Code.

Filing Date means, with respect to Plans or Plats, the date that Plans or Plans are determined to be complete and are accepted for review by the City.

Final Plat means a map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets, alleys, public areas and other dimensions of land.

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

Floodplain means channel of a waterway and the adjacent land area subject to inundation during the design storm.

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

Grade means the slope of a road, street, other public way or utility line specified in terms of percent (%); the topographic relief of a parcel of land; the average elevation at ground level of the buildable area of a lot or parcel of land.

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

Greenbelt means a series of connected open spaces that may follow natural features such as creeks or streams.

Heritage Tree means a living tree that the City desires to preserve to the greatest extent possible.

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 line system, wastewater system, storm drainage network, 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.

Individual On-Site Wastewater System or Private Sewage Facility means all systems and methods used for the treatment of sewage, other than organized sewage treatment systems. Private sewage facilities are usually composed of the generating unit (the residence, institution, etc.), treatment unit, and the disposal unit (the drain field that may be an absorption trench or bed, or an evapo-transpiration bed). A Private Sewage Facility includes a septic tank, seepage tile sewage treatment system or any other on-lot sewage treatment device approved and installed in accordance with all local, state and federal laws and regulations.

Interior Lot means a lot other than a corner lot.

Legal Lot means either a lot recorded in the official county plat records pursuant to and approved in compliance with public subdivision regulations in effect at the time of its creation, by a governmental entity which has, or entities which have, subdivision approval authority as enabled by the State of Texas; or a lot which is part of a subdivision recorded at the county having existed in its present configuration prior to a subdivision ordinance being in affect, or otherwise being exempt from such regulations. The City of Van Subdivision Ordinance was in affect [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.

Letter of Credit means a letter from a bank or other reputable creditor acceptable to the City that guarantees to the City that upon failure of the subdivider to fulfill any improvement requirements that at the City's request, funds will be provided to the City to complete the specified improvements.

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

Lot Area means the area contained within the boundary lines of a lot, excluding any street, easement for street purposes, or street right-of-way.

Lot, Flag means a lot resulting from a division of a tract of land that, before its division, did not have sufficient width on a street to create more than one lot abutting said street but had sufficient area and depth to be divided into more than one buildable lot.

Multi-Family Development means the development of three or more residential dwellings units (attached or detached) on a single lot, tract or parcel of land.

Neighborhood means the area of the City characterized by residential land uses which is bounded by physical (such as river, major street, lack of 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.

Official County Records means the Official Records of the county an affected property is within.

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

One Hundred (100) Year Floodplain means that flood which has a probability of occurring once in a one hundred (100) year period or a one percent (1%) chance in any given year.

Park Fund means a special fund established by the City to retain monies paid by developers in accordance with the payment in-lieu of park land dedication provisions of these regulations and to be used for the purchase of park land or improvements in the vicinity of the subdivided property for which funds have been collected.

Plan or Plat. The phrase "Plan or Plat" when used in this Ordinance refers to Concept Plans, Preliminary Plats, Construction Plans, Final Plats, Short Form Final Plats, and Amended Plats. Specifically, the term "plan" refers to Construction Plans and the term "plat" refers to Concept Plans, Preliminary Plats, Final Plat, Short Form Final Plat, or Amended Final Plat.

Parent Tract means the tract or parcel of land from which the property being platted is derived.

Phasing Plan means the Development Phasing Plan for the development of a subdivision that provides the timing of each phase or subsection approved in accordance with Article II, Section 1(d), and that includes the number of lots and the infrastructure to be completed in each phase, and any other information required by Article II.

Pre-Development Meeting means a meeting with city staff to help familiarize the applicant with applicable codes and regulations. The City Manager, or designee, may waive this requirement if they deem that the meeting is not necessary. A Due Diligence Report may be prepared in lieu of a Pre-Development Meeting.

Preliminary Plat means a map of a proposed land subdivision showing the character and proposed layout of the property in sufficient detail to indicate the suitability of the proposed subdivision of land.

Private Street means a street that is not dedicated to the public for maintenance, operation or ownership. It is owned and maintained by either a Homeowners' Association for residential developments or Property Owners' Association for nonresidential developments.

Rational Method means the commonly used equation for stormwater peak flow estimation known as the Rational Method

Reciprocal access refers to connectivity between contiguous non-residential or multi-family properties to allow for the connection of or access to drive lanes, fire lanes, driveways, or parking lots between such properties.

Replat means to re-subdivide all or any part of a recorded plat, which does not require the vacation of the entire preceding plat.

Resubmittal Application means the application for a Plan or Plat resubmitted to the City following the disapproval or conditional approval of the original application or a Resubmittal

Application that satisfies each condition of a conditional approval or remedies the reasons for disapproval.

Resubmittal Date means the date that a Resubmittal Application is determined to be complete and is accepted for review by the City.

Right-of-Way (ROW) means a strip of land acquired by dedication, prescription, or condemnation and intended to be occupied by a street, trail, water line, wastewater line, and/or other public utilities or facilities.

Roadway means the paved area of a street between the face of the curb lines, including the driving, parking, and bicycle lanes.

Short Form Final Plat means a procedure, as identified in Article II, Section 8 for the platting of small-scale projects such as simple re-subdivisions, lot splits, and the platting of existing development and of land proposed for site development where public improvements are not required.

Significant Tree means a living tree that the City desires to preserve to the greatest extent possible.

State Health Department means the Texas State Department of Health.

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

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 Trees means trees growing within the public right of way for the purposes of providing shade, pedestrian barriers, and aesthetic qualities.

Subdivider means any person, developer, firm, partnership, corporation or other entity, acting as a unit subdividing or proposing to subdivide land as herein defined.

Subdivision means the division or re-division of land into two (2) or more lots, tracts, sites 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.

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.

Tree means any self-supporting woody plant species which normally grows to an overall minimum height of 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.

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.

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.

Working Days means Monday through Friday exclusive of City recognized holidays.

Yard means an open area between any required building setback line and the property line not subject to public right-of-way.

SECTION 2. PURPOSE

- (a) The purpose of this ordinance is to provide for orderly, safe and healthful development to promote the health, safety and general welfare of the community. From and after the passage of this Ordinance, all Plats and subdivisions of land within the corporate limits of the City, and all Plats and subdivisions of land outside the corporate limits of the City that the Council may be petitioned to include within the corporate limits of the City by an extension of said corporate limits, and all tracts within the City's extraterritorial jurisdiction, shall conform to the following rules and regulations.
- (b) The system of improvements for thoroughfares, water and wastewater services, other utilities, drainage, public facilities and community amenities determines in large measure the quality of life enjoyed by the residents of the community. Health, safety, economy, amenities, environmental sensitivity and convenience are all factors which influence and determine a community's quality of life and character. A community's quality of life is of public interest. Consequently, the development of land, as it affects a community's quality of life, is an activity whose regulation is a valid function of municipal government.
- (c) The provisions contained herein are designed and intended to encourage the development of a quality urban environment by establishing standards for the provision of parks, open space, storm water drainage, transportation, public utilities and facilities, and other needs necessary for ensuring the creation and continuance of a healthy, attractive, safe and efficient community that provides for the conservation, enhancement and protection of its human and natural resources. Through the application of this Ordinance, the interests of the public as well as those public and private parties, both present and future, having interest in property affected by these regulations are protected by the granting of certain rights and privileges.
- (d) This Ordinance is designed and intended to achieve the following purposes, and shall be administered so as to:
 - (1) Assist orderly, efficient and coordinated development within the City's jurisdiction.
 - (2) Provide neighborhood conservation and prevent the development of slums and blight.
 - (3) Harmoniously relate the development of the various tracts of land to the existing community and facilitate the future development of adjoining tracts.
 - (4) Provide that the cost of improvements to minimum standards which primarily benefit the tract of land being developed be borne by the owner or developers of the tract, and that the cost of improvements to minimum standards which primarily benefit the whole community be borne by the whole community.
 - (5) Provide the best possible design for each tract being subdivided.
 - (6) Provide the most attractive and effective relationship between the land as developed and the pedestrian network dictating the ability for all persons to travel throughout the city.

- (7) Provide the most attractive and effective relationship between the land as developed circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the streets and highways.
 - (8) Prevent pollution of the air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard both surface and groundwater supplies; and to encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability, and beauty of the community and the value of the land.
 - (9) Preserve the natural beauty and topography of the municipality and ensure appropriate development with regard to these natural features.
 - (10) As appropriate, reconcile any differences of interest among the developer, other property owners and the City.
 - (11) Establish adequate and accurate records of land subdivision.
 - (12) Ensure that public or private facilities are available and will have a sufficient capacity to serve proposed subdivisions and developments within the City's jurisdiction.
 - (13) Standardize the procedure and requirements for developing property and submitting plans for review and approval.
 - (14) Protect and provide for the public health, safety and general welfare of the community.
 - (15) Provide a healthy environment for the present and future citizens; an environment designed to reasonably secure safety from fire, flood and other dangers; and to provide that land be subdivided in a manner to attain such goals and benefits for the community.
 - (16) Protect the character and the social and economic stability of all parts of the community and encourage the orderly and beneficial development of all parts of the community.
 - (17) Protect and conserve the value of land throughout the community and the value of buildings and improvements upon the land.
 - (18) Guide public and private policy and action in providing adequate and efficient transportation systems, public utilities, and other public amenities and facilities.
 - (19) Encourage the development of a stable, prospering economic environment.
 - (20) To provide for parkland, open spaces and park facilities within neighborhoods.
- (e) Certain minimum standards for land use, construction and development within the City limits are contained in the City's Hybrid Zoning Ordinance, applicable building and plumbing codes, and this Ordinance. Subdivision design within both the City and its extraterritorial jurisdiction should be of a quality to carry out the purpose and spirit of the policies expressed in the Comprehensive Plan and in this Ordinance.
- (f) The tree and vegetation preservation standards adopted herein are reasonable and necessary to preserve trees and vegetation as an important public resource enhancing the quality of life and the general welfare of the city and enhancing its unique character and physical, historical and aesthetic environment; to encourage the preservation of trees and vegetation as removers of carbon and sequestering of carbon and helping mitigate the effects of climate change; to encourage the preservation of trees and vegetation for the enjoyment of future generations; to encourage the preservation of trees and vegetation to provide health benefits by the cleansing and cooling of the air and contributing to psychological wellness; to encourage the preservation of trees and vegetation to provide environmental elements by adding value to property, and reduction of energy costs through passive solar design utilizing trees; to encourage the preservation of trees and vegetation to provide environmental elements necessary to reduce the amount of pollutants entering streams and to provide elements crucial to establishment of the local ecosystem; to provide tree and vegetation preservation requirements and incentives to exceed those requirements that encourage the maximum preservation of trees and

vegetation; and to promote and protect the health, safety and welfare of the public by creating an urban environment that is aesthetically pleasing and that promotes economic development through an enhanced quality of life.

SECTION 3. AUTHORITY

- (a) This ordinance is adopted pursuant to the police powers of general law cities, and under authority of the Constitution and general laws of the State of Texas, including, but not limited to, *Chapter. 212, Tex. Loc. Gov't. Code*.
- (b) In accordance with the City's authority, and as specifically authorized by *Chapter. 212, Tex. Loc. Gov't. Code*, and other applicable laws, the Commission, as a condition of subdivision Plat or replat approval, shall require the owners and developers of land who desire to subdivide, Plat or replat land within the City or its extraterritorial jurisdiction, to provide for building setback lines, to dedicate streets, alleys, parks, easements or other public places or facilities of adequate width and size and to coordinate street layouts and street planning with the City's Comprehensive Plan, with other municipalities, and with county, state and federally designated highways, as they may deem best in the interest of the general public, in order to provide for the orderly development of the areas and to secure adequate provision for traffic, light, air, recreation, transportation, water, drainage, sewage and other facilities.

SECTION 4. JURISDICTION

Except as specifically provided otherwise herein, this Ordinance shall apply to all subdivisions and all related land development activities, as they are both defined herein, and all land, any part of which is located within the jurisdiction of the City. The jurisdiction of the City shall be defined as follows:

- (a) The corporate limits of the City of Van, Texas; and
- (b) The extraterritorial jurisdiction of the City of Van, Texas; and
- (c) Any additional area outside (1) and (2) above as permitted by law and which has been approved by the Council.

SECTION 5. POLICY

In order to carry out the purposes hereinabove stated, it is hereby declared to be the policy of the City to consider the subdivision and/or development of land as subject to the control of the municipality, pursuant to the Comprehensive Plan, and as adopted or amended from time to time, for the orderly, planned, efficient and economical development of the City and its jurisdiction. This Section shall be administered such that:

- (a) Land to be subdivided and/or developed shall be of such nature, shape and location that with proper and careful design and development, it can be safely used for building purposes without danger to health or risk of fire, flood, erosion, landslide or other menace to the general welfare.
- (b) A Final Plat shall not be approved until the necessary public utilities and facilities and other required improvements are accepted by the City or arrangements are made for their provision, including the filing of fiscal guarantee in accordance with the standards provided herein.
- (c) Buildings, lots, blocks and streets shall be arranged so as to provide for an attractive and healthful environment, to facilitate fire protection, to minimize flooding potential, to maximize the benefit to pedestrians and extension of the pedestrian realm, and provide ample access to buildings for emergency equipment.

- (d) Land shall be subdivided and developed with due regard to topography and existing vegetation with the object being that the natural beauty of the land shall be preserved to the maximum extent possible.
- (e) Existing features which would add value to development or to the City as a whole, such as scenic and special features, both natural and man-made, historic sites, and similar assets shall be preserved in the design of the subdivision whenever possible.

SECTION 6. APPLICATION.

- (a) The provisions of this Ordinance, including design standards and improvement requirements, shall, except as specifically provided otherwise in this Ordinance, apply to all subdivisions of land within the jurisdiction of the City, including but not limited to the following forms of land subdivision and development activity:
 - (1) The division of land into two (2) or more tracts, lots, sites or parcels,
 - (2) The division of land into two (2) or more tracts, lots, sites or parcels, any part of which when subdivided will require the dedication or conveyance of any access, public right-of-way, easement, or any public improvement;
 - (3) Land previously subdivided or platted into tracts, lots, sites or parcels, which subdivision was subject to, but not in accordance with, City or County Ordinances in effect at the time of such subdividing or platting;
 - (4) The combining of two (2) or more contiguous tracts, lots, sites or parcels for the purpose of creating one (1) or more legal lots and achieve a more developable site;
 - (5) The platting of any existing legal deed-divided un-platted lot, parcel, site or tract;
 - (6) The voluntary platting and recording of a subdivision Plat dividing any land within the jurisdiction of the City into lots, parcels, sites or tracts, or
 - (7) Any Plat having received approval for which said approval has expired.
 - (8) The dedication of any street or alley through any tract of land, regardless of the area involved, unless otherwise authorized by the City.
 - (9) The construction or proposed construction of a building or structure across a property line.
- (b) This Ordinance applies to Concept Plans, Preliminary Plats, Construction Plans, Final Plats, Short Form Plats, and Amended Plats.
- (c) There may be occasions when the Council deems it appropriate to allow a delay in the implementation of certain elements of this Ordinance. On those occasions, a development agreement shall be used in accordance with the City policy.

SECTION 7. EXEMPTIONS

- (a) The provisions of this Ordinance shall not apply to:
 - (1) Sales of land by metes and bounds in tracts of five (5) acres or more in area where each tract has access, no public improvement is being dedicated, and all remainder parcels are at least five acres or more in area, except as otherwise specifically provided in this Ordinance;
 - (2) Cemeteries complying with all State and local laws and regulations;
 - (3) Divisions of land created by order of a court of competent jurisdiction;
 - (4) Any subdivision of land for which a Concept Plan, Preliminary Plan or Final Plat has been filed with the City on or before the effective date of this Ordinance, excluding any such Plan or Plat for which approval has expired or hereafter expires; or

- (5) The combination of two (2) platted lots for the creation of a more developable site and the Commission finds that:
 - (i) The proposed use is the same as that for which the subdivision was platted by the subdivider; and
 - (ii) No increase is anticipated in the estimated traffic generation or utility demands; and
 - (iii) Offsite stormwater runoff is neither increased nor concentrated.
- (b) The division of an existing legal lot, said division being caused by the City's, County's or State's acquisition of a part of said legal lot, when such acquisition is in the best interest of the health, safety and welfare of the public. Upon such acquisition, the resulting parcels shall be deemed to constitute legal lots for the purposes of developing under the requirements of this ordinance and other applicable City regulations.
- (c) Reserved.
- (d) The acquisition of land by a public utility for the purpose of providing or housing needed infrastructure in order to provide utility service to an immediate area, or
- (e) The conveyance of any land by the City, County or State to a private entity when such land is to be added to an existing legal lot or tract or when such land, by itself, meets the requirements of the Hybrid Zoning Ordinance and is provided public utilities, street frontage and adequate access.
- (f) The provisions of this Ordinance shall not be construed, interpreted or applied to land located within the extraterritorial jurisdiction of the City in a manner to regulate:
 - (1) the use of any building or property for any lawful purpose;
 - (2) the bulk, density or number of buildings on a tract or parcel of land;
 - (3) the floor to area ratio of any building to be constructed on any lot; or
 - (4) the number of residential units that can be built on an acre of land.

SECTION 8. ENFORCEMENT OF REGULATIONS

- (a) No subdivision of land within the City or its extraterritorial jurisdiction may be recorded until a Final Plat, accurately describing the property to be subdivided and platted, has been approved by the City in accordance with this Ordinance, signed and dated by the Chair of the Commission and/or other designated officers of the City, and filed in the Official County Records.
- (b) No permits of any kind shall be issued for activities on parcels that were developed after the effective date of, and not in conformity with, the provisions of this Ordinance; and/or until all improvements, as required by this Ordinance, have been constructed and accepted by the City of Van, or assurances for the completion of improvements have been provided in accordance with this Ordinance.
- (c) No excavation or clearing of land, or construction of any public or private improvements shall take place or commence until such time as the City Manager, or designee, approves the Plans and specifications for such subdivision.
- (d) The Developer is responsible for all authorized and unauthorized use of city utilities.
- (e) A tract of land may not be served or connected with City utilities unless a plat has been approved and recorded for said tract of land, nor shall the City have any obligation to extend utility service to any parcel created in violation of this code.
- (f) 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.

DRAFT - Subject to Change

ARTICLE II. PROCEDURE

SECTION 1. GENERAL PROCEDURE

- (a) **Action on Plats and Plans.** Plats and Plans for the development of land within the scope of this Ordinance shall be drawn and submitted to the City Manager, or designee, for their approval, conditional approval, or disapproval, as provided herein. If an application is approved with conditions or disapproved, the City Manager, or designee, shall provide or cause to be provided to the applicant a written statement for the conditions for approval or reasons for disapproval that clearly articulate each specific condition for the conditional approval or reason for disapproval. Each condition or reason specified in the written statement shall include a citation to the law or ordinance that is the basis for the conditional approval or disapproval, as applicable. In the event that a City Manager, or designee, subject to quorum requirements fails to act due to lack of a quorum at the meeting at which an application is posted for action, then:
- (i) the application will be deemed approved if it meets the requirements of this Ordinance and applicable state law; or
 - (ii) the City Manager, or designee, is authorized to disapprove an application that is incomplete or fails to comply with this Ordinance or applicable law.
- (b) **Commencement of Construction.** Notwithstanding any provision of this Ordinance to the contrary, a developer shall not commence construction activities within the City's jurisdiction, including clearing and/or rough grading, before first obtaining all of the City approvals required by this Ordinance.
- (c) **Pre-Development Meeting.** The applicant is required to attend a pre-development meeting with The City Manager, or designee, to help familiarize the applicant with applicable codes and regulations. The City Manager, or designee, may waive this requirement if they deem that the meeting is not necessary. A Due Diligence Report may be prepared in lieu of a Pre-Development Meeting.
- (d) **General Subdivision Process; Phasing.**
- (i) Generally, the subdivision process is comprised of four (4) individual steps, consisting of the Concept Plan, the Preliminary Plat, Construction Plans, and the Final Plat. Each step of the development process has established deadlines and expirations that must be met in order for the application and any approval(s) granted to remain valid, in effect and eligible to continue to the next step of, or to complete, the development process. Compliance with each such established deadline constitutes a separate required performance and approval.
 - (ii) Phasing Plan. A subdivision is required to be phased if it includes more than thirty (30) lots or units. The proposed Phasing Plan is required to be submitted concurrently with the Concept Plan and must be approved prior to approval of a Concept Plan. If an applicant wishes to amend an approved Phasing Plan after approval at the Concept Plan stage, the applicant is required to submit and receive approval of the Phasing Plan amendment prior to or concurrently with the Preliminary Plat.
 - (iii) Impact of the Phasing Plan on the Sequence of Preliminary Plat and Construction Plan Applications. a. If an applicant applies for a Preliminary Plat for less than the entire property shown in the Concept Plan, the Preliminary Plat for each phase may not be reviewed concurrently, must be submitted in the order shown on the approved Phasing Plan, and review of the Preliminary Plat for a particular phase must be completed and scheduled for Commission approval before a subsequent phase may be submitted for review. In addition, the Preliminary Plat

applications must contain the property shown in each phase of the approved Phasing Plan.

Construction Plans for each phase shall be submitted in accordance with the phasing shown on the approved Phasing Plan, must be submitted in the order shown on the approved Phasing Plan, may not be reviewed concurrently, and review of the construction plans for a particular phase must be completed before a subsequent phase may be submitted for review. The infrastructure in an approved Construction Plan for a particular phase set must be completed and accepted by the City before the applicant may commence construction on a subsequent phase of the subdivision.

- (e) **Submittal Schedule.** The City Manager, or designee, shall prepare an application submittal schedule. This submittal schedule shall be reviewed and approved by the Commission annually. Applications will only be accepted for submittal or resubmittal on the days authorized by the schedule approved by the Commission. The City Manager, or designee, is authorized to adjust an approved schedule to accommodate holidays, City Hall closures, and cancelled or special called meetings.
- (f) **Application Forms.** The City Manager, or designee, shall prepare 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 Ordinance. The City Manager, or designee, shall update the application from time to time as required due to amendments to this Ordinance, state law, or applicable technical codes and manuals. The Commission shall review and approve the application forms and amendments prepared by the City Manager, or designee, from time to time.
- (g) **Application Completeness Review.** (1) The City Manager, or designee, shall review all applications, 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 (10) business days of the date the application is submitted. An application will be considered complete if it is submitted in the required form and in accordance with the sequencing required in the Phasing Plan, includes all information and documents required in the application, and is accompanied by the applicable fees. All applications shall also include a list of any requested variance from the ordinance. Resubmittal Applications are also subject to all elements of Article II. 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 may not be accepted by the City. If the application is determined to be incomplete, the City Manager, or designee, 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.
- (2) In addition to the items required on the Construction Plan application and checklist, the following must be reviewed and approved prior to the submittal of the Construction Plan application and submitted with the application in order for it to be accepted as complete, unless the City Manager, or designee, determines that one of the items is either not needed or may be reviewed concurrently to process the Construction Plan Application:
 - a. Lift station report
 - b. Water and wastewater capacity analysis
 - c. Drainage study
 - d. Floodplain development permit/CLOMR
 - e. Traffic impact analysis

- (h) **Resubmittal Applications.** Resubmittal Applications are subject to the completeness review process set forth in Article II. A Resubmittal Application that modifies the original application beyond what is required to satisfy a conditional approval or to remedy reasons for disapproval shall be considered a new application and must be accompanied by the required application fee and will be reviewed and processed in accordance with the deadlines and procedures applicable to initial applications, including but not limited to the thirty (30) day approval deadlines. Except for Construction Plan applications, Resubmittal Applications submitted for the purpose of satisfying a conditional approval or to remedy the reasons for disapproval of a Resubmittal Application shall be accompanied by the applicable Resubmittal Application Fee.
- (i) **Incomplete Application Expirations.** An application shall expire on the 45th day after the date the application is submitted to the City if:
 - (1) 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;
 - (2) 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
 - (3) the applicant fails to provide the specified documents or other information within the time provided in the notice
- (j) **Approval Does Not Waive Compliance.** Approval of a Plan or Plat under this Ordinance does not waive any requirement or regulation under this Ordinance or an applicable City Code unless a waiver, exemption, or variance to such requirement or regulation is granted by the City employee, official, or body authorized to grant such waiver, exemption, or variance.

SECTION 2. REQUESTS FOR EXTENSION OF APPROVAL DEADLINE OR WAIVERS OF PROCEDURES.

- (a) The applicant may request an extension of the thirty (30) day approval deadlines set forth in this Ordinance by requesting an extension on the application form. The extension request will be considered by the City Manager, or designee, responsible for approving the particular Plan or Plat application. Approval of an extension request will extend the deadline for approval of a Plan or Plat by thirty (30) days.
- (b) An applicant may also request in writing the waiver of a deadline or procedure set forth in this Ordinance. If approved by the City Manager, or designee, the waiver shall be documented by letter agreement or other form of agreement approved by the City Manager, or designee.

SECTION 3. CONCEPT PLAN

- (a) **Purpose.** The purpose of the Concept Plan is to demonstrate conformance with the Comprehensive Plan, compatibility of the proposed development with this and other applicable City ordinances, and the coordination of improvements within and among individually platted parcels, sections, or phases of a development, prior to the consideration of a Preliminary Plat, unless otherwise identified in this ordinance.
 - (1) A Concept Plan shall be required for all subdivisions of land, except as otherwise provided for in this Ordinance for Short Form Final Plats. The Developer shall submit a Concept Plan prior to a Preliminary Plat for approval when the proposed subdivision includes any of the following:
 - (i) A new road network; or

- (ii) More than ten (10) lots; or
- (iii) More than five (5) acres.

When a Concept Plan does not meet the above criteria, it may be submitted for concurrent review with the Preliminary Plat when the Alternative Review Process is selected.

- (2) The Concept Plan shall include the Parent Tract to ensure the orderly planning of streets, utilities, drainage, and other public facilities. The Concept Plan shall also include all adjacent and contiguous land, owned or controlled by the developer or the person, firm or corporation that sold the tract being developed. It shall not be necessary to submit a Concept Plan on any land more than once, unless the concept substantially or materially changes, or approval of the precedent Concept Plan has expired, as defined in this Ordinance.
- (3) The Concept Plan shall demonstrate compliance with the Comprehensive Plan.
- (4) Concept Plans shall demonstrate compliance with the Hybrid Zoning Ordinance. The following residential lot mix requirements shall apply to all new residential subdivisions except those served by on-site sewage treatment systems. For the purposes of this section, net acres shall mean the total acres of the subdivision minus the required parkland.
 - (i) Subdivisions with 20 or more residential lots shall provide a minimum diversity of housing types based upon the following chart:
 - (ii) Subdivisions with more than 20 residential lots shall provide non-residential lot(s) capable of holding buildings of the following square footages.

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

(b) Format. It is recommended that a Concept Plan be drawn on twenty-four by thirty-six inch (24"x36") or twenty-two inch by thirty-four inch (22"x 34") sheet(s) at a scale of one (1) inch equals one (1) hundred feet (1"=100') or one (1) inch equals two (2) hundred feet (1"=200') with all dimensions measured accurately to the nearest foot.

(c) Content. The Concept Plan shall contain or have attached thereto:

- (1) Name, address and phone numbers of the developer, record owner, and authorized agents (engineer, surveyor, land planner, etc.)
- (2) Proposed name of the development; date revised and/or prepared; north indicator; scale.
- (3) Location map. Use of the latest USGS 7.5 minute quadrangle map is recommended.
- (4) A layout of the entire tract and its relationship to adjacent property, existing development and recorded Plats.

- (5) The owner's name, deed or Plat reference and property lines of property within two hundred (200) feet of the development boundaries, as determined by current tax rolls.
- (6) Topographic contours at ten (10) foot intervals, or less, unless otherwise approved by the City Manager, or designee.
- (7) Proposed major categories of land use by acreage showing compatibility of land use with, or proposed variance from, the Comprehensive Plan.
- (8) Proposed number of residential and non-residential lots, tracts or parcels together with the estimated number of LUEs required for each category of lots and an estimate of all traffic volume to be generated by all proposed development.
- (9) Proposed and existing thoroughfares as required by the Comprehensive Plan and the Hybrid Zoning Ordinance
- (10) Location of sites for parks, schools and other public uses, and all areas of common ownership.
- (11) Significant drainage features and structures including any regulatory one hundred (100) year floodplains.
- (12) Significant existing features on, or within 200 feet of, the property, such as railroads, roads, buildings, utilities and drainage structures.
- (13) Approximate boundaries, development density and anticipated timing of proposed phases of development.
- (14) All Nature Quality of Life areas identified on the Comprehensive Plan within 1,200 feet of the proposed subdivision.
- (15) Identification of known exceptional topographical, cultural, historical, archaeological, hydrological and other physical conditions of the property to be developed, or existing within two hundred (200) feet of the property, which will require the establishment of reasonable design standards in excess of the established minimum standards or require a variance from those established minimum standards as defined in this Ordinance.
- (16) Location of City limit lines and/or outer border of the City's extra-territorial jurisdiction, as depicted on the City's most recent base map, if either such line traverses the development or is contiguous to the development's boundary.
- (17) A proposed Phasing Plan for the development of future sections.
- (18) A park plan in conformance with this ordinance including all land proposed for dedication, all proposed park facilities, and calculations or other information indicating compliance with park requirements.
- (19) Any information required by the most recent City concept plan application/checklist.
- (20) For Resubmittal Applications, in addition to containing the information and documents required by this subsection (c), a transmittal letter that describes how each reason for disapproval of the Concept Plan is being remedied or how each condition of a conditional approval is being satisfied, as applicable, and identifying the location in the Concept Plan application where each remedy or response to a condition can be found. The transmittal letter shall further identify whether any other changes to the application have been made other than those necessary to respond to the reasons for disapproval.

(d) Procedure. A Concept Plan shall be submitted to the City for approval by both the Commission and the Council.

- (1) Legible prints, as indicated on the application form, shall be submitted to the City along with the completed application forms, payment of all applicable fees, all

information required by the most recent application/checklist and any attendant documents needed to supplement the information provided on the plan.

- (2) Prior to the Commission meeting at which the Concept Plan is to be heard, The City Manager, or designee, shall review the plan for consistency with City codes, policies and plans.
- (3) The application shall be scheduled for consideration by the Commission within thirty (30) days of the application Filing Date (or within the applicable extension period if an extension is granted), or within fifteen (15) days of the Resubmittal Date, as applicable. The application shall be scheduled for consideration by the Council within thirty (30) days of the Commission's action on the application (or within the applicable extension period if an extension is granted), or within fifteen (15) days of Commission's action on a Resubmittal Application, as applicable.
- (4) The City Manager, or designee, shall prepare a report analyzing the Concept Plan submittal, as well as any comments received concerning the Concept Plan, and recommending action on the Concept Plan. If the recommended action is disapproval or conditional approval, the report shall include the reasons for disapproval or the conditions for approval, as applicable, and citations to the law or ordinance that is the basis for disapproval or the conditional approval. This report shall be available at least four (4) business days prior to the Commission meeting.
- (5) If the developer chooses to withdraw the Concept Plan, he/she may do so in writing delivered by noon of the third working day preceding the Commission meeting. A withdrawn Concept Plan may be resubmitted and appear on the next Commission agenda after repayment of the applicable fees and public notification.

(e) Notification. All owners of property (as determined by the most recent tax rolls from the County Appraisal District), any part of which is located within three hundred (300) feet of the perimeter of the land to be developed, shall be notified by mail.

- (1) The developer shall post signs along contiguous rights-of-way at each corner of the development and at intervals that do not exceed three hundred (300) feet between said corners. Signs must be in accordance with the City Standard Details and Specifications. Signs must be posted at least 15 days before the first public hearing, but shall not be posted more than 30 days in advance of the first public hearing.
- (2) The City shall mail public notification forms, postmarked no fewer than fifteen (15) days prior to the appropriate Commission hearing, to the owners of all property, any part of which is located within three hundred (300) feet of the perimeter of the property included within the Concept Plan.

(f) Approval. The Commission and Council, after holding public hearings in accordance with City ordinances and codes, shall take action on the Concept Plan.

- (1) The Commission shall take action on the application within thirty (30) days of the Filing Date. The failure of either the Commission to act within thirty (30) days of the Filing Date (or within sixty (60) days of the Filing Date where an extension has been granted), or the Council to act within thirty (30) days of action on the Concept Plan by the Commission (or within sixty (60) days where an extension has been granted) shall be deemed an approval of the plan by the respective body, except as otherwise agreed to by the applicant pursuant to Article II, Section 2.
- (2) The Council, within thirty (30) days of the date of action on the Concept Plan application by the Commission (or within sixty (60) days of the date of action by the Commission where an extension has been granted), shall take action on the Concept Plan application.

- (3) If applicable, zoning of the tract shall permit the uses proposed by the Concept Plan, or a zoning amendment necessary to permit the proposed uses shall be required prior to approval of the Concept Plan.
- (4) Approval of a Concept Plan constitutes acceptance of the general development and arrangement of lots indicated on the plan; the classification and arrangement of streets indicated; the proposed phasing plan; and the nature of utility service proposed. Subsequent zoning approvals cannot be guaranteed.
- (5) Concept Plan approval does not ensure approval of a Preliminary Plat failing to meet specific requirements of this Ordinance, and approval does not comprise any vesting of development rights or any assurance that permits of any kind will be issued.
- (6) The Commission and Council shall approve the Concept Plan if it conforms with the requirements of this Code, the Comprehensive Plan, the Hybrid Zoning Ordinance, and the Texas Local Government Code and the applicant has obtained approval of a Phasing Plan, while taking into account access to and extension of the City water system, reuse water system (if applicable), wastewater system, and stormwater drainage facilities.

(g) Disapproval or Conditional Approval.

- (1) **Resubmittal Application.** After disapproval or conditional approval of the Concept Plan, the applicant may submit a Resubmittal Application that addresses each condition of approval or remedies each reason for disapproval provided. The Resubmittal Application that has been accepted as complete shall be reviewed and processed in accordance with Article II, Section 3(d).
- (2) **Action on Resubmittal Application.** The Commission shall take action on the Resubmittal Application within fifteen (15) days of Resubmittal Date. The Council, within fifteen (15) days of the date of action on the Concept Plan application by the Commission, shall take action on the Concept Plan application. The failure of either the Commission to act within fifteen (15) days of the Resubmittal Date, or the Council to act within fifteen (15) days of action on the Resubmittal Application by the Commission shall be deemed an approval of the plan by the respective body, if the Resubmittal Application satisfies all conditions of a conditional approval or remedies all reasons for disapproval, except as otherwise requested by the applicant and approved by the City Manager, or designee, pursuant to Article II, Section 2.

(h) Application Expiration.

- (1) The Concept Plan application shall expire nine (9) months after the date that all initial staff review comments from all reviewing departments have been issued on the application if the concept plan is not approved due to the applicant's failure to cause the application to comply with applicable city regulations.
- (2) The City Manager, or designee, may grant one six (6) month extension if the applicant can show substantial progress in obtaining approval of the Concept Plan. Substantial progress shall consist of, at a minimum, a resubmission of the Concept Plan and all relevant materials by the applicant that address all initial staff review comments from all reviewing departments.
- (3) After expiration of an application, any new Concept Plan will be required to be re-submitted as a new application including re-paying all of the fees associated with this process.

- (i) **Approval Expiration.** The approval of a Concept Plan shall expire two (2) years after the filing date unless
- (1) a Preliminary Plat on all, or a portion of, the land is filed prior to such expiration date and such Plan is approved within eight months after the Concept Plan expiration date, and, if necessary, additional Preliminary Plats are filed in not greater than two year intervals until all of the land within the Concept Plan is included within approved Preliminary Plats; provided that approval of all such Preliminary Plats are obtained within seven (7) years of the filing date of the Preliminary Plat; or
 - (2) an extension is granted by the Commission in accordance with this Ordinance; provided that in no event shall an extension be granted that exceeds seven (7) years after the filing date; or
 - (3) the development proceeds in accordance with an approved phasing plan. At such time as the development lags one (1) year behind the approved phasing plan, the approval shall expire if the developer does not, prior to the expiration date, submit and obtain approval of a written request for the extension and continuance of the Concept Plan prior to expiration.
- (j) **Extension.** The developer may apply for an extension, in writing, prior to the end of the initial two-year period, stating reasons for needing the extension and demonstrating subsequent development activity in accordance with this Ordinance. Upon receipt of this written request, the Commission may, at its discretion, grant an additional one-year extension if the Concept Plan remains consistent with the Comprehensive Plan and/or ordinances of the City.
- (k) **Revision.** If a revision to a previously approved Concept Plan is required, all changes must be resubmitted to the Commission and Council for approval. All fees shall be repaid as if the Concept Plan was initially being submitted.

SECTION 4. PRELIMINARY PLAT

- (a) **Purpose.** The Preliminary Plat provides detailed graphic information and associated text indicating property boundaries, easements, land use, streets, utilities, drainage, and other information required to evaluate proposed subdivisions of land. A Preliminary Plat shall be required for any subdivision of land, except as otherwise provided for in this Ordinance, subsequent to Concept Plan approval or concurrently if the subdivision meets the criteria in Article II of this ordinance.
- (b) **Format.** It is recommended that the Preliminary Plat be drawn on twenty-four by thirty-six-inch (24"x36") or twenty-two inch by thirty-four inch (22"x 34") sheet(s) at a scale of one (1) inch equals one (1) hundred feet (1"=100') or one (1) inch equals two (2) hundred feet (1"=200') with all dimensions measured accurately to the nearest foot.
- (c) **Content.** The Preliminary Plat shall include a description of any off-site improvements required to accommodate the project. The Preliminary Plat shall contain or have attached thereto: (1) Concept Plan and Phasing. (i) Either the Concept Plan proposed for concurrent review; or the approved concept plan. (ii) The approved Phasing Plan and the proposed amended Phasing Plan, if an amendment is sought. (iii) If an applicant applies for a Preliminary Plat for less than the entire property shown in the Concept Plan, verification that the Preliminary Plat is submitted in the order shown on the approved Phasing Plan

and that all prior phases have been reviewed and scheduled for approval by the commission.

(2) General Information.

- (i) Name, address and phone numbers of the developer, record owner, and authorized agents (engineer, land planner, etc.).
- (ii) The proposed name of the subdivision, which shall not have the same spelling or be pronounced similarly to the name of any other subdivision located within the City or within the extraterritorial jurisdiction of the City, provided however that use of the same base names for different sections or phases is required when the units are contiguous with their namesakes and individually identified by a section or phase number.
- (iii) The date, scale, and north indicator.
- (iv) A location map showing the relation of the subdivision to streets and other prominent features in all directions for a radius of at least one (1) mile using a scale of one (1) inch equals two thousand feet (1" = 2,000'). The latest edition of the USGS 7.5 minute quadrangle map is recommended.
- (v) The owner's name, deed or Plat reference and property lines of property within two hundred (200) feet of the subdivision boundaries as determined by the most recent tax rolls.
- (vi) A certification block signed and sealed by the project engineer.
- (vii) The total acreage of the property to be subdivided and the subtotals by land use.

(3) Existing Conditions.

- (i) The existing property lines, including bearings and distances, of the land being subdivided. Property lines shall be drawn sufficiently wide to provide easy identification.
- (ii) The location of existing water courses, dry creek beds, wells, sinkholes and other similar topographic features.
- (iii) Tree Preservation Plan
 - a) A tree preservation plan consisting of a tree survey prepared within five years preceding the application date with the street and lot layout superimposed at a scale of 1"=100' (or as appropriate) shall be prepared demonstrating that lot lines and street layouts have been designed and located and that lot width, depth and size flexibility (as permitted by the applicable zoning district if inside the City) has been utilized to the maximum extent necessary to retain the maximum number of significant trees reasonably practicable.
 - b) The applicant shall provide a tree preservation plan that identifies the surveyed trees and the mitigation of the protected trees that are proposed for removal. The tree preservation plan is required to be approved by the City Manager, or designee, at the time of submission of a Preliminary Plat application. Up to fifty (50%) percent of the caliper inches of Significant Trees between eight (8) and twenty-six (26) caliper inches may be removed without mitigation for single-family and two-family subdivisions. Up to fifty (50%) percent of the caliper inches of Significant Trees between eight (8) and eighteen (18) caliper inches may be removed without mitigation for subdivisions other than single-family and two family.
 - c) Heritage Tree Removal Permit
 - 1. Heritage Trees may be removed only with the approval of a Heritage Tree Removal Permit and after the required mitigation has been approved.
 - 2. The Planning & Zoning Commission shall review all applications for Heritage Tree removal permits and make a recommendation for approval or denial to the City Council, which shall have final authority to issue the permit.

3. Approval of removal permits shall be based on the following:
 - a. Tree size/number of trunks;
 - b. Tree health and viability;
 - c. Tree location;
 - d. Other Significant and Heritage Trees to be preserved on site; and
 - e. Whether all reasonable efforts have been made to design the project in a way to preserve Significant and Heritage Trees on site.
- d) Significant Tree Removal Permit
 1. The City Manager, or designee, may issue a tree removal permit for the removal of Significant Trees to the owner of a property that is zoned or otherwise authorized and actively used for agricultural purposes if it is demonstrated that the tree removal is for a legitimate agricultural purpose. The tree mitigation requirements of this ordinance shall not apply to such permits. If the property is rezoned or otherwise converted to a non-agricultural use within three years of the issuance of the tree removal permit the owner of the property shall be required to meet the tree mitigation requirements of this ordinance.
 2. Removal of Significant Trees greater than eighteen (18) caliper inches requires the approval of the Planning & Zoning Commission or the approval of an alternative tree preservation plan as described in this ordinance.
- e) Mitigation for the removal of a Heritage or Significant Tree
 1. The removal of Heritage and Significant Trees shall require mitigation using the calculations and procedures defined below. Mitigation may be achieved through credit of existing trees on site, replacement trees planted on-site, or payment-in-lieu of replacement trees if approved by the City Manager, or designee, when on-site replacement is not possible or practical.
 - a. Mitigation shall be required at a 1:1 caliper inch basis for significant trees between eight (8) and eighteen (18) caliper inches.
 - b. Mitigation shall be required at a 2:1 caliper inch basis for significant trees greater than eighteen (18) caliper inches and less than twenty-six (26) caliper inches.
 - c. Mitigation shall be required at a 3:1 caliper inch basis for Heritage Trees and a mitigation fee in the amount of \$300.00, or greater, as established by separate resolution, per caliper inch removed.
 - d. If payment in lieu of replacement trees is approved by the City Manager, or designee, the fee shall be equal to one hundred fifty dollars (\$150) or greater, as established by separate resolution, per caliper inch of replacement tree.
 - f) Replacement Trees
 1. Replacement trees shall be a minimum of two (2) caliper inches. A tree preservation plan is required to be approved by the City Manager, or designee, prior to submission of a Preliminary Plat application.
- (iv) Centerline of water courses, creeks, existing drainage structures and other pertinent data shall be shown.
- (v) Areas subject to flooding shall be shown, delineating the regulatory one hundred (100) year floodplain, and any other floodplains identified in the City's Master Drainage Plan.
- (vi) Topographic data indicating, at a minimum, two (2) foot contour intervals for slopes up to 10%, and five (5) foot contour intervals for slopes exceeding 10%. The contoured area shall extend outward from the property boundary for a distance of two hundred (200) feet.

- (viii) The locations, sizes and descriptions of all existing utilities, including but not limited to wastewater lines, lift stations, wastewater and storm sewer manholes, water lines, water storage tanks, and wells within the subdivision, and/or adjacent thereto.
 - (ix) The location, dimensions, names and descriptions of all existing or recorded streets, alleys, reservations, railroads, easements or other public rights-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries, as determined from existing deed and Plat records. The existing right-of-way width of any boundary street to the proposed subdivision shall also be shown. A survey tie shall be shown at no less than three hundred (300) foot intervals for any boundary street or right-of-way, unless such right-of-way was previously platted, indicating the width of such existing boundary street or right-of-way to determine if any additional right-of-way is required to be dedicated. based on the Comprehensive Plan and standards established in the Hybrid Zoning Ordinance. A survey tie shall also be shown to the centerline of any existing street intersecting a boundary street or median break on a boundary street within a distance of 1,000 feet of the subdivision boundary (or as determined appropriate by the City Manager, or designee,) to determine required alignments or off-sets for any proposed street or driveway intersections, the spacing of median breaks, intersections, etc.
 - (ix) The location of City limit lines and/or outer border of the City's extra-territorial jurisdiction, as depicted on the City's most recent base map, if either traverses the subdivision or is contiguous to the subdivision boundary.
 - (x) Existing zoning districts for the subject tract.
 - (xi) Existing Quality of Life area as identified in the Comprehensive Plan.
- (4) Improvements.
- (i) The location, size and description of any proposed drainage appurtenances, including storm sewers, detention ponds and other drainage structures proposed to be constructed on and off the site, and designed in accordance with the requirements of this Ordinance.
 - (ii) The developer shall include a copy of the complete application for floodplain map amendment or revision, as required by the Federal Emergency Management Agency (FEMA), if applicable.
 - (iii) The location, dimensions, names and descriptions of all proposed streets, alleys, parks, open spaces, blocks, lots, reservations, easements and rights-of-way; and areas within the subdivision indicating the connection to or continuation of other improvements in adjacent subdivisions.
 - (iv) Numbers to identify each lot and each block.
 - (v) The lengths of each proposed property line of all lots. The area of each non-rectangular lot shall be provided.
 - (vi) The location and species of street trees for each street within the Preliminary Plat if street trees are proposed.
 - (vii) Identify all shared use drives and necessary access easements as required by the Access Management standards listed in Article V of the Hybrid Zoning Ordinance.
- (5) Support Documents.
- (i) A drainage study, consisting of a Drainage Area Map with contours, location and capacities of existing and proposed drainage features, and calculations in accordance with this Ordinance and good engineering practices, shall be provided to ensure the property will be developed in accordance with City drainage policies. (ii) Utility demand data, consistent with the proposed uses indicated on the Preliminary Plat, to determine the adequacy and the consistency of proposed utility improvements.

- (iii) A letter of certification, when applicable, that the Plat has been submitted to the County Health District for review (applicable to all projects proposing septic systems and/or containing any portion of the regulatory one hundred (100) year floodplain outside of the City limits).
 - (iv) Copy of approved Concept Plan.
 - (v) Copy of deed showing current ownership.
 - (vi) Park proposal in compliance with approved Concept Plan.
 - (vii) Copy of the approved tree preservation plan.
- (6) Any additional information contained in the most recent City Preliminary Plat application/checklist.
- (7) Accuracy of Data. The applicant shall be responsible for verifying the accuracy of all data submitted, including that which might be obtained from the City, excepting that data which can only be obtained from the City.
- (8) For Resubmittal Applications, in addition to containing the information and documents required by this subsection (c), a transmittal letter that describes how each reason for disapproval of the Preliminary Plat is being remedied or how each condition of a conditional approval is being satisfied, as applicable, and identifying the location in the Preliminary Plat application where each remedy or response to a condition can be found. The transmittal letter shall further identify whether any other changes to the application have been made other than those necessary to respond to the reasons for disapproval.
- (d) **Procedure.** A Preliminary Plat for any proposed subdivision of land, shall be submitted to the City for Commission action after a tree preservation plan is approved by the City Manager, or designee.
 - (1) Legible prints, as indicated on the application form, shall be submitted at least thirty (30) days prior to the regular meeting of the Commission at which the Preliminary Plat is to be heard, along with support documents identified above, all information required by the most recent application/checklist and the following:
 - (i) Completed and signed application forms and the payment of all applicable fees.
 - (ii) A summary letter stating briefly the type of street surfacing, drainage, water and wastewater facilities proposed, and declaring the intent to either dedicate park land or pay fees-in-lieu of said dedication if such dedication or fees apply.
 - (iii) A petition requesting annexation, if applicable.
 - (iv) A letter requesting any variances from the provisions of this Ordinance.
 - (v) Any attendant documents needed to supplement the information provided on the Preliminary Plat.
 - (2) For projects located within the City's extra-territorial jurisdiction, one (1) extra copy of the above referenced items must be provided with the application. The applicant shall be responsible for any additional information required by the County for Preliminary Plat approval.
 - (3) The City Manager, or designee, shall review all Preliminary Plat submittals for completeness within ten business days of the date the application is submitted. If in the judgment of the City Manager, or designee, the Preliminary Plat submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review. A Preliminary Plat application shall expire on the 45th day after the date the application is filed with 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 Chapter;
 - (ii) within ten (10) business days of the date the application is filed with the City, the City provides the applicant written notice of the failure that specifies the necessary documents or other information 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.
- (4) Prior to the Commission meeting at which the Preliminary Plat is presented, The City Manager, or designee, shall review the plat for consistency with City ordinances, codes, policies and plans.
- (5) The application shall be scheduled for consideration by the Commission within thirty (30) days of the application Filing Date (or within the applicable extension period if an extension is granted), or within fifteen (15) days of the Resubmittal Date, as applicable.
- (6) The City Manager, or designee, shall prepare a report analyzing the Preliminary Plat submittal, as well as any comments received concerning the Concept Plan, and recommending action on the Preliminary Plat. If the recommended action is disapproval or conditional approval, the report shall include the reasons for disapproval or the conditions for approval, as applicable, and citations to the law or ordinance that is the basis for disapproval or the conditional approval. This report shall be available at least five (5) working days prior to the Commission meeting.
- (7) The City Manager, or designee, shall forward the Preliminary Plat to other jurisdictional agencies, including but not limited to, The Van ISD, the applicable County, TXDOT.
- (e) **Notification.** Public notification for a Preliminary Plat shall not be required.
- (f) **Approval.** The Commission shall act on the request for Preliminary Plat approval within thirty (30) days of the Filing Date, or within sixty (60) days of the Filing Date if the applicant's extension request has been granted.
 - (1) The failure of the Commission to act within thirty (30) days of the Preliminary Plat Filing Date (or within 60 days of the Filing Date when an extension has been granted) shall be deemed an approval of the plat, except as otherwise agreed to by the applicant pursuant to Article II, Section 2.
 - (2) Approval of the Preliminary Plat shall not constitute approval of the Final Plat, but shall constitute a vesting of the right to develop under City ordinances, codes and policies in effect on the date of the approval provided that neither the Preliminary Plat nor any subsequent plat or permit has been, or is allowed, to expire.
 - (3) The applicant should be aware that specific approvals from other agencies may be required.
 - (4) A Preliminary Plat shall not be approved if it is not in conformance with the Hybrid Zoning Ordinance.
- (g) **Disapproval or Conditional Approval.**
 - (1) Resubmittal Application. After disapproval or conditional approval of the Preliminary Plat, the applicant may submit a Resubmittal Application that addresses each condition for approval or remedies each reason for disapproval provided. The Resubmittal Application that has been accepted as complete shall be reviewed and processed in accordance with Article II.
 - (2) Action on Resubmittal Application. The Commission shall take action on the Resubmittal Application within fifteen (15) days of Resubmittal Date. The failure of the Commission to act within fifteen (15) days of the Resubmittal Date shall be deemed an approval of the plat by the Commission if the Resubmittal Application satisfies all conditions of a conditional approval or remedies all reasons for disapproval, except as otherwise requested by the applicant and approved by the City Manager, or designee, pursuant to Article II, Section 2.
- (h) **Application Expiration.**
 - (1) The Preliminary Plat application shall expire nine (9) months after the date that all initial staff review comments from all reviewing departments have been issued on the application if the Preliminary Plat is not approved due to the applicant's failure to cause the application to comply with applicable city regulations. If the Concept Plan and the Preliminary Plat applications are submitted concurrently, the Concept Plan and

Preliminary Plat applications shall both expire nine (9) months after the date that all staff review comments from all reviewing departments have been issued on the applications if both the Concept Plan and Preliminary Plat are not approved due to the applicant's failure to cause the applications to comply with all applicable City regulations.

- (2) The City Manager, or designee, may grant one six (6) month extension if the applicant can show substantial progress in obtaining approval of the Preliminary Plat, and the Concept Plan if submitted concurrently with the Preliminary Plat application. Substantial progress shall consist of, at a minimum, a resubmission of the Preliminary Plat, the concept plan in the case of a concurrent submission, and all relevant materials by the applicant that address all initial staff review comments from all reviewing departments.
- (3) After expiration of an application, any new Preliminary Plat application will be required to be re-submitted as a new application including re-paying all of the fees associated with this process.

(i) **Approval Expiration.**

- (1) The approval of a Preliminary Plat shall expire two (2) years after the filing date unless:
 - (a) Corresponding Construction Plans and/or Final Plats on all, or a portion of, the land approved on the Preliminary Plat are filed, and, if necessary, additional Construction Plans and/or Final Plats are filed in not greater than two year intervals until all of the land within the Preliminary Plat has approved Construction Plans and Final Plats; provided that approval of all such Construction Plans and Final Plats are obtained within seven (7) years of the filing date of the Preliminary Plat; or
 - (b) An extension is granted by the Commission in accordance with this Ordinance; provided that in no event shall an extension be granted that exceeds nine (9) years after the filing date.
 - (2) When a Concept Plan application is submitted and approved concurrently with a Preliminary Plat application, the approval of the Concept Plan shall expire when the approval of the Preliminary Plat expires under Article II.
- (i) **Extension.** The developer may apply for an extension, in writing, prior to expiration, stating reasons for needing the extension and demonstrating pursuit of approvals for Construction Plans and/or Final Plat in accordance with this Ordinance. Upon receipt of this written request, the Commission may, at its discretion, grant up to a two (2) year extension, so long as the Preliminary Plat remains consistent with the Comprehensive Plan and/or ordinances of the City. The Commission may, at its discretion, also grant up to a two (2) year extension on the overall seven (7) year time stated in Article II to nine (9) years for the Preliminary Plat.
- (j) **Revision.** If a revision to a previously approved Preliminary Plat is required, then no application for a Final Plat shall be accepted until the revised Preliminary Plat has been submitted and approved by the Commission, unless the revision is determined to be a minor revision as provided herein. The application for revised Preliminary Plat approval shall be accompanied by a fee equal to the application fee for a Preliminary Plat, provided that an application that is determined to be a minor revision as provided herein shall be accompanied by the fee set forth in Article II. The approved Preliminary Plat shall be kept on file as public record in the offices of the City.

- (1) **Minor Revision.** If, in the opinion of the City Manager, or designee, a change to an approved Preliminary Plat is determined to be a minor revision, the applicant shall submit the minor revision to the City Manager, or designee, for administrative review and action. A public hearing is not required for a minor revision. The fee for an application for a minor revision to a Preliminary Plat shall be ten percent (10%) of the Preliminary Plat fee. The applicant shall submit a request for a minor revision to the City Manager, or designee, which shall include a letter and a Minor Revision Preliminary Plat which both describe and show all revisions to the approved Preliminary Plat in

accordance with the most recent application/checklist for a Minor Revision Preliminary Plat.

- (2) For the purposes of this section, a revision to a previously approved Preliminary Plat shall be considered a minor revision if it complies with the following criteria:
 - (i) A minor revision may not:
 - a) Modify a waiver or variance or result in a new waiver or variance;
 - b) Reduce any conservation easement, common area, green space, or other open space or park improvements of the approved Preliminary Plat;
 - c) Have a negative impact on property outside the Preliminary Plat;
 - d) Require notice and a public hearing under Section 212.015, Tex. Local Gov't Code, as amended, or
 - e) Increase the number of dwelling units by more than 5%.
 - (ii) A minor revision may:
 - a) Change the street layout.
 - b) Increase the number of lots to the extent allowed herein.
 - c) Modify a subdivision to accommodate a change in use resulting from rezoning or land acquisition through eminent domain.
- (3) The City Manager, or designee, may determine that other changes similar in scope and effect to those described above are minor revisions.
- (4) The City Manager, or designee's determination may be appealed to the Commission. The appeal must be submitted in writing to the City Secretary within ten days of the City Manager, or designee's determination and shall be accompanied by the fee set forth in the city's Schedule of Fees. The Commission shall consider the appeal at the next regularly scheduled meeting for which an agenda can be timely posted. In hearing the appeal, the Planning and Zoning Commission shall determine whether the City Manager, or designee, acted in accordance with Article II and shall either uphold or overturn the City Manager, or designee's determination. The applicant is not entitled to a waiver or modification of the application of Article II as relief upon appeal.
- (5) **Content.** The content for a Minor Revision Preliminary Plat shall be the same as the Preliminary Plat.
- (6) **Procedure.** The procedure, including approval, disapproval, and conditional approval for a Minor Revision Preliminary Plat shall be the same as the Preliminary Plat
- (7) **Support Documents.** The support documents for a Minor Revision Preliminary Plat shall be the same as the Preliminary Plat unless the Director of Planning deems that they are unnecessary.
- (l) **Responsibility.** Notwithstanding the approval of any Preliminary Plat by the City, the developer and the engineer that prepares and submits such Plats shall be and remain responsible for the adequacy of the design and nothing in this Ordinance shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any Plat submitted.

SECTION 5. CONSTRUCTION PLANS

- (a) **Purpose.** Construction Plans, based upon the approved Preliminary Plat, and consisting of detailed specifications and diagrams illustrating the location, design, and composition of all improvements identified in the Preliminary Plat phase and required by this Ordinance and other applicable City ordinances, codes and policies, shall be submitted to the City for approval. In addition, any project that necessitates the construction, reconstruction or modification of existing City infrastructure shall also be submitted to the City for approval. The Plans shall be kept by the City as a permanent record of required improvements in order to:

- (1) Provide better records that facilitate the operation and maintenance of, and any future modifications to existing City infrastructure.
 - (2) Provide data for evaluation of materials, methods of construction and design.
 - (3) Provide documentation of approved public improvements to ensure that all such improvements are built to City standards and specifications.
 - (4) No Final Plat shall be certified by the City, and no construction activities shall commence, until such time as Construction Plans completely describing the on-site and off-site improvements required by this Ordinance and other applicable City ordinances and codes, have been approved by the City Manager, or designee.
- (b) **Format.** Drawings shall be on twenty-two inch by thirty-four inch (22"x 34") sheets (unless otherwise approved by The City Manager, or designee,) at generally accepted horizontal and vertical engineering scales. All full size sheets shall be formatted so that when printed on eleven inch by seventeen inch (11" x 17") paper the resulting sheet set scales at a generally accepted engineering scale.
- (c) **Content.** Construction Plans shall include all on and off-site improvements required to serve the proposed development as indicated on the approved Preliminary Plat and in compliance with applicable ordinances, codes, standards and policies of the City, and other applicable governmental entities. All Construction Plans shall be signed and sealed by a licensed professional engineer, licensed to practice in the State of Texas, include all information required by the most recent application/checklist, and shall contain or have attached thereto:
- (1) Cover Sheet.
 - (i) The appropriate project name, date, and the name, addresses and phone numbers of the developer, engineer and surveyor, etc.
 - (ii) A location map showing the relation of the subdivision to streets and other prominent features in all directions for a radius of at least one (1) mile using a scale of one inch equals two thousand feet (1" = 2,000'). The latest edition of the USGS 7.5 minute quadrangle map is recommended.
 - (2) Street and Roadway Systems:
 - (i) The horizontal layouts and alignments showing geometric data and other pertinent design details. The horizontal layout shall also show the direction of storm water flow and the location of manholes, inlets and special structures;
 - (ii) Vertical layouts and alignments showing existing and proposed center line, right and left right-of-way line elevations along each proposed roadway.
 - (iii) An analysis of vertical sight distance for proposed street intersections.
 - (iv) Typical right-of-way cross sections showing pertinent design details and elevations as prescribed in the City Standard Details and Specifications;
 - (v) Typical paving sections showing right-of-way width, lane widths, median widths, shoulder widths, and pavement recommendations;
 - (vi) Attendant documents containing any additional information required to evaluate the proposed roadway improvements, including geotechnical information and traffic impact studies; and
 - (3) Drainage Improvements:
 - (i) Detailed design of all drainage facilities as indicated in the Preliminary Plat phase, including typical channel or paving section, storm sewers and other storm water control facilities.
 - (ii) Typical channel cross-sections, plan and profile drawings of every conduit/channel shall be shown.
 - (iii) Existing and proposed topographic conditions indicating one (1) foot contour intervals for slopes less than 5%, two (2) foot contour intervals for slopes between

- 5% and 10%, and five (5) foot contour intervals for slopes exceeding 10%, and referenced to a United States Geological Survey or Coastal and Geodetic Survey bench mark or monument.
- (iv) Attendant documents containing design computations in accordance with this Ordinance, and any additional information required to evaluate the proposed drainage improvements.
 - (v) A copy of the complete application for flood plain map amendment or revision, as required by the Federal Emergency Management Agency (FEMA), if applicable.
- (4) Erosion and Sedimentation Controls:
- (i) Proposed fill or other structure elevating techniques, levees, channel modifications and detention facilities.
 - (ii) Existing and proposed topographic conditions with vertical intervals not greater than one (1) foot referenced to a United States Geological Survey or Coastal and Geodetic Survey bench mark or monument.
 - (iii) The location, size, and character of all temporary and permanent erosion and sediment control facilities with specifications detailing all on-site erosion control measures which will be established and maintained during all periods of development and construction.
 - (iv) Contractor staging areas, vehicle access areas, temporary and permanent spoils storage areas.
 - (v) A plan for restoration for the mitigation of erosion in all areas disturbed during construction.
- (5) Water Distribution Systems:
- (i) The layout, size and specific location of the existing and proposed water mains, pump stations, storage tanks and other related structures sufficient to serve the proposed land uses and development as identified in the Preliminary Plat phase and in accordance with the City Standard Details and Specifications.
 - (ii) The existing and proposed location of fire hydrants, valves, meters and other fittings.
 - (iii) Design details showing the connection with the existing City water system.
 - (iv) The specific location and size of all water service connections for each individual lot.
 - (v) Attendant documents containing any additional information required to evaluate the proposed water distribution system.
- (6) Wastewater Collection Systems:
- (i) The layout, size and specific location of the existing and proposed wastewater lines, manholes, lift stations, and other related structures sufficient to serve the land uses and development as identified in the Preliminary Plat phase, in accordance with all current City standards, specifications, and criteria for construction of wastewater systems.
 - (ii) Plan and profile drawings for each line in public rights-of-way or public utility easements, showing existing ground level elevation at center line of pipe, pipe size and flow line elevation at all bends, drops, turns, and station numbers at fifty (50) foot intervals.
 - (iii) Design details for manholes and special structures. Flow line elevations shall be shown at every point where the line enters or leaves the manholes.
 - (iv) Detailed design for lift stations, package plants or other special wastewater structures.
 - (v) Attendant documents containing any additional information required to evaluate the proposed wastewater system, and complete an application for State Health Department approval.
- (7) Fill Material Storage. The location of the fill material pile, which must comply with Article III, Section 9 of this Ordinance.

- (8) Street Lighting. The location, size, type and description of street lights according to City Standard Details and Specifications.
 - (9) Street Signs. The location, size, type and description of street signs according to City Standard Details and Specifications.
 - (10) Speed Limit Signs and Permanent Traffic Barricades. The location, size (where applicable), and type of speed limit signs and permanent traffic barricades according to City Standard Details and Specifications.
 - (11) Sidewalks. The location, size and type of sidewalks and pedestrian ramps according to City Standard Details and Specification.
 - (12) Improvements for Parks and other Public and Common Areas - as identified and/or approved on the Preliminary Plat.
 - (13) The location, size and description of all Significant Trees (to remain and to be removed), and Replacement Trees to meet the requirements of this Ordinance.
 - (14) Landscaping and Screening. The location, size and description of all landscaping and screening materials as required by the Hybrid Zoning Ordinance.
 - (15) Street Trees. The location and species of all proposed street trees on every street in accordance with all current City standards, specifications and criteria for the installation of street trees.
 - (16) Design Criteria. Final design criteria, reports, calculations, and all other related computations, if not previously submitted with the Preliminary Plat.
 - (17) Cost Estimates. A cost estimate of each required improvement, prepared, signed and sealed by a professional engineer licensed to practice in the State of Texas.
 - (18) Dry Utility Plan. A plan demonstrating the location of the proposed dry utilities.
 - (19) Compliance with Phasing Plan. Verification that the construction plans are submitted in accordance with the phasing shown on the approved Phasing Plan and that all prior phases have been reviewed.
 - (20) For Resubmittal Applications, in addition to containing the information and documents required by this subsection (c), a transmittal letter that describes how each reason for disapproval of the Construction Plans are being remedied or how each condition of a conditional approval is being satisfied, as applicable, and identifying the location in the Construction Plan application where each remedy or response to a condition can be found. The transmittal letter shall further identify whether any other changes to the application have been made other than those necessary to respond to the reasons for disapproval.
- (d) **Procedure.** After all necessary approvals of the Preliminary Plat have been granted, Construction Plans, together with a completed application form and review fee, shall be submitted to the City Manager, or designee, for review.
- (1) The City Manager, or designee, shall review all Construction Plan submittals for completeness at the time of application. If in the judgment of the City Manager, or designee, the Construction Plan submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review.
 - (2) The City Manager, or designee, shall review the Construction Plans to ensure compliance with this Ordinance, and other applicable City ordinances, codes, standards and specifications, and good engineering practices.
 - (3) For projects located within the City's extraterritorial jurisdiction, the Construction Plans and attendant documents shall be provided to the County for review and approval unless an Interlocal agreement between the City and the County has been executed which specifies a different procedure. The applicant shall be responsible for any additional information required by the County for Construction Plan approval.
- (e) **Approval.** Within thirty (30) days of the Filing Date (or within 60 days of the Filing Date if an extension request has been approved), the City Manager, or designee, shall either approve or disapprove the Construction Plans.

- (1) If the Construction Plans are disapproved, the City Manager, or designee, shall notify the applicant, in writing by the thirtieth (30th) day following the Filing Date, of disapproval, state the reasons for disapproval, and cite to the law or ordinance that is the basis for disapproval. The failure of either the City Manager, or designee, to act within thirty (30) days of the Filing Date (or within sixty (60) days of the Filing Date where an extension has been granted), shall be deemed an approval of the Construction Plans, except as otherwise agreed to by the applicant pursuant to Article II, Section 2.
 - (2) If Construction Plans are approved, then the City Manager, or designee, City Engineer, Director of Public Works, Director of Parks and Recreation, and the Fire Marshal shall sign the cover sheet of the Construction Plans and a pre-construction meeting shall be scheduled. A construction plan permit shall be signed and issued during the pre-construction meeting after completion and acceptance by the City of the improvements for the prior phase of the subdivision. A signed copy of the plans shall be returned to the applicant and a copy shall be retained for City records. The applicant should be aware that specific approvals from other agencies may be required.
 - (3) All improvements shown in the approved Construction Plans shall be constructed pursuant to and in compliance with the approved plans, except as otherwise specifically approved.
- (f) **Resubmittal.**
- (1) **Resubmittal Application.** After disapproval of the Construction Plans, the applicant may submit a Resubmittal Application that remedies each reason for disapproval provided. The Resubmittal Application that has been accepted as complete shall be reviewed and processed in accordance with Article II, Section 5.
 - (2) **Action on Resubmittal Application.** The City Manager, or designee, shall take action on the Resubmittal Application within fifteen (15) days of Resubmittal Date. The failure of the City Manager, or designee, to act within fifteen (15) days of the Resubmittal Date, shall be deemed an approval of the Construction Plans if the Resubmittal Application satisfies all conditions of a conditional approval or remedies all reasons for disapproval, except as otherwise requested by the applicant and approved by the City Manager, or designee, pursuant to Article II, Section 2.
- (g) **Application Expiration.**
- (1) The Construction Plans application shall expire nine (9) months after the date that all initial staff review comments from all reviewing departments have been issued on the application if the construction plans are not approved due to the applicant's failure to cause the application to comply with applicable city regulations.
 - (2) The City Manager, or designee, may grant one six (6) month extension if the applicant can show substantial progress in obtaining approval of the construction plans. Substantial progress shall consist of, at a minimum, a resubmission of the construction plans and all relevant materials by the applicant that address all initial staff review comments from all reviewing departments.
- (h) **Approval Expiration.** The construction plan permit shall expire two years after the date that the permit is issued unless an unexpired Final Plat is on file with the City or the Final Plat has been approved and that approval has not expired.
- (i) **Revision.** Where it becomes necessary, due to unforeseen circumstances, for corrections to be made to Construction Plans for which approval has already been obtained, the City Manager, or designee, shall have the authority to approve such corrections when, in their opinion, such changes are warranted and also in conformance with City requirements. Approval of such changes agreed to between the applicant and City Manager, or designee, shall be noted by initialing and dating by both parties on the two (2) original signed copies of the Construction Plans.

- (j) **Responsibility.** Notwithstanding the approval of any Construction Plans by the Council, Commission or the City Manager, or designee, the applicant and the engineer that prepares and submits such plans and specifications shall be and remain responsible for the adequacy of the design of all such improvements; and nothing in this Ordinance shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any design, plans and specifications submitted.

SECTION 6. FINAL PLAT

- (a) **Purpose.** The Final Plat provides detailed graphic information and associated text indicating property boundaries, easements, streets, utilities, drainage, and other information required for the maintenance of public records of the subdivision of land.
- (1) A Final Plat shall be required for all subdivisions of land.
- (2) The Final Plat shall conform to the approved Construction Plans and approved Preliminary Plat.
- (b) **Format.** The Final Plat shall be drawn on eighteen inch by twenty-four inch (18"x24") mylar sheets at a scale of one (1) inch equals one hundred feet (1"=100') unless otherwise approved by The City Manager, or designee, with all dimensions labeled accurately to the nearest one tenth (1/10) of a foot. When more than one (1) sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at a scale of one (1) inch equals four hundred feet (1" = 400') shall be attached to the Plat.
- (c) **Content.** The Final Plat shall include all of the tract intended to be developed at one (1) time, and shall contain or have attached thereto:
- (1) General Information.
- (i) The proposed name of the subdivision, which shall not have the same spelling or be pronounced similarly to the name of any other subdivision located within the City or within the extra-territorial jurisdiction of the City; provided however, that use of the same base names for different sections or phases is required when the units are contiguous with their namesakes and individually identified by a section number.
- (ii) The date, scale, north point, addresses of the owner of record, developer, registered public surveyor, and licensed professional engineer, if required. The engineer and surveyor shall affix their seals to the Plat in conjunction with the signing of the certification requirements.
- (iii) A location map showing the relation of the subdivision to major streets within the general vicinity of the subdivision. The latest edition of the USGS 7.5 minute quadrangle map is recommended.
- (iv) Identification and location of proposed uses and reservations for all lots within the subdivision.
- (v) The respective Plat or deed references as determined by the most recent tax rolls for all property within two hundred (200) feet of the subdivision boundary.
- (vi) Certification, signature and revision blocks as required by the City and County, including but not limited to the following:
- a) Signature blocks for the surveyor, engineer, and property owner.
- b) Certification from a licensed professional engineer and approval by the Texas Commission on Environmental Quality (TCEQ) (if applicable) that water satisfactory for human consumption is available in adequate supply at the time of submission, except that such certification is not required if the property will be served by the City water system.
- c) Certification from the County Health District that a subdivision is located in an area which cannot reasonably be served by an organized wastewater collection system and that the use of on-site wastewater treatment facilities or other means of treatment has been approved by the County Health District. Said certificate shall show the limitations, if any, of such approval.

- d) Lot area, width and depth, public utility and drainage easements, and setbacks shall conform to the requirements as established for the designated land use as set forth in the Hybrid Zoning Ordinance.

(2) Existing Conditions.

- (i) The existing property lines, including bearings and distances, of the land being subdivided. Property lines shall be drawn sufficiently wide to provide easy identification.
- (ii) Areas delineating the regulatory one hundred (100) year floodplain, if applicable. This information must be certified by a licensed professional engineer.
- (iii) The location, dimensions, names and descriptions of all existing and recorded streets, alleys, reservations, railroads, easements or other public rights-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries, as determined from current deed and Plat records. The existing right-of-way width of any boundary street to the proposed subdivision shall also be shown. A survey tie shall be shown at no less than three hundred (300) foot intervals for any boundary street or right-of-way, unless such right-of-way was previously platted, indicating the widths of any such existing boundary street or right-of-way to determine if any additional right-of-way is required to be dedicated based on the classification of such boundary street in accordance with the City's Comprehensive Plan or other right-of-way requirements. A survey tie shall also be shown to the centerline of any existing street intersecting a boundary street or median break on a boundary street within a distance of 1,000 feet of the subdivision boundary (or as determined appropriate by the City Manager, or designee,) to determine required alignments or off-sets for any proposed street or driveway intersections, the spacing of median breaks, intersections, etc.
- (iv) Location of City limit lines and/or outer border of the City's extra-territorial jurisdiction, as depicted on the City's most recent base map, if either such line traverses the subdivision or is contiguous to the subdivision boundary.

(3) Survey Control Information.

- (i) True bearings and distances to the nearest established street lines, official monuments, or existing subdivision corner, which shall be accurately described on the Plat and rotated to the state plane coordinate system. Using said system, X and Y coordinates shall be identified for four (4) property corners.
- (ii) The description and location of all permanent monuments or benchmarks, standard monuments, survey control points and lot pins.
- (iii) Suitable primary control points to which all dimensions, bearings and similar data shall be referenced. At least one (1) corner of the subdivision shall be located with respect to a corner of the original survey of which it is a part.
- (iv) Sufficient data shall be shown on the Plat for each lot to prove mathematical closure.
- (v) AutoCAD or GIS digital file on a CD as follows: Any graphics files in electronic format shall be in ESRI shape file format or Autodesk native file format, using the Datum, Projection, and Units listed below. The zoom settings, views, pen tables, and layers for each file shall be set to display the drawing as a complete Plat sheet. Symbol files, font files, external reference files and other files required to correctly display the drawings shall be included in the same directory as the graphics files. A key of all CAD layers, with a description of the information on each layer, shall be provided to assist The City Manager, or designee, in extracting the required information. For submittals in Shape file format, all metadata as listed above shall be included.

Datum: North American Datum 1983 (NAD 83)
Projection: Texas State Plane – Central Zone (4203)
Units: US Survey Feet

(4) Improvements.

- (i) The location, bearings, distances, widths, purposes and approved names of proposed streets, alleys, easements and rights-of-way to be dedicated to public use.
- (ii) Streets. Provide complete curve data (delta, arc length, radius, tangent, point of curve, point of reverse curve, point of tangent, long chord with bearing) between all lot corner pins.
- (iii) Water Courses and Easements. Provide distances to be provided along the side lot lines from the right-of-way line or the high bank of a stream. Traverse line to be provided along the edge of all major waterways in a convenient location, preferably along a utility easement if paralleling the drainage easement or stream.
- (iv) The property lines and number designations of all proposed lots and blocks, with complete bearings, distances and dimensions for front, rear and side lot lines. The surveyor shall certify that all lots meet the City's minimum requirements set forth herein.
- (v) The use, property dimensions, names and boundary lines of all special reservations to be dedicated for public use, including sites for schools, churches, parks and open spaces; common ownership; or subsequent development.
- (vi) A note is provided on the Plat indicating that building setbacks shall be in accordance with the Hybrid Zoning Ordinance, and the location, dimensions, and descriptions of all required easements (shown graphically) within the subdivision, intersecting, or contiguous with its boundaries or forming such boundaries.
- (vii) The proposed location of sidewalks for each street are indicated in a note on the Plat.
- (viii) Identify all shared use drives and necessary access easements as required by the Access Management standards listed in Article V of the Hybrid Zoning Ordinance.

(5) Support Documents. The following supporting documents must accompany the Final Plat:

- (i) Developer shall include a copy of the approved application for floodplain map amendment or revision, as required by the Federal Emergency Management Agency (FEMA), if applicable.
- (ii) If a subdivision is located in an area served by any utility other than the City, the developer shall furnish a letter from such utility certifying their approval of the location of the utility easements shown on the Plat and indicating the utility's intent to serve the property, except that said letters are not required if the easements conform to those approved on the Preliminary Plat.
- (iii) If the construction of all improvements needed to serve the subdivision is not completed prior to approval of the Final Plat, then the developer shall provide financial assurance (surety) for the completion of the remainder of those improvements in accordance with this Ordinance.
- (iv) Current original tax certificates showing all property taxes are paid to all taxing entities for all property being subdivided.
- (v) Documentation from the appropriate County 911/Addressing Service stating that all of the street names on the Final Plat are reserved and the street names are not duplicated in other areas of the county.

- (6) **The applicant shall be responsible for verifying the accuracy of all data submitted.**
- (7) **For Resubmittal Applications**, in addition to containing the information and documents required by this subsection (c), a transmittal letter that describes how each reason for disapproval of the Final Plat is being remedied or how each condition of a conditional approval is being satisfied, as applicable, and identifying the location in the Final Plat application where each remedy or response to a condition can be found. The transmittal letter shall further identify whether any other changes to the application have been made other than those necessary to respond to the reasons for disapproval.
- (d) **Procedure.** After approval of the Preliminary Plat and Construction Plans for a proposed subdivision, a Final Plat for that subdivision shall be submitted to the City for Commission approval, and such approval shall be obtained, before recordation of the Plat.
- (1) A Final Plat may be submitted for review and approval simultaneously with Construction Plans, provided however that the Final Plat shall not be approved until the Construction Plans have been approved and all required improvements have been determined by the City Manager, or designee, to be complete or fiscal surety is posted for such improvements including any required park improvements.
- (2) Legible prints, as indicated on the application form, shall be submitted at least thirty (30) days prior to the regular meeting of the Commission at which the Final Plat is to be heard, along with all information included on the most recent Final Plat application/checklist and the following:
- (i) Completed application forms and the payment of all applicable fees.
 - (ii) Any materials or documents required by the Commission and/or Council as a condition of Preliminary Plat approval.
 - (iii) A letter requesting any variances from the provisions of this Ordinance, if not previously approved as part of the Preliminary Plat, and posted pursuant to the requirements this Ordinance.
 - (iv) Two (2) copies of the deed restrictions or covenants, if such documents are to be used. These shall be filed for record in conjunction with the filing of the Final Plat.
 - (v) Certification from all applicable taxing authorities that all taxes due on the property have been paid.
 - (vi) Any attendant documents needed to supplement the information provided on the Final Plat.
- (3) For projects located within the City's extra-territorial jurisdiction, one (1) extra copy of the above referenced items must be provided to the County for review and approval. The applicant shall be responsible for any additional information required by the County for Final Plat approval.
- (5) The City Manager, or designee, shall review all Final Plat submittals for completeness within ten business days of the date the application is submitted. If in the judgment of The City Manager, or designee, the Final Plat submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review. A Final Plat application shall expire on the 45th day after the date the application is filed with 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 Chapter;
 - (ii) within ten (10) business days of the date the application is filed with the City, the City provides the applicant written notice of the failure that specifies the necessary documents or other information 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.
- (6) Prior to the Commission meeting at which the Final Plat is presented, The City Manager, or designee, shall review the plat for consistency with City codes, policies and plans.
- (7) The Commission meeting shall be scheduled within thirty (30) days of the application Filing Date, or within fifteen (15) days of the Resubmittal Date, as applicable.
- (8) The City Manager, or designee, shall prepare a report analyzing the Final Plat submittal, as well as any comments received concerning the Preliminary Plat, and recommending action on the Final Plat. If the recommended action is disapproval or conditional approval, the report shall include the reasons for disapproval or the conditions for approval, as applicable, and citations to the law or ordinance that is the basis for disapproval or the conditional approval. This report shall be available at least five (5) working days prior to the Commission meeting.
- (e) **Notification.** Public notification of Final Plats shall not be required.
- (f) **Approval.** The Commission shall act on the request for Final Plat approval within thirty (30) days of the Filing Date, or within 60 days of the Filing Date if the applicant's extension request has been granted.
 - (1) The failure of the Commission to act within thirty (30) days of the Final Plat Filing Date (or within sixty (60) days of the Filing Date where an extension has been granted) shall be deemed an approval of the plat, except as otherwise agreed to by the applicant pursuant to Article II, Section 2.
 - (2) A final plat shall not be approved if:
 - (i) The tract is not in conformance with the Composite Zoning Ordinance or the Subdivision Ordinance.
 - (ii) Fees in-lieu of park land dedication as required by this Ordinance, if applicable, have not been paid.
 - (iii) Written acceptance of all improvements required by this Ordinance by the City Manager, or designee, or, in lieu of acceptance, assurance of completion of said improvements pursuant to this Ordinance, has not been received by the City.
 - (iv) Applicable fees required by this Ordinance have not been paid.
 - (v) Notes describing any variances approved by the Commission have not been added to the plat.
 - (vi) Three (3) copies of record drawings have not been submitted to and approved by the City Manager, or designee, along with a statement prepared by a licensed professional engineer.
 - (vii) Diskette(s) containing computer generated drawings of all public improvements shown on the Construction Plans, and all lot lines shown on the Final Plat, have not been submitted to the City Manager, or designee, to update City record drawings.
 - (viii) Three (3) copies of Maintenance bonds meeting the requirements of this Ordinance have not been provided.
 - (ix) An affidavit of all bills paid and a release of liens have not been provided.
 - (x) Any and all other requirements required by this Ordinance or applicable law or identified in the Final Plat process have not been satisfied.
 - (3) The developer should be aware that specific approvals from other agencies may be required.
- (g) **Resubmittal.**
 - (1) After disapproval or conditional approval of the Final Plat, the applicant may submit a Resubmittal Application that addresses each conditional approval or remedies each reason for disapproval provided. The Resubmittal Application that has been accepted as complete shall be reviewed and processed in accordance with Article II, Section 6
 - (2) The Commission shall take action on the Resubmittal Application within fifteen (15) days of Resubmittal Date. The failure of the Commission to act within fifteen (15)

days of the Resubmittal Date, shall be deemed an approval of the plat if the Resubmittal Application satisfies all conditions of a conditional approval or remedies all reasons for disapproval, except as otherwise requested by the applicant and approved by the Municipal Authority pursuant to Article II, Section 2

(h) Application Expiration.

- (1) The Final Plat application shall expire nine (9) months after the date that all initial staff review comments from all reviewing departments have been issued on the application if the final plat is not approved due to the applicant's failure to cause the application to comply with applicable city regulations.
- (2) The City Manager, or designee, may grant one six (6) month extension if the applicant can show substantial progress in obtaining approval of the final plat. Substantial progress shall consist of, at a minimum, a resubmission of the final plat and all relevant materials by the applicant that address all initial staff review comments from all reviewing departments.

(i) Disapproval, Expiration and Extension.

- (1) In the event that an applicant requests The City Manager, or designee, delay submitting a Final Plat to the Commission in accordance with Article II, Section 2, the applicant must present the Final Plat application to the Commission within six (6) months of the date the delay is requested or the Final Plat application will expire. The City Manager, or designee, may grant one six (6) month extension if there are extenuating circumstances.
- (2) If the Commission approves the plat with conditions, the application will not expire until six months from the date of such action by the Commission. One additional six-month extension may be granted by the Commission if the applicant can demonstrate substantial progress in compliance with conditions.
- (3) The approval of the final plat by the Commission shall expire within one (1) year of the date of approval if the final plat is not recorded with the County.

(j) Recordation.

- (1) Prior to the recordation of the Final Plat:
 - (i) The Final Plat shall have been approved by the Commission and signed by the appropriate City officials pursuant to the provisions of this Ordinance.
 - (ii) Copies of any agreements required providing for the proper and continuous operation, maintenance, and supervision of any facilities that are of common use or benefit which cannot be satisfactorily maintained, or which have been rejected for operation and/or maintenance, by an existing public agency shall be executed.
- (2) The City Manager, or designee, shall, upon determination that all provisions of this Ordinance have been satisfied, and all the above conditions have been met, obtain signatures certifying Final Plat approval by the Chairperson of the Commission, as attested to by the Commission Secretary.
- (3) Once the original Final Plat has been certified by the Chairperson of the Commission, The City Manager, or designee, shall notify the developer that the original, signed Final Plat is ready to be recorded.
- (4) The City shall make arrangements to have the Final Plat filed for recordation at the developer's expense in the Official County Records at the appropriate county offices.
- (5) If the land area represented by the subdivision is located outside the corporate limits of the City on the date of its filing for recordation with the Official County Records, then it must be approved by the Commissioners Court of the County prior to recordation unless an agreement between the City and County stipulates differently. It shall be the responsibility of the developer to be familiar with the process, procedures, and requirements necessary to secure County approval. Such approval shall be evidenced by the signature of the statement of certification by the County Judge.

- (6) After the Plat is filed for recordation, the City shall obtain official scanned copies of the recorded final plat. The City shall not issue final address Plats or permits for lots within the subdivision until the Final Plat has been recorded, the developer has paid the county recordation fee, and the scan of the recorded plat is received.
- (k) **Responsibility.** Notwithstanding the approval of any Final Plat by the Commission, the developer and the engineer that prepares and submits such Plats shall be and remain responsible for the adequacy of the design and nothing in this Ordinance shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any Plat submitted.

SECTION 7. AMENDED FINAL PLAT

- (a) **Purpose.** An Amended Plat that meets all of the informational requirements set forth in this Ordinance may be approved and recorded by the City without vacation of the preceding plat, without a public hearing, and without approval of other lot owners within the platted subdivision provided that any persons with a vested interest affected by the Plat amendment signs the Plat and application; and that the purpose of the Amended Plat is:
- (1) To correct an error in any course or distance shown on the preceding Plat; or
 - (2) To add any course or distance that was omitted on the preceding Plat; or
 - (3) To correct an error in the description of the real property shown on the preceding Plat; or
 - (4) To indicate monuments set after death, disability, or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments; or
 - (5) To show the proper location or character of any monument which has been changed in location, character, or shown incorrectly on the preceding Plat; or
 - (6) To correct any other type of scrivener or clerical error or omission as previously approved by the Commission and Council; such errors and omissions may include, but are not limited to: lot numbers, acreage, street names, and identification of adjacent recorded Plats; or
 - (7) To correct an error in courses and distances of lot lines between two (2) adjacent lots where lot owners join in the application for an Amended Plat and neither lot is abolished, provided that such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the Plat; or
 - (8) To relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement; or
 - (9) To relocate one (1) or more lot lines between one (1) or more adjacent lots where the owner or owners of all such lots join in the application for the Amended Plat, provided that such amendment does not attempt to remove recorded covenants or restrictions, or increase the number of lots.
- (b) **Format.** The format of an Amended Plat shall be the same as the format for a Final Plat.
- (c) **Content.** The content of an Amended Plat shall be the same as the content requirements for a Short Form Final Plat.
- (d) **Procedure.**
- (1) The Amended Plat may be submitted without re-approval of a Preliminary Plat or Construction Plans. The Amended Plat, prepared by a surveyor and engineer if required, and bearing their seals shall be submitted to the City for approval before recordation of the Plat. (2) Legible prints, as indicated on the application form shall be submitted to the City along with the following:
 - (i) Completed and signed application forms and the payment of all applicable fees.
 - (ii) Certification from all applicable taxing authorities that all taxes due on the property have been paid.

- (iii) Any information required on the most recent application/checklist and attendant documents needed to supplement the information provided on the Plat.
 - (iv) The City shall require the following note on the Amended Plat: This subdivision is subject to all general notes and restrictions appearing on the Plat of _____ recorded at _____ of the Plat Records of _____ County, Texas.
- (e) **Notification.** Public notification and public hearings shall not be required for an Amended Plat.
- (f) **Approval.** The City Manager, or designee, shall take action any Amended Plat meeting the requirements of this Ordinance within thirty (30) days the Filing Date (or within sixty (60) days of the Filing Date if an extension request has been approved). If the Amended Plat is disapproved, The City Manager, or designee, shall notify the applicant, in writing by the thirtieth (30th) day following the Filing Date, of disapproval, state the reasons for disapproval, and cite to the law or ordinance that is the basis for disapproval. The failure of The City Manager, or designee, to act within thirty (30) days of the Filing Date (or within sixty (60) days of the Filing Date where an extension has been granted), shall be deemed an approval of the Amended Plat, except as otherwise agreed to by the applicant pursuant to Article II, Section 2. If in the City Manager's, or designee. determination, the Amended Plat does not qualify to be revised as an Amended Plat under this Ordinance or state law, the City Manager, or designee, shall disapprove the application in writing, state the specific reason for disapproval, cite to the law or ordinance that is the basis for disapproval, and may require the plat to be processed in accordance with the Final Plat procedures of this Ordinance. An Amended Plat shall not be approved if it is not in conformance with the Composite Zoning Ordinance.
- (g) **Resubmittal.**
 - (1) After disapproval or conditional approval of the Amended Plat, the applicant may submit a Resubmittal Application that addresses each conditional approval or remedies each reason for disapproval provided. The Resubmittal Application that has been accepted as complete shall be reviewed and processed in accordance with Article II, Section 7.
 - (2) The City Manager, or designee, shall take action on the Resubmittal Application within fifteen (15) days of Resubmittal Date. The failure of the City Manager, or designee, to act within fifteen (15) days of the Resubmittal Date shall be deemed an approval of the Amended Plat if the Resubmittal Application satisfies all conditions of a conditional approval or remedies all reasons for disapproval, except as otherwise requested by the applicant and approved by the Municipal Authority pursuant to Article II, Section 2.
- (h) **Expiration.**
 - (1) The Amended Final Plat application shall expire nine (9) months after the date that all initial staff review comments from all reviewing departments have been issued on the application if the amended Final Plat is not approved due to the applicant's failure to cause the application to comply with applicable city regulations. (
 - 2) The Planning Department may grant one six (6) month extension if the applicant can show substantial progress in obtaining approval of the Amended Final Plat. Substantial progress shall consist of, at a minimum, a resubmission of the Amended Final Plat and all relevant materials by the applicant that address all initial staff review comments from all reviewing departments.
 - (3) Approval of an Amended Plat shall expire if said Plat is not recorded in the Plat records of the County within six (6) months of City approval if such delay is the result of any action or inaction by the applicant or their representative.
- (i) **Recordation.** Recordation of an Amended Plat shall follow the same recordation provisions of a Final Plat.

- (j) **Responsibility.** Notwithstanding the approval of any Amended Plat by City Manager, or designee, the developer and the engineer that prepares and submits such Plats shall be and remain responsible for the adequacy of the design and nothing in this Ordinance shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any Plat submitted.

SECTION 8. SHORT FORM FINAL PLAT

- (a) **Purpose.** The provision of adequate data concerning land use, utility requirements, traffic impact, streets, easements and dedications is vital to ensure the continued health, safety and welfare of the City's residents. Recognizing that the significance of this data is reduced for the small-scale projects that are most heavily impacted by the burden of producing this data, the City allows alternate procedures for simple re-subdivisions, lot splits, and the platting of existing development and of land proposed for site development where public improvements are not required.
- (1) Applicants for subdivisions or re-subdivisions not requiring public improvements may follow the procedure set forth below provided that the subdivision meets all of the following criteria:
- (i) The City shall certify that the proposed subdivision meets all the requirements of the Short Form Final Plat.
 - (ii) No new public street shall be necessary for each lot to access a public street.
 - (iii) No off-site improvements to the City's infrastructure are determined to be necessary by the City Manager, or designee.
 - (iv) No drainage improvements are determined to be necessary by the City Manager, or designee.
 - (v) No more than four (4) lots are involved.
- (2) The Commission may require the standard Final Plat procedures outlined in this Ordinance, if the City determines that the Plat is inconsistent with any element of the Comprehensive Plan, or any established City ordinances, codes or policies.
- (b) **Format.** The format of the Short Form Final Plat shall correspond with the format for Final Plats as required by this Ordinance.
- (c) **Content.** The content of the Short Form Final Plat shall correspond with the content for Final Plats as required by this Ordinance, except that:
- (1) Construction Plans may not be required.
 - (2) The City may permit omission of any informational requirements that are determined by the City to place an excessive burden on the applicant, including, but not limited to contours, centerlines of existing watercourses, etc.
 - (3) The City shall require the following note on the Final Plat: This subdivision is subject to all general notes and restrictions appearing on the Plat of _____, Lot(s) _____, recorded at Instrument Number _____ of Plat Records of _____ County, Texas.
- (d) **Procedure.** The procedure for review and approval of a Short Form Final Plat shall follow the procedure for Final Plats, except that:
- (1) The Short Form Final Plat may be submitted without approval of a Concept Plan, Preliminary Plat or Construction Plans. The Plat, prepared by a surveyor, and engineer if required, and bearing their seals shall be submitted to the Commission for approval before recordation of the Plat.

- (2) Legible prints, as indicated on the application form shall be submitted at least thirty (30) days prior to the regular meeting of the Commission along with all information required by the most recent application/checklist and the following:
 - (i) Completed application forms and the payment of all required fees.
 - (ii) Copy of the deed restrictions or covenants, if such documents are to be used. These shall be filed for record in conjunction with the filing of the Plat.
 - (iii) Certification from all applicable taxing authorities that all taxes due on the property have been paid.
 - (iv) Notification materials as required herein.
 - (v) A petition requesting annexation, if applicable.
 - (vi) Any attendant documents needed to supplement the information provided on the Plat.
- (3) For projects located within the City's extra-territorial jurisdiction, one (1) extra copy of the above referenced items must be provided to the County for review and approval. The applicant shall be responsible for any additional information required by the County for Short Form Final Plat approval.
- (e) **Notification.** Notification procedures for a Short Form Final Plat are not required unless required by Texas Local Government Code for a re-plat.
- (f) **Approval.** The approval process of a Short Form Final Plat shall be the same as the approval of a Final Plat. A Short Form Final Plat shall not be approved if it is not in conformance with the Hybrid Zoning Ordinance.
- (g) **Expiration.** Application and approval expiration dates for Short Form Final Plat shall be the same as the application and approval expiration dates for a Final Plat. Extensions may be granted as provided for Final Plats.
- (h) **Revision.** The revision process of a Short Form Final Plat shall be the same as the revision process described for a Final Plat.
- (i) **Recordation.** The recordation procedures of a Short Form Final Plat shall be the same as the procedures for a Final Plat.
- (j) **Responsibility.** Notwithstanding the approval of any Short Form Final Plat by the Commission or City Manager, or designee, the developer and the engineer that prepares and submits such Plats shall be and remain responsible for the adequacy of the design and nothing in this Ordinance shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any Plat submitted.

SECTION 9. VACATION OF UNDEVELOPED SUBDIVISION

- (a) **Purpose:** When no lots on a Plat of subdivision have been sold, the developer may desire to start over with a new concept, design, or attempt to reach a different market.
 - (1) A property owner may request the vacation of a Plat prior to the time that the improvements covered by the guarantees are installed.
 - (2) , and when such Plat is vacated, all fiscal sureties shall be returned to the developer.
- (b) **Procedure:** The property owner shall file with the City Manager, or designee, a written request for the plat to be vacated. The request shall include:
 - (1) Identification of the subdivision by name and applicable County recordation data.
 - (2) Proof of ownership of all platted parcels.
 - (3) Proof that all property taxes are current.

- (4) Signed statement from a surveyor, or engineer, registered in the State of Texas indicating all lots that will be vacated and a metes and bounds description of the parcel(s) created as a result of this vacation. This description must match the description of the original description minus any parcels that may have been dedicated as public right of way or easement to the City of Van.
- (c) **Responsibility:** The City Manager, or designee, upon receipt of the above application and proof of all application fees paid, shall issue a notice to vacate plat. The property owner is responsible to ensure the notice to vacate is delivered to the appropriate parties in Van Zandt County to record the notice to vacate and insure the property and tax records accurately reflect the vacation.

SECTION 10. ASSURANCES FOR COMPLETION OF IMPROVEMENTS

- (a) **Purpose.** The provisions of this Ordinance, as set forth in this Section, are designed and intended to insure that, for all subdivisions of land within the jurisdiction of the City, all improvements as required herein are installed in a timely manner in order that:
 - (1) The City can provide for the orderly and economical extension of public facilities and services.
 - (2) All purchasers of property within the subdivision shall have a usable, buildable parcel of land.
 - (3) All required improvements are constructed in accordance with the City Standard Details and Specifications.
- (b) **General Policy.** Prior to approval of a Final Plat by the Commission the applicant shall:
 - (1) Construct all improvements as required by this Ordinance, and provide a surety instrument guaranteeing their Maintenance as required herein; or
 - (2) Provide a surety instrument guaranteeing construction and maintenance of all improvements required by this Ordinance, and as provided for herein.
- (c) **Completion of Improvements.** Prior to the signing of the approved Final Plat by the Chairman of the Commission and Mayor of the City of Van, the developer shall:
 - (1) Complete all improvements required by this Ordinance in accordance with the approved Construction Plans and subject to the approval of the City Manager, or designee, and acceptance by the City, except as otherwise provided for in this Ordinance.
 - (2) Construct all sidewalks as shown on the approved Construction Plans and according to the City Standard Details and Specifications and the Hybrid Zoning Ordinance; including sidewalks not abutting a residential, commercial or industrial lot; sidewalks on arterial streets to which access is prohibited; sidewalks on double frontage lots on the side to which access is prohibited; and all sidewalks on safe school routes. Such sidewalks include, but are not limited to, sidewalks along street frontages of lots proposed for schools, park lots where no park improvements are proposed, detention lots, drainage lots, landscape lots, or similar lots; prior to subdivision acceptance. All other sidewalks shall be constructed and approved for each lot prior to issuance of a certificate of occupancy.
- (d) **Alternative to Completing Improvements.** The City may waive the requirement that the developer complete all improvements required by this Ordinance prior to the approval of the approved Final Plat, contingent upon securing from the developer a guarantee (fiscal surety), as provided for by this Section, for completion of all required improvements, including the City's cost for collecting the guaranteed funds and administering the completion of improvements, in the event the developer defaults. Such guarantee shall take one (1) of the following forms:

- (1) Performance Bond and Payment Bond. The developer shall post a performance bond and payment bond with the City, as set forth herein, in an amount equal to one hundred ten percent (110%) and the payment bond being in an amount equal to at least one hundred percent (100%) of the estimated construction costs for all remaining required improvements, using the standard City form.
 - (2) Escrow Account. The developer shall deposit cash, or other instrument readily convertible into cash at face value, either with the City, or in escrow with a bank or savings and loan institution. The use of any instrument other than cash shall be subject to the approval of the City. The amount of the deposit shall equal one hundred ten percent (110%) of the estimated construction costs for all remaining required improvements. In the case of any escrow account, the developer shall file with the City an agreement between the financial institution and the developer guaranteeing the following:
 - (i) That the funds of said escrow account shall be held in trust until released by the City and may not be used or pledged by the developer as security in any other matter during that period.
 - (ii) That in the case of a failure on the part of the developer to complete said improvements, the financial institution shall immediately make the funds in said account available to the City for use in the completion of those improvements.Such escrow account agreement shall be prepared using the standard City form.
 - (3) Letter of Credit. The developer shall provide a letter of credit from a bank or other reputable institution or individual. This letter shall be submitted to the City and shall certify the following:
 - (i) That the creditor does guarantee funds equal to one hundred ten percent (110%) of the estimated construction costs for all remaining required improvements.
 - (ii) That, in the case of failure on the part of the developer to complete the specified improvements within the required time period, the creditor shall pay to the City immediately, and without further action, such funds as are necessary to finance the completion of those improvements, up to the limit of credit stated in the letter.
 - (iii) That this letter of credit may not be withdrawn, or reduced in amount, until approved by the City according to provisions of this Ordinance.Such Letter of Credit shall be prepared using the standard City form.
 - (4) Cost Estimates. A licensed professional engineer licensed to practice in the State of Texas shall furnish estimates of the costs of all required improvements to the City Manager, or designee, who shall review the estimates in order to determine the adequacy of the guarantee instrument for insuring the construction of the required facilities.
 - (5) Surety Acceptance. The bank, financial institution, insurer, person or entity providing any letter of credit, bond or holding any escrow account, pursuant to this Ordinance, shall meet or exceed the minimum requirements established by City ordinance and shall be subject to approval by the City as provided in the ordinances of the City.
 - (6) Sufficiency. Such surety shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution as set forth in this Ordinance. All such surety instruments shall be both a payment and performance guarantee.
 - (7) If the project is located in the extraterritorial jurisdiction of the City, and is subject to the bonding requirements of the County for the construction of roadways, then that amount of money shall be reduced from the amount required to be posted with the City, provided that the instrument is transferable from the County to the City upon annexation.
- (e) **Time Limit for Completing Improvements.** The period within which required improvements must

- (1) The Commission may, upon application of the developer and upon proof of hardship, recommend to the Council extension of the completion date set forth in such bond or other instrument for a maximum period of one (1) additional year. Such hardship may include delays imposed due to City projects. An application for extension shall be accompanied by an updated estimate of construction costs prepared by a licensed professional engineer, licensed to practice in the State of Texas. A surety instrument for guaranteeing completion of remaining required improvements must be filed in an amount equal to one hundred ten percent (110%) of the updated estimate of construction costs as approved by the City Manager, or designee.
 - (2) The Council may at any time during the period of such surety instrument accept a substitution of principal sureties upon recommendation of the Commission.
- (f) **Failure to Complete Improvements.** Approval of Final Plats shall be deemed to have expired in subdivisions for which no assurances for completion have been posted or the improvements have not been completed within one (1) year of Final Plat approval, unless otherwise approved by the City. In those cases where a surety instrument has been required and improvements have not been completed within the terms of said surety instrument, the City may declare the developer and/or surety to be in default and require that all the improvements be installed.
- (g) **Inspection and Acceptance of Improvements.** The City Manager, or designee, shall inspect all required improvements, to ensure compliance with City requirements and the approved Construction Plans.
- (1) When all required improvements have been satisfactorily completed, the City Manager, or designee, shall either
 - (i) accept, in writing, the improvements as having been satisfactorily completed, or
 - (ii) issue a punch list to the developer denoting items remaining to be completed.
 - (2) The City Manager, or designee, shall have ten (10) working days to complete this inspection upon notification by the developer.
 - (3) The City Manager, or designee, shall issue the report within ten (10) working days of the date of inspection.
 - (4) The City shall not accept dedications of required improvements, nor release or reduce a performance bond or other assurance, until such time it is determined that:
 - (i) All improvements have been satisfactorily completed.
 - (ii) Two (2) copies of record drawings have been submitted to and approved by the City Manager, or designee, along with a statement prepared by a licensed professional engineer that all improvements have been installed and constructed in accordance with the submitted record drawings; provided that applicants subdividing property in the Wholesale Wastewater Service Areas shall submit three (3) copies of such record drawings.
 - (iii) Copies of all inspection reports, shop drawings and certified test results of construction materials have been submitted to and approved by the City Manager, or designee.
 - (iv) Digital files containing computer generated drawings of all public improvements shown on the Construction Plans, and all lot lines shown on the Final Plat, have been submitted to the City Manager, or designee, to update City record drawings.
 - (v) One (1) Maintenance bonds meeting the requirements of this Ordinance have been provided.
 - (vi) An affidavit of all bills paid and a release of liens have been provided.
 - (vii) Any and all other requirements identified in the Final Plat process have been satisfied.

- (viii) Digital file containing computer generated drawings of all public improvements shown on the Construction Plans, and all lot lines shown on the Final Plat, have been submitted to the City Manager, or designee, to update City record drawings.
- (ix) A fiscal surety meeting the requirements of this ordinance.

(h) Reduction or Release of Improvement Surety Instrument.

- (1) A surety instrument may be reduced with the approval of the City Manager, or designee, and the Treasurer/Director of Finance, upon actual construction of required improvements by a ratio that the improvement bears to the total public improvements required for the subdivision, as determined by the City Manager, or designee.
- (2) Before the City shall reduce said surety instrument, the developer shall provide a new surety instrument in an amount equal to one hundred ten percent (110%) of the estimated cost of the remaining required improvements, and such new surety instrument shall comply with this Ordinance.
- (3) The substitution of a new surety instrument shall in no way change or modify the terms and conditions of the performance surety instrument or the obligation of the developer as specified in the performance surety instrument.
- (4) In no event shall a surety instrument be reduced below ten percent (10%) of the principal amount of the original estimated total costs of improvements for which surety was given, prior to completion of all required improvements.
- (5) The City shall not release a surety instrument unless and until all the conditions of this Ordinance have been met.

(i) Maintenance Bond Required.

- (1) Before the release or partial release of any surety instrument guaranteeing the construction of required subdivision improvements, or the approval of the Final Plat where subdivision improvements were accepted prior to the approval, the developer shall furnish the City Manager, or designee, with a Maintenance bond or other surety to assure the quality of materials, workmanship, and maintenance of all required improvements including the City's costs for collecting the guaranteed funds and administering the correction and/or replacement of covered improvements.
- (2) The Maintenance bond or other surety instrument:
 - (i) Shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution.
 - (ii) Shall clearly state both the developer and the City as joint obligees.
 - (iii) Shall cover all facilities requested for City acceptance, including water, wastewater, street and drainage improvements.
 - (iv) Shall be in an amount equal to 10% of the cost of improvements for the first two calendar years. A statement of construction value or final pay estimate shall be provided to the City Manager, or designee, to support said warranty and Maintenance bond amounts.
 - (v) Shall require the Surety to notify the City at least fifteen (15) days prior to the end of the first full calendar year, and the lapse of Maintenance coverage at the end of the second full calendar year.
- (3) In an instance where a Maintenance bond or other surety instrument has been posted and a defect or failure of any required improvement occurs within the period of coverage, the City may declare said bond or surety instrument to be in default and require that the improvements be repaired or replaced. (4) Whenever a defect or failure of any required improvement occurs within the period of coverage and less than one (1) full year of coverage remains, the City shall require that a new Maintenance bond or surety instrument be posted for a period of one (1) full calendar year sufficient to cover the corrected defect or failure.

- (e) **Time Limit for Completing Improvements.** The period within which required improvements must be completed shall be incorporated in the surety instrument and shall not in any event, without prior approval of the City, exceed one (1) year from date of Final Plat approval.
- (1) The Commission may, upon application of the developer and upon proof of hardship, recommend to the Council extension of the completion date set forth in such bond or other instrument for a maximum period of one (1) additional year. Such hardship may include delays imposed due to City projects. An application for extension shall be accompanied by an updated estimate of construction costs prepared by a licensed professional engineer, licensed to practice in the State of Texas. A surety instrument for guaranteeing completion of remaining required improvements must be filed in an amount equal to one hundred ten percent (110%) of the updated estimate of construction costs as approved by the City Manager, or designee.
- (2) The Council may at any time during the period of such surety instrument accept a substitution of principal sureties upon recommendation of the Commission.
- (f) **Failure to Complete Improvements.** Approval of Final Plats shall be deemed to have expired in subdivisions for which no assurances for completion have been posted or the improvements have not been completed within one (1) year of Final Plat approval, unless otherwise approved by the City. In those cases where a surety instrument has been required and improvements have not been completed within the terms of said surety instrument, the City may declare the developer and/or surety to be in default and require that all the improvements be installed.
- (g) **Inspection and Acceptance of Improvements.** The City Manager, or designee, shall inspect all required improvements, to ensure compliance with City requirements and the approved Construction Plans.
- (1) When all required improvements have been satisfactorily completed, the City Manager, or designee, shall either
- (i) accept, in writing, the improvements as having been satisfactorily completed, or
 - (ii) issue a punch list to the developer denoting items remaining to be completed.
- (2) The City Manager, or designee, shall have ten (10) working days to complete this inspection upon notification by the developer.
- (3) The City Manager, or designee, shall issue the report within ten (10) working days of the date of inspection.
- (4) The City shall not accept dedications of required improvements, nor release or reduce a performance bond or other assurance, until such time it is determined that:
- (i) All improvements have been satisfactorily completed.
 - (ii) Two (2) copies of record drawings have been submitted to and approved by the City Manager, or designee, along with a statement prepared by a licensed professional engineer that all improvements have been installed and constructed in accordance with the submitted record drawings
 - (iii) Copies of all inspection reports, shop drawings and certified test results of construction materials have been submitted to and approved by the City Manager, or designee.
 - (iv) Digital files containing computer generated drawings of all public improvements shown on the Construction Plans, and all lot lines shown on the Final Plat, have been submitted to the City Manager, or designee, to update City record drawings.
 - (v) One (1) Maintenance bonds meeting the requirements of this Ordinance have been provided.
 - (vi) An affidavit of all bills paid and a release of liens have been provided.
 - (vii) Any and all other requirements identified in the Final Plat process have been satisfied. (viii) Digital file containing computer generated drawings of all public improvements shown on the Construction Plans, and all lot lines shown on the Final

Plat, have been submitted to the City Manager, or designee, to update City record drawings.

(ix) A fiscal surety meeting the requirements of this ordinance.

(h) **Reduction or Release of Improvement Surety Instrument.**

- (1) A surety instrument may be reduced with the approval of the City Manager, or designee, and the Treasurer/Director of Finance, upon actual construction of required improvements by a ratio that the improvement bears to the total public improvements required for the subdivision, as determined by the City Manager, or designee.
- (2) Before the City shall reduce said surety instrument, the developer shall provide a new surety instrument in an amount equal to one hundred ten percent (110%) of the estimated cost of the remaining required improvements, and such new surety instrument shall comply with this Ordinance.
- (3) The substitution of a new surety instrument shall in no way change or modify the terms and conditions of the performance surety instrument or the obligation of the developer as specified in the performance surety instrument.
- (4) In no event shall a surety instrument be reduced below ten percent (10%) of the principal amount of the original estimated total costs of improvements for which surety was given, prior to completion of all required improvements.
- (5) The City shall not release a surety instrument unless and until all the conditions of this Ordinance have been met.

(i) **Maintenance Bond Required.**

- (1) Before the release or partial release of any surety instrument guaranteeing the construction of required subdivision improvements, or the approval of the Final Plat where subdivision improvements were accepted prior to the approval, the developer shall furnish the City Manager, or designee, with a Maintenance bond or other surety to assure the quality of materials, workmanship, and maintenance of all required improvements including the City's costs for collecting the guaranteed funds and administering the correction and/or replacement of covered improvements.
- (2) The Maintenance bond or other surety instrument:
 - (i) Shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution.
 - (ii) Shall clearly state both the developer and the City as joint obligees.
 - (iii) Shall cover all facilities requested for City acceptance, including water, wastewater, street and drainage improvements.
 - (iv) Shall be in an amount equal to 10% of the cost of improvements for the first two calendar years. A statement of construction value or final pay estimate shall be provided to the City Manager, or designee, to support said warranty and Maintenance bond amounts.
 - (v) Shall require the Surety to notify the City at least fifteen (15) days prior to the end of the first full calendar year, and the lapse of Maintenance coverage at the end of the second full calendar year.
- (3) In an instance where a Maintenance bond or other surety instrument has been posted and a defect or failure of any required improvement occurs within the period of coverage, the City may declare said bond or surety instrument to be in default and require that the improvements be repaired or replaced. Whenever a defect or failure of any required improvement occurs within the period of coverage and less than one (1) full year of coverage remains, the City shall require that a new Maintenance bond or surety instrument be posted for a period of one (1) full calendar year sufficient to cover the corrected defect or failure.

ARTICLE III. DESIGN STANDARDS FOR IMPROVEMENTS

SECTION 1. GENERAL

- (a) **Additional Regulations.** In addition to the requirements established by this Ordinance, all development within the City limits shall be designed so as to comply with the intent and provisions of the Hybrid Zoning Ordinance, building and housing codes, Comprehensive Plan, regulations of the Texas Department of Transportation and the Texas Department of Health, and any other applicable law or regulation adopted by a unit of federal, state or local government; and all development within the extraterritorial jurisdiction of the City shall comply with this Ordinance and all other applicable laws and regulations adopted by a unit of federal, state or local government.
- (b) **Standards in General.** The minimum design standards as contained herein shall provide the basic criteria for evaluating proposed development. The City may, however, establish reasonable design requirements in excess of these established minimum standards, or grant variances from those established minimum standards, where by reason of exceptional topographic, cultural, historic, archaeological, hydrologic, or other physical conditions of the property to be developed or of an adjacent tract, the strict adherence to these standards will result in an inappropriate subdivision design or cause unnecessary hardship.
- (c) **Coordinated Design.** The quality of life and the quality of the built environment in Van is dependent on the quality of design of the individual developments in which people live and work. Good community design requires the coordination of the efforts of each developer of land within the Van community. It is intended that the village of Van, as identified in the City's Comprehensive Plan shall be designed as a group of integrated residential neighborhoods with appropriate non-residential uses and public facilities. Therefore, the design of each development shall be prepared in accordance with the applicable principles established by the Comprehensive Plan for land use, circulation, community facilities and public utility services and in accordance with the following general principles:
- (1) The size of lots and blocks should be designed to provide for adequate water and wastewater service, pedestrian connectivity, traffic circulation, light, air, open space, landscaping and off-street parking. The arrangement of lots and blocks and the street system should be designed to make the most advantageous use of topography and natural physical features. Tree masses and large individual trees should be preserved to the greatest extent possible. The system of sidewalks and roadways and the lot layout should be designed to take advantage of the visual qualities of the area.
 - (2) The components of the street system should be designed to provide multiple routes for pedestrian and vehicular travel needs. A grid network allows local traffic to be dispersed rather than concentrated on collectors and arterials. Design and location of points of access to property should be primarily viewed from a pedestrian perspective, and then secondarily from a vehicular perspective.
 - (3) An open space system throughout Van should provide a non-automobile transportation network as well as a range of active and passive recreation opportunities. Park, open space and recreation facilities should be located with sensitivity to user population, natural features, traffic generation, and nearby land use.
 - (4) Land use arrangement and design should minimize the difference in intensity between adjacent uses in order to provide for the provision of water, wastewater and roadways sufficient to serve the proposed densities and provide for compatible neighboring developments. Buffering techniques, should ensure that residential densities are

compatible with each other, and that residential development is not adversely impacted by higher intensity uses.

- (5) Public utilities and infrastructure should be provided within all subdivisions in order to ensure the health, safety and well-being of the public. Utility capacity should be sufficient to meet accepted standards of service to reasonably anticipated development. Where excess capacity in utility lines or facilities within a subdivision will further the efficient and desirable extension of utilities to adjacent property, equitable provision of such capacity is essential to the orderly growth of the urban area. Applicants shall submit a water and wastewater capacity analysis prior submission of Construction Plans, unless the City Manager, or designee, waives the requirement that the analysis be provided or authorizes the analysis to be submitted concurrently with the Construction Plans.
- (6) Construction of water, wastewater, drainage, gas, electric, telephone and cable television utilities that require utility cuts of a public street shall be repaired pursuant to applicable City ordinances.

SECTION 2. DRAINAGE IMPROVEMENTS

- (a) **Purpose.** The drainage improvement provisions contained herein are deemed necessary for the following reasons:

- (1) Waterways and their associated watersheds within the City's territorial jurisdiction represent significant and irreplaceable recreational and aesthetic resources and contribute directly to the City's public health.
- (2) The continued economic growth of the City is dependent on an adequate quality and quantity of stormwater runoff, a pleasing natural environment, recreational opportunities in close proximity to the City as well as the protection of people and property from the hazards of flooding.
- (3) All watersheds within the City's jurisdiction, and especially those with abrupt topography, sparse vegetation, and thin and easily disturbed soil, are vulnerable to flooding due to unregulated development activities.
- (4) All watersheds within the City's jurisdiction are undergoing development or are facing development pressure.
- (5) If watersheds within the City's jurisdiction are not developed in a sensitive and innovative manner, their water resources, natural environment, and recreational characteristics may be irreparably damaged.
- (6) The City should regulate all drainage within the City's jurisdiction for the public benefit and safety, including both the existing and future generations of citizens of the City, as well as for downstream users of the waterways within the City's territorial jurisdiction.

- (b) **Policy.**

- (1) All drainage improvements within the City's jurisdiction shall be designed in accordance with the Rational Method.
- (2) The Commission shall not recommend approval or approve any Plat or Plan which does not meet the minimum requirements of this Ordinance in making adequate provisions for control of the quantity of stormwater runoff to protect the public health, safety and property, and benefit the present and future owners of property within the development, other lands within the City and neighboring areas.
- (3) It shall be the responsibility of the developer to design and construct a system for the collection and transport of all stormwater runoff flowing into, and generated within the development, in accordance with:

- (i) The requirements of this Ordinance.
 - (ii) Good engineering practices.
 - (iii) Approved engineering plans for construction.
 - (iv) The regulations and principles of law established pursuant to the Texas Water Code.
- (4) In general, drainage improvements shall be designed and constructed in a manner which promotes the development of a network of both natural and built drainageways throughout the community and so as to:
- (i) Retain natural floodplains in a condition that minimizes interference with flood water conveyance, flood water storage, aquatic and terrestrial ecosystems, and ground and surface water.
 - (ii) Reduce exposure of people and property to the flood hazards and the nuisances associated with inadequate control of stormwater runoff.
 - (iii) Systematically reduce the existing level of flood damages.
 - (iv) Ensure that corrective works are consistent with the overall goals of the City.
 - (v) Minimize erosion and sedimentation problems and enhance water quality.
 - (vi) Protect environmental quality, social well-being and economic stability.
 - (vii) Plan for both the large flooding events and the smaller, more frequent flooding events by providing both major and minor drainage systems.
 - (viii) Minimize future operational and maintenance expenses.
 - (ix) Reduce exposure of public investment in utilities, streets and other public facilities (infrastructure).
 - (x) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the public.
 - (xi) Acquire and maintain a combination of recreational and open space systems utilizing floodplain lands.

SECTION 3. TRANSPORTATION IMPROVEMENTS

- (a) **Purpose.** The planning for a thoroughfare system is essential for the continued efficient movement of people and goods, and the Comprehensive Plan shall serve as a guide for the location and scale of future collector and arterial streets. The precise alignment of thoroughfares included in the Plan may be varied to allow adjustments that increase the compatibility of the right-of-way with natural or man-made features such as steep slopes, waterways, wildlife habitats, neighborhoods, historic structures or existing roadways.
- (b) **Policy.**
- (1) All transportation improvements including paths, passages, greenways, streets, trails, driveways, sidewalks, bikeways, traffic control, and parking areas within the City's jurisdiction shall be designed in accordance with the City of Van Hybrid Zoning Ordinance and Comprehensive Plan.
 - (2) Additional street and trail design standards shall be as follows:
 - (i) All streets and trails shall be planned to properly integrate with the existing and proposed system of local, collector and arterial streets and trails and shall conform to the standards contained within the Hybrid Zoning Ordinance and the Comprehensive Plan.
 - (ii) Streets shall be designed so as to minimize speeds through reduced lane widths, curb bump outs, planter strips
 - (iii) Streets and trails shall be extended to the boundary lines of the tract as necessary for eventual extension to the adjacent tract(s) to ensure that block lengths do not,

- in general, exceed the limits defined by this ordinance and to provide access to adjacent property
- (iv) Streets shall provide a pedestrian-oriented streetscape and shall be designed to provide connectivity with street and road block lengths no longer than 650 feet, if broken by an intersection street, and 350', if broken by a pedestrian path, passage or greenway.
 - (iv) Provisions shall be made for the appropriate extension of existing and proposed streets and trails. Streets and trails intended to be extended from an adjacent tract shall be extended.
 - (v) Street and trail right-of-way shall be dedicated with the Plat, and the street and trail shall be constructed with the subdivision improvements for the Plat, for the full length and/or width of the lots in the subdivision adjacent to such street and trail, unless otherwise approved by the City Manager, or designee.
 - (vi) Private, gated streets or drives may not be approved where the gated, private street or drive would prohibit the connection of the street network between neighborhoods or otherwise impair the ability to complete the City's overall transportation network.
- (c) **Street Lighting.** Street lighting shall be installed by the developer for all new streets within the jurisdiction of the City, and shall be designed and constructed in accordance with City Standard Details and Specifications.
 - (d) **Street Signage.** Street signs shall be installed by the developer at all intersections within and immediately adjacent to a proposed development, and shall be designed and constructed in accordance with City Standard Details and Specifications.
 - (e) **Sidewalks.** Sidewalks shall be installed by the developer on both sides of all streets within and immediately adjacent to a proposed development, and shall be designed and constructed in accordance with City Standard Details and Specifications and the Composite Zoning Ordinance.
 - (f) **Maintenance of Private Streets.** The developer of any subdivision in which private streets are approved for construction shall establish a property or home owner's association, or similar entity, (the "POA") that will have a binding, continuing responsibility for the maintenance and operation of the private streets and shall establish adequate funding for such maintenance and operation. The POA's maintenance obligation shall be noted on the Plat and in the restrictive covenants filed of record for the subdivision in a form that is acceptable to the City. The restrictive covenants shall provide for a monthly or annual assessment sufficient to fund the maintenance and operation of the private streets, shall give the City the authority to judicially enforce the covenants requiring adequate assessments to be made and collected and the streets to be maintained and repaired; and shall provide for the City to recover any attorney's fees and expenses incurred in judicial enforcement. Compliance with this section shall be a condition of Final Plat approval.
 - (g) **Private Streets; Required Easements.** The developer of any subdivision in which private streets are approved for construction shall grant the City a public safety easement and a public utility easement over the private streets in the subdivision in the form acceptable to the City, said public utility easement to include cable and telecommunications utilities. Compliance with this section shall be a condition of Final Plat approval.
 - (h) **Non-Residential or Multi-Family Lot Connections.** Development and platting of non-residential and multi-family properties shall provide for and allow reciprocal access for drive lanes, fire lanes, driveways, and parking lots between interior contiguous lots within a subdivision and lots adjacent to another subdivision or non-residential or multi-family property.

- (i) **Subdivision Access.** All subdivisions greater than thirty (30) lots shall require a secondary access unless otherwise approved by the Fire Department. The secondary access shall be constructed in accordance with the current Fire Code and City Standard Details and Specifications.
- (j) **Private Streets: Traffic-calming.** Any HOA or POA of a subdivision tasked with maintenance and operation of private streets, pursuant to this Section, may install traffic calming devices on private streets in accordance with Article 12.07.007 of the City Code of Ordinances. All traffic-calming devices on private roadways in which the City has a public safety or public utility easement shall be constructed in accordance with the City Manager, or designee's design specifications for such devices.

SECTION 4. WATER UTILITY IMPROVEMENTS

- (a) **Policy.** Developers shall be responsible for providing an approved public water supply system consistent with the Comprehensive Plan, this Ordinance and the rules and regulations of the entity providing or to provide water to the development.
 - (1) Where an approved public water supply or distribution main is within reasonable distance of the subdivision as determined by the Commission, but in no case less than one-half (1/2) mile away and connection to the system is both possible and permissible, the developer shall be required to bear the cost of connecting the development to such existing water supply. In some instances, the City may request that the main water connection be oversized or rerouted to suit future water system improvements in that area.
 - (2) The developer shall, consistent with all existing ordinances, make a pro-rata contribution to funding of needed storage facilities, treatment facilities, and specific distribution lines as determined necessary by the City. Under extraordinary circumstances, these provisions may be varied with the approval of the Council and Commission.
- (b) **Design**
 - (1) The design and construction of a public water system shall
 - (i) Comply with regulations covering extension of public water systems adopted by the State of Texas.
 - (ii) Be of sufficient size to furnish adequate domestic water supply and fire protection services to all lots, and to conform with utility system expansion requirements, as identified by the City Manager, or designee.
 - (iii) Be located where maintenance can be accomplished with the least interference with traffic, structures and other utilities;
 - (iv) Be designed in an effort to eliminate the need for booster pumps or other similar devices;
 - (v) Not propose water mains less than eight (8) inches in diameter unless otherwise approved by the City Manager, or designee,
 - (vi) Be acceptable, without penalty, to the adopted City of Van Fire Code. To that end, the fire flows shall meet the provisions set forth within the current Fire Code.
 - (vii) Fire hydrants shall be provided in accordance with the current City of Van Fire Code for all buildings, or portions of buildings hereafter constructed.
 - a) All installed fire hydrants shall meet the requirements of the current City of Van Fire Detail.
 - b) Fire flows shall be calculated with a twenty (20) pound residual pressure.
 - (viii) Include valves on each fire hydrant lead, at each intersection of two (2) or more mains, and valve spacing so that no more than 30 customers will be without water during a shutoff;
 - (ix) Be designed and constructed in accordance with City Standard Details and Specifications; and,

- (x) Be designed and constructed to comply with all applicable rules, regulations and policies of the entity that will provide water service to the development.
- (2) The design of private water systems shall include backflow prevention assemblies for domestic and fire protection systems that are directly or indirectly connected to the City's potable water distribution system.

SECTION 5. WASTEWATER UTILITY IMPROVEMENTS

- (a) **Policy.** Developers shall be responsible for providing an approved wastewater system, consistent with the Comprehensive Plan, this Ordinance and the rules and regulations of the entity providing or to provide wastewater service to the development, throughout the development, such that all lots, parcels, or tracts of land will be capable of connecting to the wastewater system except as otherwise provided herein.
 - (1) Where an approved public wastewater collection main is within reasonable distance of the subdivision as determined by the Commission, but in no case less than one-half (1/2) mile away and connection to the system is both possible and permissible, the developer shall be required to bear the cost of connecting his development to such existing wastewater system. In some instances, the City may request that the main wastewater connection be oversized or rerouted to suit future wastewater system improvements in that area.
 - (2) The developer shall, consistent with all existing ordinances, make a pro-rata contribution to funding of needed lift station facilities, treatment facilities, and specific collection lines as determined necessary by the City. Under extraordinary circumstances, these provisions may be varied with the approval of the Council and Commission.
- (b) **Design.** The design and construction of wastewater collection systems, lift stations, inverted siphons and septic systems shall comply with regulations covering extension of public wastewater systems, and other applicable regulations, adopted by the Texas Natural Resources Conservation Commission and the Texas Department of Health. Under extraordinary circumstances, these provisions may be varied with the approval of the Council and Commission.
 - (1) All new public wastewater systems shall be designed and constructed to operate on a gravity flow basis by taking advantage of natural topographic conditions and thereby reducing the need for lift stations and force mains. Where topography requires an excessive number of lift stations, in the alternative, pressure wastewater systems may be approved by the City Manager, or designee.
 - (2) Flow determinations should include generally accepted criteria for average daily flow, inflow and infiltration, peaking factors, minimum slopes and minimum flow velocities.
 - (3) The minimum size of any gravity flow public wastewater line will be eight (8) inches in diameter.
 - (4) Public wastewater lines shall be located where maintenance can be accomplished with the least interference with traffic, structures and other utilities. Minimum separation distance from water utilities shall be in accordance with the rules adopted by the Texas Natural Resource Conservation Commission.
 - (5) Manholes shall be located so as to facilitate inspection and maintenance, including intersections, horizontal alignment changes, vertical grade changes, change in pipe size or material, and force main discharge points.
 - (6) All wastewater appurtenances shall be designed and constructed in accordance with City Standard Details and Specifications.

SECTION 6. BLOCKS AND LOTS

Except as provided otherwise in this Section, the terms and provisions of the Hybrid Zoning Ordinance establishing the minimum lot area, width, setback line, side yard and rear yard requirements for each zoning or use category are incorporated herein by reference. Such regulations and standards shall be applied to property within the City limits based upon the zoning of the property and to property within the extraterritorial jurisdiction based on the closest applicable standard in the Hybrid Zoning Ordinance.

(a) **Blocks.**

(1) The length, width, and shape of blocks shall meet the following standards:

- (i) Provide adequate building sites (lots) suitable to the special needs of the type of use designated on the Plat;
- (ii) Accommodate lots of the size and dimensions required by this Section and the Hybrid Zoning Ordinance;
- (iii) Provide for convenient pedestrian and vehicular access, circulation, control, and safety of the public.
- (iv) Minimize reductions in the capacity of adjacent streets in so far as possible by reducing the number of turning movement conflicts;
- (v) Provide an appropriate response to the limitations and opportunities of topography. and
- (vi) Increase the ability of building sites (lots) to receive or to be protected from solar gain as the season requires in order to improve utility efficiency and increase the livability of each lot.

(2) Blocks shall not exceed a perimeter length of fifteen hundred feet (1,500) feet.

(3) The width of blocks shall be sufficient to accommodate two (2) tiers of lots with minimum depth as required by this Section. Exceptions to this width shall be permitted in blocks adjacent highways or corridor roads.

(4) The Commission may, at the Preliminary Plat phase, require the dedication at the time of Final Plat of an easement or right-of-way not less than ten (10) feet wide bisecting the center of any block in excess of two thousand feet (2000') in perimeter to accommodate utilities, drainage facilities, and/or pedestrian access to greenbelts or park areas.

(5) Blocks shall be identified on each Plat by consecutive adjacent numbers or letters within each subdivision and portion thereof. Blocks forming a continuation of a previous subdivision block shall continue the block number or letter.

(6) The City Manager, or designee, may administratively approve blocks not meeting the above criteria if unusual conditions are found such as steep slopes or other restrictive topography, floodplains, public land, railroad tracks, freeways, tollways, oil and gas pipelines and facilities, existing adjacent development or other similar features.

(b) **Lots.** All land area within the boundaries of the subdivision or re-subdivision except that area specifically dedicated as public right-of-way for any purpose shall be designated as a lot.

(1) The required lot area, width, depth, building setback line, front, side, street side and rear yard requirements for each lot as established in the Hybrid Zoning Ordinance are incorporated herein by reference for lots that do not have on-site utilities.

(i) Within the City limits such requirements and standards shall be based on the zoning of the property, and,

(ii) Within the extraterritorial jurisdiction, such requirements and standards shall be based on the closest applicable standard in the Hybrid Zoning Ordinance.

(2) The minimum lot size and development constraints for all lots approved to be served by on-site utilities shall be as follows.

- (i) Lots approved to be served by on-site sewage treatment systems and to be connected to a community water supply shall be a minimum of one acre in size.
 - (ii) Lots approved to be served by on-site sewage treatment systems and on-site private water wells shall be a minimum of two acres in size.
- (3) Each lot shown on a Plat shall be clearly designated by a number located within the boundaries of the lot. The boundaries of each lot shall be shown by bearing and distance in relation to the monuments found or established on the ground in conformance with this Ordinance.
- (4) For developments within the corporate limits of the City, the proposed use for each lot shall be indicated on the Plat, and in accordance with the City's Hybrid Zoning Ordinance, as currently amended.
- (5) For developments outside the corporate limits of the City, but within the City's extra-territorial jurisdiction, the proposed use for each lot shall be indicated on the Plat, and consistent with similar uses as defined in City's Hybrid Zoning Ordinance, as currently amended.
- (6) All lots shall be, in general, rectangular, except when the street alignment is curved, in order to conform with other provisions of this Ordinance.
- (7) No lot shall have a lot line intersection of less than forty-five (45) degrees unless the Planning and Zoning Commission determines there is no other reasonable alternative.
- (8) All lots shall face and have contiguous frontage on a usable, dedicated public road right-of-way except lots that have been approved to front on a private street and maintained by a private association. The extent of this frontage (front line) shall conform to the minimum lot width requirements set forth in the City's Hybrid Zoning Ordinance. "Flag" lots may be approved by the Commission provided the minimum width of the flag lot is no less than twenty-five (25) feet; If approved, the narrow "flag pole" portion of the lot shall not be considered when calculating lot width, depth or area requirements, or in establishing setback requirements.
- (9) Lot lines common to the street right-of-way line shall be the front line except for "flag" lots where the front line is the line nearest to the street right-of-way and closest to parallel with such right-of-way. Side lot lines shall project away from the front line at approximately right angles to street lines and radial to curved street lines. The rear line shall be opposite and approximately parallel to the front line.
 - (i) The length and bearing of all lot lines shall be indicated on the Plat; and
 - (ii) Wherever feasible, lots arranged such that the rear line of a lot or lots is also the side line of an adjacent lot shall be avoided.
- (10) Double (reverse) Frontage Lots shall not be allowed without Commission and City Manager, or designee, approval.
- (11) Corner Lots.
 - (i) Lots having frontage on two (2) or more intersecting streets shall be classified as corner lots;
 - (ii) Corner lots adjacent to streets of unequal classification shall access the lower classification street only;
 - (iii) Corner residential lots shall be ten (10) feet wider than the average interior lot on the same block.
- (12) Building Setback Lines.
 - (i) The building setback lines are not required to be shown on the Plat, but if shown, shall conform to the City's Hybrid Zoning Ordinance, as currently amended, if located within the City corporate limits. For developments outside the corporate limits of the City, but within the City's extra-territorial jurisdiction, building

- setback lines, if shown, shall be consistent with similar uses as defined in the Hybrid Zoning Ordinance.
- (ii) A note stating that "all building setback lines shall be in accordance with the City's current zoning ordinance" shall be indicated on the subdivision Plat if such Plat is located within the City corporate limits.
- (13) Lot Access.
- (i) A minimum of one (1) all-weather access area or driveway (either individually, or common to more than one lot) shall be provided connecting each lot to an existing or proposed dedicated public street. An exception may be made for lots within a development which may have similar access to a private street or access easement sufficient to meet the requirements of the Standard Fire Prevention Code.
 - (ii) All driveway approaches shall be constructed to conform with the provisions of this Ordinance, and the City Standard Details and Specifications.
- (14) Lot Numbering.
- (i) All lots are to be numbered consecutively within each block. Lot numbering may be cumulative throughout the subdivision if the numbering continues from block to block in a uniform manner that has been approved on an overall preliminary Plat.
 - (ii) Any lot(s) being re-subdivided shall be renumbered utilizing the original lot number, followed by a letter designation starting with A.
- (15) Lot Easements. Public utility easements on side and rear lot lines shall be required as needed to accommodate public utility and drainage appurtenances, and as specified in this Ordinance.
- (16) Lot Drainage. Lot drainage shall be in conformance with the requirements of this Ordinance.

SECTION 7. EASEMENTS

- (a) The developer shall dedicate easements that allow approved lots within the subdivision to have access to all public utilities. Where necessary to adequately serve the addition or subdivision with public utilities, easements shall be dedicated for all public utilities including water lines, reuse water lines, wastewater lines, and stormwater drainage facilities and associated appurtenances. Such easements shall be provided as deemed necessary by the Commission. Easements shall be dedicated according to the requirements delineated in the application and checklists.
- (b) All existing and proposed easements, safety lanes, and rights-of-way shall be clearly indicated on the Plat or Plan, as well as an indication to the use of each easement or right-of-way.
- (c) No permanent structure may be placed in or over any easement or right-of-way except a structure whose use and location are necessary to the designated use of the right-of-way or easement or which otherwise will not affect the use, maintenance or repair of such easement.
- (d) The width and alignment of all easements or rights-of-way to be dedicated shall be determined by the City Manager, or designee, any applicable utility provider and the Commission, and approved by the Commission, and shall be accompanied by a notarized statement of dedication on the Plat. Such easements shall, at a minimum, include a ten-foot public utility easement dedicated immediately adjacent to all street rights-of-way.
- (e) Easements shall be established and dedicated for all public utility and drainage appurtenances, including common access areas, and other public uses requiring dedication of property rights.
- (f) In so far as practicable, easements shall not be centered on a property line, but shall be located entirely on one (1) side of a lot.

- (g) The City Manager, or designee, is authorized to sign approval and acceptance of easements granted outside of the subdivision platting process that have been reviewed and approved by the City Manager, or designee, and that are granted using a form substantially similar to the form approved by the City Attorney.

SECTION 8. UTILITY LINES

All utility lines and other lines required to service a subdivision and structures located within the subdivision (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 Construction Plans for the portion of the subdivision in which an exception is requested. The City Manager, or designee, may grant an exception if an exception is required by applicable building codes or for public safety reasons. The City Manager, or designee's decision may be appealed in writing to the Commission within ten days of the City Manager, or designee'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.

SECTION 9. TEMPORARY STORAGE OF FILL MATERIAL

Fill material originating from the land that is the subject of a subdivision application may be temporarily stored on said land provided that the developer complies at all times with the following requirements:

- (a) The fill material shall be stored at the location shown on the approved Construction Plans.
- (b) The fill material shall consist of earthen material originating from the subdivision only, shall remain free from debris, and shall be suitable for use as fill material on the future phases of the subdivision. The fill material may not include any material from outside of the subdivision.
- (c) Storage of the fill material shall comply with the Storm Water Pollution Prevention Plan and other sedimentation and erosion controls adopted by the Texas Commission on Environmental Quality.
- (d) The fill material will be placed and stored in such manner so that it is stable, with the side slopes no steeper than a 3:1 (h:v) slope.
- (e) The fill material will be located so as not to disturb any wetland areas that may exist in the subdivision, and will be placed in a manner and location so as not to adversely affect the natural course of drainage across the land or impede drainage from neighboring properties.
- (f) Fiscal surety that complies with Article II, Section 10 of this Ordinance in an amount equal to 110% of the cost of removal of the fill material will be filed with the City prior to the acceptance of the subdivision that generates the fill material. The fiscal surety will be based on an estimate prepared by the engineer for the subdivision and approved by the City Manager, or designee.
- (g) The height of the fill material shall not exceed ten (10') feet.
- (h) The location of the fill material must comply with the following setback requirements:
 - (1) 400' setback from major roadways as identified on the Roadway Plan;
 - (2) 100' setback from all other roadways platted at the time of the fill material pile approval; and
 - (3) 100' setback from residential structures.
 - (4) The setback requirements may be reduced by twenty-five (25%) percent if screening of the fill material is provided. Screening includes a six (6') foot privacy fence constructed of cedar with steel posts sunk in concrete. The smooth side of the fence shall face away from the fill material.

- (i) Permission to store fill material in the subdivision will expire and terminate in the event that a Preliminary Plat, Construction Plans, or a Final Plat for any portion of the land expires, or at such time that the improvements for the last phase of the subdivision are accepted.

SECTION 10. BUFFER ZONES

Buffer Zones are intended to protect waterways and aquatic resources from the short- and long-term impacts of Development activities.

(1) Buffer Zones

- (i) Creeks, rivers, or natural drainage ways, shall have a minimum Buffer Zone width of 100' from the 500-year floodplain boundary paralleling each side of the creek or swale. The 500-year floodplain shall be based on the fully developed conditions.
- (ii) In no case shall the Buffer Zones be less restrictive than the 500-year floodplain as depicted from the best available base floodplain model to date using the rainfall data as approved by the City as part of the plan review process. Any revision to the base hydraulic model must be supported with adequate data/information; and must be discussed with City Manager, or designee. Such floodplain analysis shall be approved by the city as part of the plan review process. In case the latest hydraulic model is not available, the city's floodplain administrator shall approve any proposed method for the determination of special flood hazard area boundaries. The floodplain analysis and modelling for such method shall be submitted, reviewed and approved as part of the plan review process.
- (iii) The City Manager, or designee, and City Manager, or designee, may approve minor deviations from the requirements of this Section for Buffer Zones. The decision of the City Manager, or designee, and City Manager, or designee, may be appealed to the City Council in writing within ten business days of their decision.

SECTION 11. TREE PRESERVATION

No Significant Tree shall be removed or vegetation grouping identified in the Comprehensive Plan removed or altered, until a tree and vegetation preservation plan has been approved by the City Manager, or designee, in accordance with this Chapter. Significant Trees and vegetation may be removed only in accordance with the approved tree protection plan, and trees must be protected during construction activities on the property in accordance with the approved tree protection plan.

ARTICLE IV. IMPROVEMENTS

SECTION 1. GENERAL

All subdivision improvements shall be designed and installed in accordance with all applicable elements of the Comprehensive Plan and shall meet the minimum requirements established by this Ordinance and City Standard Details and Specifications.

- (a) **Types of Improvements.** In the absence of any provision to the contrary, the developer shall provide the following improvements, as approved in the Construction Plans, in conformance with the standards, specifications and the requirements of this Ordinance.
 - (1) Drainage improvements, including storm sewer lines and inlets, channels, swales, detention facilities, and other related appurtenances.
 - (2) Transportation improvements, including streets, alleys, bridges, street lighting, street signage, paths, passages, and sidewalks.
 - (3) Water utilities including water distribution lines, fire hydrants, valves, and water storage facilities.
 - (4) Wastewater utilities including wastewater lines, manholes, and lift stations.
 - (5) Park land.
 - (6) Utility improvements for electric, telephone, gas and cable television services shall be installed in conformance with the terms and regulations of the provider of said utility and the ordinances and codes of the City.
- (b) **Continuity of Improvements.** All improvements shall be designed and installed so as to provide for a logical system of utilities, drainage and streets and to create continuity of improvements for the development of adjacent properties. Water, wastewater, transportation and drainage improvements shall be extended to the perimeter of the development, except that the Commission is authorized to vary or modify the requirement for extending water, wastewater, transportation and drainage improvements to the perimeter of a subdivision in accordance with the procedural requirements contained in this Ordinance.
- (c) **Plans for Improvements.** Plans for the improvements required by this Ordinance shall be prepared, reviewed and approved in accordance with the provisions set forth in this Ordinance.
- (d) **Acceptance of Improvements.**
 - (1) During the course of installation and construction of the required improvements, the City Manager, or designee, or his/her designated representative shall make periodic inspections of the work to ensure that all improvements comply with City requirements.
 - (2) Upon completion of all required improvements, the developer may seek acceptance of all public improvements by the City by following the procedures set forth in this Ordinance.
- (e) **Maintenance of Improvements.** Where a subdivision contains drainage, transportation, water or wastewater improvements, parks and grounds held in common, or other physical facilities necessary or desirable for the welfare of the area, or that are of common use or benefit which will not be, or cannot be, satisfactorily maintained by an existing public agency, provisions, acceptable to the Council, shall be made for such facilities. A copy of the agreements providing for the proper and continuous operation, maintenance and supervision of such facilities shall be presented to and approved by the Council, and

approved as to form by the City Attorney, at the time of Final Platting and shall be filed of record with the Plat thereof.

SECTION 2. PARK LAND DEDICATION AND PARK IMPROVEMENTS

Park Land Dedication and Park Improvements Required:

A developer of any subdivision subject to this ordinance or a site development permit subject to the Hybrid Zoning Ordinance which includes residential lots, building sites, or multi-family residential site development within the City limits or the City's extra-territorial jurisdiction, that adds any residential units to any subdivision or multi-family residential site development, shall prepare a park plan to provide for sufficient and suitable park land and park improvements for the purpose of public recreation in accordance with the following provisions:

(a) **Park Plan Approval Process:** A residential developer shall prepare a park plan in conformance with the requirements of this Section and obtain approvals from the Commission as follows:

- (1) If the developer does not propose multi-family development, and the developer is required to submit a subdivision application other than a Short Form Plat as required by this Ordinance, the developer is required to obtain approval of a park plan in compliance with this Section by the City Council in conjunction with consideration of the Concept Plan application.
- (2) If the developer does not propose multi-family development, and the developer is required to submit a subdivision as required by this Ordinance that is permitted to be filed as a Short Form Plat application, the developer is required to obtain approval of a park plan in compliance with this Section by the Planning and Zoning Commission in conjunction with consideration of the Short Form Plat application. However, approval of any public park land dedication other than land identified in the Comprehensive Plan as a Nature Quality of Life area, is required to be approved by the City Council.
- (3) If the developer proposes multi-family development, the developer is required to obtain approval of a park plan in compliance with this Section by the Director of Parks and Recreation in conjunction with consideration of a Site Development Permit application. However, approval of any public park land dedication other than land identified in the Comprehensive Plan as a Nature Quality of Life area, is required to be approved by the City Council.

(b) **Public Park Land Dedication or Payment of Fee In-Lieu Required**

- (1) **Formula for Calculating Area of Park Land:** The acreage of park land to be contributed by a developer prior to Final Plat or Short Form Plat approval of any residential subdivision, or prior to site development permit approval for multi-family residential development, shall be equal to three and one-half (3.50) acres for each additional one hundred (100) dwelling units projected to occupy the fully developed subdivision or development. A "dwelling unit", when used in this section, shall mean each individual residence, including each individual residential unit in a multi-family residential structure or manufactured home park, designed or intended for habitation by a single family.
- (2) **Standards for Dedication of Park Land:** The land dedicated by a developer to meet the requirements of this section shall be suitable for public parks and recreation activities shall comply with the following standards:
 - (i) The dedicated land shall form a single parcel or tract of land at least three (3) acres in size unless the Commission determined that more than one tract or a smaller tract would be in the public interest.
 - (ii) The developer shall provide public access to park land by providing at least fifty percent (50%) of the perimeter boundary of the park with street frontage, or as

determined to be satisfactory by the Commission. At the time the land abutting the delineated areas is developed, the developer of such abutting land shall dedicate and construct streets along all abutting street frontage and shall provide water and wastewater utilities to the boundary of one (1) side of the delineated area to meet minimum requirements of this Ordinance.

- (iii) The developer shall dedicate park land reasonably located near the geographic center of the development, or within an area identified in the Comprehensive Plan as Nature Quality of Life area, and adaptable for use as a public park and recreation facility. However, the Commission may require park land to be located at the edge of a development so that additional land may be added at such time as adjacent land is developed or acquired for public use in accordance with this ordinance. In addition, rare, unique, endangered, historic or other significant natural areas shall be given high priority for dedication pursuant to this ordinance. The Commission may also require areas providing linkage to parks, schools or public places, or areas that preserve the natural character of the surrounding environment, be included in the park land dedication.
- (iv) The developer shall restore and stabilize any disturbed soil and establish vegetative cover of a type determined appropriate for the terrain and by the Director of Parks and Recreation on park land.
- (v) Land dedication of Greenways and Nature Quality of Life areas, as identified in the Comprehensive Plan, shall be a high priority. Developers are responsible for preserving the natural character of the area and dedicating the required right-of-way. Right-of-way dedication or easement size may vary due to site physical characteristics. If the land identified as Nature Quality of Life areas, as identified in the Comprehensive Plan, exceeds the amount of land required for park land dedication by this section, the remainder of the land not required for dedication shall be shown as a reserve park lot to be purchased by the City, or, the Commission may credit the required park improvements fee in an amount equal to the fee in-lieu value (see paragraph 3 below) of the remaining land if such land is dedicated and deeded to the City.
- (vi) Land within the one hundred (100) year floodplain and land that has greater than 15% slope may constitute, in total, not more than fifty percent (50%) of the land dedication requirement. Lands within an inundation easement falling outside of the one hundred (100) year floodplain may constitute up to one hundred percent (100%) of the land dedication requirement if such land remains undisturbed and in a pre-development condition, and if such land is not utilized for another public purpose. In addition, for every acre of land dedicated for park land within the one hundred (100) year floodplain, or having a slope greater than 15%, only one-half (1/2) acre of park land dedication credit shall be given. [Example: If ten acres of park land is required to be dedicated for park land, at least five acres of such park land must be outside the 100-year floodplain and comprised of slopes less than 15%. For the remaining five acres of park land required, the developer can achieve compliance by dedicating five additional acres outside the 100-year floodplain and comprised of slopes less than 15%, or ten additional acres inside the 100-year floodplain and/or comprised of slopes more than 15%, or some combination thereof.]
- (vii) The developer shall dedicate all park land as a park lot on the applicable Final Plat or Short Form Plat. The developer shall deliver to the City a signed warranty deed transferring title to property dedicated as public park land to the City after City acceptance of park improvements and release of fiscal surety. If the developer fails to deliver the warranty deed in a timely manner, the City may withhold Final Plat approvals and/or the issuance of building permits. The developer shall provide park land free and clear of all mortgages and liens at the

time of such dedication or conveyance. The developer shall have iron rods or pins set in accordance with the Final Plat or Short Form Plat. If a subdivision Plat is not required based on the standards of this Ordinance, the developer shall have iron rods or pins set at corners identified on a recordable land survey completed by a land surveyor registered in the State of Texas.

- (3) Payment of Fee In-Lieu of Park Land Dedication: In general, the Commission shall favor the dedication of park land over the payment of a fee in-lieu of park land dedication for single family and two-family subdivisions except for Short Form Plats and multi-family development unless such Plat or multi-family development contains land identified as park land in the City Parks, Recreation & Open Space Master Plan. However, the Commission may require a developer to pay a fee in-lieu of park land dedication in accordance with the following:
- (i) If the amount of park land required to be dedicated is less than three (3) acres, the Appropriate Reviewing Authority may require a fee in-lieu of land dedication.
 - (ii) Such fee shall be in the amount of \$2,500 per dwelling unit, or the amount established by separate ordinance or resolution.
 - (iii) The developer shall pay the in-lieu fee to the City prior to approval of the Final Plat, Short Form Plat, or, in the case of multi-family development, prior to site development permit approval.

(c) Park Improvements

- (1) In addition to the required dedication of land or fees in-lieu of land dedication as set forth above, the developer shall also pay a park improvements fee to the City prior to approval of a Final Plat or Short Form Plat, or, in the case of multi-family development, prior to site development permit approval. Such park improvements fee shall be sufficient to provide for the development of amenities and improvements on the dedicated land to meet the standards for a neighborhood park to serve the area in which the subdivision is located. The park improvements fee shall be calculated on the basis of \$500 per dwelling unit, or the amount established by separate ordinance or resolution.
- (2) In lieu of payment of the park improvements fee, the Commission may approve a plan from the developer to construct park improvements. If the park or any portion of the improvements meet strategic needs for future parks and/or trails, the developer may be required to construct trails or other park amenities in lieu of payment of the park improvements fee. This plan shall meet the following standards:
- (i) All plans and specifications for the construction of such amenities and improvements shall be reviewed and approved by the City.
 - (ii) Amenities and improvements shall include one (1) or more children's play areas, picnic areas, game court areas, turf play fields, swimming pools, recreational buildings, trails (sidewalks, walkways or bike trails), and landscaped sitting areas.
 - (iii) The value of amenities and improvements shall be greater than or equal to \$500 per residential dwelling unit, or the amount established by separate ordinance or resolution.
 - (iv) All park areas and playground equipment shall be in accordance with the U.S. Consumer Products Safety Commission - Publication 325, as currently amended and in accordance with current provisions of the Americans with Disabilities Act.
 - (v) These park improvements shall be completed to the satisfaction of the City Parks and Recreation Director prior to release of fiscal surety or, in the case of a multi-family development, prior to issuance of a certificate of completion or a certificate of occupancy for the project.
 - (vi) These park improvements shall be designed, reviewed and permitted in conjunction with a Site Development Permit application and/or subdivision

Construction Plans as deemed appropriate by the City Parks and Recreation Director.

- (d) **Privately Owned & Maintained Parks:** The Commission may approve a plan from the developer to provide privately owned and maintained park land and park improvements meeting all requirements of this section in-lieu of public park land dedication and public park improvements. However, the Commission shall not approve a plan for privately owned park land and park improvements if such land is shown in the Comprehensive Plan as land to meet strategic needs for future parks and/or trails. In addition, such plan shall meet the following:
- (1) Private ownership and perpetual maintenance of such areas and facilities shall be adequately provided for by recorded written agreement, conveyance, and/or restrictions.
 - (2) The use of such areas and facilities shall be restricted to park and recreational purposes by a recorded covenant, which runs with the land in favor of the future owners of property, and which cannot be defeated or eliminated without the consent of the Council.
- (e) **Alternative Park Land Dedication and Park Improvements Plan:** The Commission may approve a plan from the developer for an alternative park land dedication and park improvements plan meeting the following standards.
- (1) If all other standards of this section are met, the amount of park land to be dedicated may, if approved by the Commission, be reduced, if the reduced value of the land dedication is compensated by an equal or larger increase in the value of park improvements. However, in no case shall the amount of park land dedicated, whether private or public, be less than seventy five percent (75%) of the amount required by this section. The calculation to convert park land value to additional park improvements shall be determined based on how much fee in-lieu would be required to compensate for the park land deficiency and by adding this dollar amount to the required dollar value of park improvements.
Example: If twenty acres is required to be dedicated as park land, and the applicant proposes 16.5 acres there would be a park land deficiency of 3.5 acres. 3.5 acres is equivalent to 100 residential units worth of park land dedication and the fee in lieu of park land dedication is equivalent to \$2,500 per unit. Therefore, the amount of park improvements could be increased by \$250,000 (100 units times \$2,500).
 - (2) If all other standards of this section are met, the amount of park improvements may, if approved by the Commission, be reduced, if the reduced value of such improvements is compensated by an equal or greater increase in the value of park land to be dedicated. The calculation to convert park improvements value to additional park land shall be determined based on reducing the required park improvements dollar value by not more than the fee in-lieu dollar value of the additional park land to be dedicated.
Example: If \$500,000 worth of park improvements is required, and the applicant proposes \$395,000 worth of improvements, this would amount to a \$105,000 deficiency in park land improvements. Dividing this number by the fee in lieu value of park land required per unit (\$2,500) yields 42 units ($\$105,000 / \$2,500 = 42$). The park land requirement for 42 units is 1.47 acres. Therefore, an additional 1.47 acres of land could be dedicated in lieu of \$105,000 of improvements.
- (f) **Park Fund Established:** The City hereby creates a separate fund to be entitled "Park Fund." Money, and the interest on such money, collected as a fee in-lieu of park land dedication, and park improvements fees, shall be held in said fund in trust to be used by the City solely and exclusively for the purpose of purchasing, improving, and/or renovating public park and recreational land and shall not be used for maintaining or operating public park facilities. Improvements to public park and recreational land includes public art

installations. The Park Fund will contain a category entitled "Park Public Art Fund" where fifteen percent (15%) of fee-in-lieu and park improvements fees, and interest on such money, will be held to be used for public art in public parks and recreational land; provided that the City Council may, from time to time, authorize use of the funds for purchasing parkland or non-public art improvements or renovations when determined necessary in relation to a particular public park project. Such fund shall be invested or held in an interest-bearing account and all earnings and interest shall accrue to the Park Fund.

- (g) **Subdivision Changes:** In the event a developer obtains Commission approval to deviate from the approved Preliminary Plat thereby increasing the number of dwelling units projected, or where the use of property is changed from a non-residential use to a residential use, the owner or developer shall be obligated to provide additional land or fees for the park land and amenities required for the additional dwellings in accordance with this section prior to the City approving the Final Plat for recordation.
- (h) **Phasing Plan:** If a developer proposes a multi-phased residential subdivision or other residential development, the developer shall submit a proposed park phasing plan to indicate a plan for phasing park land dedication and/or park improvements to coincide with the development phasing. This park phasing plan shall be approved in conjunction with the park plan as provided by this section. A park phasing plan shall include provisions for compliance with the standards of this section for all phases of the development. A phasing plan may propose park land, park improvements and/or fee in-lieu in an early phase of development to fulfill requirements of a later phase of development, but in no case shall a phasing plan propose park land, park improvements and/or fee in-lieu in a later phase of development to fulfill requirements of an earlier phase of development unless the developer provides adequate fiscal surety with the earlier phase of development. Such fiscal surety shall be in a form that shall not expire unless specifically released by the City.
- (i) **Fiscal Surety:** Except for multi-family development, prior to Final Plat or Short Form Plat approval, the developer shall provide fiscal surety for the completion of all park improvements that complies with this subsection and Sec. 28 of this Ordinance (to the extent Sec. 28 does not conflict with this subsection), and the fiscal shall be in a form acceptable to the Director of Parks and Recreation and the City Attorney. Unless otherwise approved, such fiscal shall be in the form of a letter of credit from a major lending institution, or cash held in escrow. Such fiscal surety shall be held by the City until either the City has accepted all public park improvements and title to the public park land, or the City has approved on final inspection all private park improvements. Such fiscal surety shall be in a form that shall not expire unless specifically released by the City.

PARK LAND DEDICATION AND PARK IMPROVEMENTS OPTION SUMMARY

(The Commission shall determine which option is acceptable.)

OPTION ONE

Land Dedication: (3.50 acres per 100 dwelling units) + **Park Improvements Fee** (\$500 per dwelling unit)

OPTION TWO

Land Dedication: (3.50 acres per 100 dwelling unit) + **Park Improvements** (A minimum of \$500 per dwelling unit must be spent on park improvements that meet City specifications)

OPTION THREE

Fee-in-Lieu of Land Dedication: (\$2,500 per dwelling unit) + **Park Improvements Fee** (\$500 per dwelling unit)

OPTION FOUR

Privately Owned & Maintained Parks: Private Park land and park improvements meeting the standards of this Section.

OPTION FIVE

Alternative Park Land Dedication and Park Improvements Plan: A customized plan that may include combinations of all other options.

ARTICLE V. ADMINISTRATION

SECTION 1. GENERAL

For all development of land within the scope of this Ordinance, a Plan of the development shall be prepared and submitted to the City for approval or disapproval, as provided for in this Ordinance.

(a) **City Responsibilities.** The City shall administer the provisions of this Ordinance and in furtherance of such authority, the City shall:

- (1) Maintain permanent and current records with respect to this Ordinance, including amendments thereto.
- (2) Receive and file all Concept Plans, Preliminary Plats, Construction Plans, and Final Plats together with applications therefore.
- (3) Forward copies of the Preliminary Plat, Construction Plans, and Final Plat to the County, when the development is located within the City's extraterritorial jurisdiction.
- (4) Review all Concept Plans, Preliminary Plats, Construction Plans, and Final Plats to determine whether such Plats comply with this Ordinance.
- (5) Forward Plans and Plats to the Commission as required by this Ordinance, together with its recommendations thereon.
- (6) If required, forward Plans and Plats to the Council, together with the recommendations of the Commission and The City Manager, or designee.
- (7) Make such other determinations and decisions as may be required of the city by this Ordinance, the Commission or the Council.

(b) **Interpretation of Provisions.** In the interpretation and application of the provisions of this Ordinance, the following regulations shall govern:

- (1) 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.
- (2) Whenever both a provision of this Ordinance and any other provision of this Ordinance, or any provision in any other law, ordinance, resolution, 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.
- (3) Where there arises a question concerning the meaning or intent of a provision of this Ordinance, the City is hereby implored to 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.
- (4) 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.
- (5) The terms, provisions and conditions of this Ordinance shall be interpreted and applied in a manner consistent with Chapter 212, Tex. Loc. Gov't. Code

(c) **Consistency with the Comprehensive Plan.** All subdivision Plats shall conform to the Comprehensive Plan for the community and be consistent with all of the elements thereof. Where the proposed subdivision Plat is at variance with one (1) or more of the elements of the Comprehensive Plan, the developer shall 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 approval. Inconsistency with the provisions

of the Comprehensive Plan shall be grounds for disapproval of the subdivision Plat by the City.

- (d) **Consistency with the Zoning Ordinance.** All development projects within the corporate limits of the City shall be in conformance with the Zoning Ordinance. Where the proposed subdivision Plat 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. Any subdivision Plat for land within the City that does not have the proper zoning classification or approvals shall be denied by the City at or near the time of application.

SECTION 2. VOLUNTARY ANNEXATION

For projects located in the City's extraterritorial jurisdiction, and at the time of subdivision Plat submittal, the developer should consider making a request for voluntary annexation to the City of Van, Texas, for any subdivision or development which will impact the City and have effect on any of the following:

- (1) City water and wastewater utilities.
- (2) City services (including police, fire, sanitation, emergency services).
- (3) City park and recreation facilities.
- (4) City's drainage system.
- (5) Other City facilities (including library, streets, hospital, etc.).

SECTION 3. VARIANCES

A variance to the provisions of this Ordinance shall be considered an exception to the regulations, rather than a right. Whenever a tract to be developed is of such unusual size or shape or is surrounded by development of such unusual conditions that the strict application of the requirements contained in this Ordinance would result in substantial hardship or inequity, the Commission may vary or modify, except as otherwise indicated, such requirement of design as provided for herein, but not of procedure or improvements, so that the developer may improve his/her property in a reasonable manner, but so that, at the same time, the public welfare and interests of the City are protected and the general intent and spirit of this Ordinance are preserved in accordance with the following provisions:

- (a) **Jurisdiction.** When a written request for a variance from the design requirements of this Ordinance is filed:
- (1) the Commission may approve such written request for variances to the design standards and such variance(s), if granted, shall also be considered to be a modification of the zoning regulations, but not the zoning districts, applicable to the specified property within such development within the City limits; or
 - (2) if the request would constitute a major departure from the applicable provisions of this Ordinance for such features as: lot size, setback lines, etc., such variance request shall be considered by the Council in accordance with the Council's powers and procedures as set forth in the Zoning Ordinance, and the Council's decision shall be final; and (3) after giving notice of such requested variances, the Commission may consider each such variance request during the course and process of considering the application for subdivision Plat approval given or granted
- (b) **Notification.** The notification procedures for variance requests shall be the same as the notification procedures described for a Concept Plan.
- (c) **Approval.** In granting approval of a request for variance, the Commission and Council shall conclude that the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this Ordinance would result in unnecessary hardship,

and so that the variance observes the spirit of this Ordinance and concludes that substantial justice is done. The Commission and Council shall meet these requirements by making findings that

- (1) The public convenience and welfare will be substantially served;
- (2) The appropriate use of surrounding property will not be substantially or permanently impaired or diminished;
- (3) The applicant has not created the hardship from which relief is sought;
- (4) The variance will not confer upon the applicant a special right or privilege not commonly shared or available to the owners of similar and surrounding property;
- (5) The hardship from which relief is sought is not solely of an economic nature;
- (6) The variance is not contrary to the public interest;
- (7) Due to special conditions, the literal enforcement of the ordinance would result in an unnecessary hardship; and
- (8) In granting the variance the spirit of the ordinance is observed and substantial justice is done.

SECTION 4. CONDITIONS FOR ISSUING A BUILDING PERMIT

No improvements to be accepted by the City for ownership, maintenance and operation shall be accepted; 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; no site development permit shall be issued for 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 provisions of the City's Code of Ordinances, except as herein exempted or specifically exempted by the City Council or upon the written application and approval of a variance. Every official and employee of the city vested with the duty or authority to issue an approval, permit or certificate shall not issue an approval, permit or certificate for any application, plan, plat, use, building, improvement, or purpose that conflicts with any provision of this Ordinance. Any approval, permit, or certificate issued in conflict with the provisions of this Ordinance shall be null and void.

SECTION 5. FEES

To defray the costs of administering this Ordinance, the applicant seeking Plat 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 6. AMENDMENTS

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 7. 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 8. ENFORCEMENT

- (a) **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 Penalty.** Any person who removes a Significant Tree greater than 8 inches in caliper prior to approval of a tree preservation plan, or who removes a Significant Tree greater than 8 inches in caliper that is not authorized to be removed under an approved tree preservation plan shall be charged and shall pay a fee of \$300 per inch for each Significant Tree greater than 8 inches in caliper removed in violation of this ordinance. The City will rely on remaining evidence on site to determine if a violation of this ordinance has occurred. For enforcement purposes the City will consider that any stump remaining on the property which is eight inches or more in diameter measured at ground level or higher was a stump of a Significant Tree greater than 8 inches in caliper. Furthermore, any cut wood discovered on site will be considered evidence of a Significant Tree greater than 8 inches in caliper if the diameter of the cut wood is measured at eight inches or greater at any point on any piece of cut wood. A Plat or Construction Plan application for property from which one or more Significant Trees have been removed in violation of this ordinance may not be approved until an administrative penalty owed under this subsection has been paid.
- (c) **Administrative Action.** The City Manager, or designee, and/or the City Manager, or designee, shall enforce this Ordinance by appropriate administrative action, including but not limited to the rejection of plans, maps, plats and specifications not found to be in compliance with this Ordinance and good engineering practices, and the issuance of stop work orders.
- (d) **Court Proceedings.** Upon the request of the 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.

SITE DEVELOPMENT ORDINANCE OF THE CITY OF VAN, TEXAS

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SITE DEVELOPMENT ORDINANCE OF THE CITY OF VAN, TEXAS

Article I General Provisions

Section 1. Title and Effective Date

- a) This document shall be officially known and cited as the "Van Site Development Ordinance," and is referred to internally in this document as "this ordinance."
- b) This ordinance shall become effective on _____.

Section 2. Purpose

Pursuant to the Texas Local Government Code (TLGC), the City Council enacts this ordinance to:

- a) Promote the health, safety, and general welfare of the City's inhabitants;
- b) Implement the City's comprehensive plan as the City's guide in managing growth, promoting reinvestment, and improving the quality of life of the citizens of Van;
- c) Preserve and protect the natural environment;
- d) Improve the City's appearance;
- e) Provide an environment of equity for all citizens to have access to a diversity of housing choices and pedestrian access to all locations in the city;
- f) Improve mobility for all modes of transportation and promote traffic safety;
- g) Facilitate the adequate provision of public services and utilities;
- h) Encourage the appropriate use of land, buildings, and structures; and
- i) Establish procedures for the processing of planning and zoning actions that affect the development and use of property subject to the planning jurisdiction of the City.

Section 3. Authority.

- a) This ordinance is adopted pursuant to the powers granted and limitations imposed by provisions of the State of Texas, including the statutory authority granted in Title 7, Chapters 211, 212, and 213 of the Texas Local Government Code. and all other relevant provisions of the State of Texas.
- b) Whenever any provision of this ordinance refers to or cites a section of the Texas state statute and that section is later amended or superseded, this ORDINANCE shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.
- c) Whenever a provision of this ordinance requires or authorizes an officer or employee of the City to do some act or perform some duty, it shall be construed to authorize the officer or employee to designate, delegate, and authorize subordinates to perform the act or duty, unless the terms of the provision designate otherwise.

Section 4. Applicability.

- a) **General Applicability.** Unless otherwise stated, this ordinance applies to all land, buildings, structures, and uses located within the City, and if applicable, its extraterritorial jurisdiction (ETJ).
- b) **Applicability to Public Agencies.** To the extent allowed by law, the provisions of this ordinance shall apply to all land, buildings, structures, and uses owned, leased, or otherwise controlled by any district, county, state, city, or federal government agencies in the City of Van. Where the provisions of this ordinance do not legally control such land, buildings, structures, and uses, such agencies are encouraged to meet the provisions of this ordinance.

Section 5. Compliance Required.

No land shall be used or divided, and no structure shall be constructed, occupied, enlarged, altered, or moved until:

- a) All applicable development review and approval processes have been followed in accordance with this ordinance, the City's Subdivision Ordinance and the City's Zoning Ordinance;
- b) All applicable approvals have been obtained; and
- c) All required permits or authorizations to proceed have been issued.

Section 6. Conflicts with Other Ordinances.

- a) Whenever any provision of this ordinance conflicts with other provisions of the City's adopted ordinances, the stricter provision, as determined by the City Manager, or designee, shall be followed.

Section 7. Transfer of Ownership.

Permits, licenses, or approvals authorizing a particular use of land or structure shall transfer with the ownership of the land or structure so long as the land or structures, or any portion of the land or structures, continue to be used for the purpose and in the manner authorized by a permit, license, or approval. No person, including a successor or assignee of the person who obtained the permit or approval, may use the land or structure except in accordance with all the terms, conditions, and requirements of the permit or approval.

Section 8. Severability

In the event one or more of the provisions of this ordinance shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of the City Council that such illegality or invalidity shall not affect any other provision in this ordinance, but this ordinance shall be construed and enforced as if such illegal or invalid provision had not been contained.

Article II: Land-Disturbing Activities

Section 1. Purpose.

The section establishes standards that regulate earthwork construction (including clearing, grading, grubbing, stockpiling, excavation, demolitions, and embankments) on property located within the city, in order to:

- a) Preserve and enhance the City of Van's natural character by preventing untimely and indiscriminate removal or destruction of trees, understory, and ground cover;
- b) Protect and preserve the ecological functions of natural areas by regulating land disturbances and removal of vegetation.
- c) Preserve sequestered carbon in wood, plants and vegetation by limiting the loss of host plants and trees;
- d) Protect the city from sediment entering streets, storm sewers, ditches and streams, which may result in additional taxes for city maintenance costs, increased flooding, impaired water quality, and damage to property;
- e) Promote soil conservation by minimizing land disturbances, thereby reducing sedimentation, air, and surface water pollution; and

Section 2. Applicability.

Except as otherwise provided in this Article II: Land-Disturbing Activities, the following standards shall apply:

- a) **Generally.**
 - 1. No person shall engage in any clearing, grading, grubbing, stockpiling, excavating, cutting, or other site earthwork without first obtaining the proper permit and/or written authorization.
 - 2. Activities shall be limited to the area and scope identified on the plans submitted with the development permit, and shall comply with all state and federal stormwater regulations.
- b) **Exemptions.** Unless otherwise provided in this ordinance, the following shall be exempt from the provisions of this Section:
 - 1. Grading and clearing in emergency situations involving immediate danger to life and property or substantial fire hazards;
 - 2. Any activity where the total volume of material disturbed, stored, disposed of or used as fill does not exceed 25 cubic yards and the area disturbed does not exceed 2,000 square feet, provided it does not obstruct a watercourse and is not located in a floodplain or other environmentally sensitive area;
 - 3. Soil-disturbing activities, excluding tree removal, that are associated with normal agricultural crop operations; or
 - 4. Stockpiling and handling of earth material associated with commercial quarry and landfill operations licensed under the state.

Section 3. Legal Responsibility for Land Disturbance.

Nothing in this ordinance shall preclude any person from liability if that person's actions increase flood hazards to any other person or property. Neither the issuance of a building permit nor compliance with these provisions, or with any conditions imposed in the permitted activities, shall relieve any person from responsibility for damage to other persons or property, nor impose any liability upon the city for damage to other persons or property.

Section 4. Applications.

Permit applications and requirements, processing of applications, and conditions of issuance are as follows:

- a) An application along with the required fee shall be submitted to the City Manager, or designee.

- b) Any permit granted under this section shall expire one year from the date of issuance. Upon a showing of ongoing construction activity, the permit may be extended by the Building Official for one six month period and for an additional fee in accordance with the city's adopted fee schedule.
- c) Reviewed plans shall not be amended without authorization of the Building Official, based on a determination that the modified plan meets all city requirements. The Building Official may stop work or revoke a permit because of incorrect information supplied, or for any violation of the provisions of this Article.

Section 5. General Standards.

Land-disturbing activities shall comply with the Texas Commission on Environmental Quality (TCEQ) regulations found in TXR150000 and this section. The design criteria for erosion and sediment control shall comply with the design standards contained within [REDACTED]. Permittees shall also comply with the following general regulations and standards:

a) General Regulations.

1. The activity will not create or contribute to landslides, accelerated soil creep, and settlement.
2. The activity will not create or contribute to flooding, erosion, or increased turbidity, siltation, or other forms of pollution in a watercourse.
3. Operations shall be consistent with anticipated build-out schedule and shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time.

- b) **Construction Stormwater Notice of Intent (NOI) Required.** The developer or owner shall provide a copy of the signed Notice of Intent (NOI) from the TCEQ for all sites that are larger than five acres or are less than five acres and part of a larger common plan of development that is larger than five acres. A copy of Notice of Termination (NOT) shall be provided to the city after final stabilization is completed and temporary erosion and sediment controls are removed.

c) Construction Site Notice (CSN) Required.

1. A small construction site operator or owner shall provide a copy of the Small CSN Construction Site Notice for all sites larger than one acre and less five acres, or part of a common plan of development greater than one acre and less than five acres.
2. Secondary operators of large construction sites shall provide a copy of the signed Secondary Operator CSN for all sites larger than five acres or part of a larger common plan of development greater than five acres.
3. The CSN notice shall be posted at the construction site in a location where it is safely and readily available for viewing by the general public and city staff. The CSN must be posted at least two days prior to commencing construction activity and maintained in that location until completion of the construction activity.

d) Stormwater Pollution Prevention Plan (SWPPP) Required.

1. The site owner or operator is responsible for routinely inspecting erosion and sediment controls at the site as specified in the SWPPP. The city shall also inspect erosion and sediment controls located at a site for compliance. If a responsible party fails to implement, inspect, and maintain controls as specified in the site's approved SWPPP, the city shall provide such party with

written notice of non-compliance. The responsible party shall have no less than 48 hours to correct the violation, which may be extended for inclement weather or other factors outside of the control of the responsible party at the discretion of the City Inspector.

2. When construction or land-disturbing activities are conducted as a part of a nonresidential or multifamily construction project, temporary erosion and sediment controls shall be installed prior to land-disturbing activities as specified in the approved SWPPP. Permanent erosion and sediment controls that are specified in the SWPPP shall be installed and maintained prior to the occupancy of any nonresidential or multifamily structure. Phased occupancy will only be allowed when there are no outstanding erosion or sediment control violations for the project for which the request is made.
3. When construction or land-disturbing activities are conducted as part of a residential subdivision project, temporary erosion and sediment controls shall be installed prior to land-disturbing activities as specified in the approved SWPPP. Permanent erosion and sediment controls that are specified in the SWPPP shall be installed and maintained prior to final acceptance of a subdivision.
 - i. The permittee for such subdivision shall continue to maintain all temporary erosion and sediment control devices until permanent erosion and sediment control has been established on all lots within the subdivision for which the permittee retains day-to-day operational control and a Notice of Termination (NOT) is issued;
 - ii. If a permittee sells one or more lots in a subdivision to a purchaser, the permittee may extend permit coverage to the purchaser under the developer's NOI. If this occurs, the permittee remains the responsible party for the entire subdivision including the purchased lot(s) and remains liable for violation of this section. A copy of the developer's NOI and a letter from the developer stating that coverage under the NOI has been extended to the purchaser shall be provided to the city as a condition of building permit issuance for the lot(s);
 - iii. If a permittee sells one or more lots in a subdivision to a purchaser, the permittee may choose to not extend permit coverage to the purchaser under the permittee's NOI. If this occurs, the permittee remains the responsible party for only those lots for which the permittee retains day-to-day operational control. The purchaser then becomes the responsible party for the lot(s) and is liable for violation of this section;
 - iv. If a purchaser sells one or more lots prior to final occupancy, the current owner of the lot(s) becomes the responsible party. A copy of owner's NOI and SWPPP shall be provided to the city as a condition of building permit issuance for the lot(s).
- e) **Establishing Ground Cover.** Stabilization of disturbed areas, excluding areas within an approved landscape plan must, at a minimum, be initiated immediately whenever any clearing, grading, excavating, or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. In the context of this requirement, "immediately" means as soon as practicable, but no

later than the end of the next work day, following the day when the earth-disturbing activities have temporarily or permanently ceased.

1. Temporary Stabilization.

- i. Temporary stabilization measures shall be established in all areas of the site where soil disturbances have occurred and where construction activities have temporarily ceased for more than 14 calendar days.
- ii. Temporary stabilization shall be completed no more than 14 calendar days after initiation of soil stabilization measures.
- iii. Temporary stabilization may include seeding, geotextiles, mulches, and similar measures that are designed to reduce or eliminate erosion until permanent stabilization can be achieved or until further construction activity takes place and are approved as part of the permit.

2. Permanent Stabilization.

- i. Final stabilization measures shall be initiated within 48 hours of construction activities being completed on a portion of the site.
- ii. Final stabilization measures shall be a uniform perennial vegetative cover with a density of at least 70 percent of the native background vegetative cover for all unpaved areas not covered by structures.
- iii. Final stabilization shall be completed prior to termination of permit coverage.

f) Cleanup Operations.

1. The property owner shall be responsible for all cleanup operations incidental to the disturbance of the surface of the property within six months of the operation completion date, including removal of temporary erosion and sediment controls if final stabilization has been obtained, and removal of all trash or other materials not suitable for fill;
2. No soil, rock, mud, and/or other construction debris shall be allowed to be deposited on or in the streets, alleys, utility facilities, rights-of-way, easements, or drainage facilities owned or required by the City of Van.
3. Upon establishing permanent ground cover or other approved permanent erosion and sediment control, all temporary erosion and sediment control devices shall be removed by the responsible party, as identified on the SWPPP. Failure to comply with this provision is considered a violation of this section.

Section 6. Compliance Required.

- a) The city may deny the approval of any clearing and grading permit, building permit, site development plan, and any other city approval necessary to commence or continue construction or to assume occupancy, on the grounds that site erosion or sediment controls are determined not to reduce the discharge or sediment, silt, earth, soil, or other materials associated with land disturbances to the maximum extent practicable.
- b) Any person who violates any provision of this section shall be deemed guilty of a violation of this ordinance punishable in accordance with Section 1.6, Enforcement, and the following standards:

1. The cure period will be established by the City Manager, or designee,, and will generally not be less than 24 hours unless the alleged failure represents a risk of destruction of property or injury to persons.
2. The cure period may be extended for inclement weather or other factors at the discretion of the City Manager, or designee.
3. If the permittee does not cure the alleged failure within the time frame specified by the City Manager, or designee, the city may:
 - i. Notify the TCEQ and request that the TCEQ take appropriate action; and
 - ii. Issue a Stop Work Order and may enforce the penalty provision of Section 1.6: Enforcement, against the permittee or site operator, or both.
4. Should the permittee fail in any respect to fulfill the requirements of this section, the city may go onto the property in question and perform such work as may be necessary to fulfill such requirements, including, but not limited to, leveling grounds, establishing temporary stabilization, constructing erosion controls, and removing all soil, rock, debris, and other materials not suitable for fill at the permittee's expense. The city shall bill the permittee for the expenses incurred. If the permittee fails to pay the city for such expenses within 30 days of being billed for same, the city shall have the right to place a lien on the property for all amounts expended by the city, plus interest at the current lawful rate.
 - i. The remedies provided by this section are in addition to any other remedies described in this ordinance. Exercise of any remedy shall not be a bar against, nor a prerequisite for, taking other action against the violator, including civil enforcement remedies.

Article III: Nature Areas

Section 1. Purpose.

This Article is intended to achieve the following goals:

- a) Manage and protect the wooded areas, floodplains and greenways as designated in the City's Comprehensive Plan. ;
- b) Protect the natural and ecological resources that are essential elements of the city's health and community character and which provide irreplaceable plant and wildlife habitat and which clean the air of pollutants and sequester carbon in the process.
- c) Establish a development framework for the city that respects private property rights, while encouraging them to be used responsibly for the benefit of the entire community;
- d) Preserve and enhance the city's distinctive community character and quality of life by ensuring that its natural and built environments are consistent with the community vision and values embodied in the Comprehensive Plan; and
- e) Establish regulations that conform to the requirements of the state and federal government regarding air quality, water quality, and environmental protection.

Section 2. Applicability.

- a) **General Applicability.**

1. The standards of this Article shall apply to all land and all development within the corporate limits of the city, except as otherwise specifically provided for in this section.
2. The standards of this Article shall apply to all land and all development within the extraterritorial jurisdiction (ETJ) of the city that contains a Nature Quality of Life Area, as identified in the City's Comprehensive Plan.
3. The floodplain standards of this section shall apply to all land and all development within the extraterritorial jurisdiction (ETJ) of the city.

b). Exemptions.

1. Property that does not contain a designated Nature Quality of Life area as identified in the Comprehensive Plan.
2. Grading, filling, cutting, or other earth-moving activity on any lot involving less than 25 cubic yards for residential projects, or 50 cubic yards for nonresidential projects.
3. The applicant can demonstrate through a field assessment with the City Manager, or designee, that the subject property contains no designated nature area and the location is not accurately depicted in the Comprehensive Plan.

Section 3. Procedures.

a) Nature Area Compliance Review.

1. **Applicability.** Nature Area compliance review for residential and nonresidential development shall be performed as part of a final plat application pursuant to the city's subdivision ordinance.
2. **Information Required.** Information as required on the applicable checklists shall be provided. Additional information deemed appropriate and necessary to process the application may also be required.
3. **Criteria for Approval.** The requirements of a Nature Area review shall be deemed met either upon approval of an alternate Nature Area plan or when the applicant demonstrates the following:
 - a. The land-disturbing activity complies with the requirements of this ordinance for floodplains, riparian buffers, water related habitat, and upland habitat, as well as all other federal, state, or local laws applicable to the application type;
 - b. The land-disturbing activity will not cause damage to Nature Quality of Life Areas adjacent to the areas to be disturbed;
 - c. The land-disturbing activity complies with the requirements of Article II: Land-Disturbing Activities;
 - d. Protective fencing has been established at the perimeter of the Nature Quality of Life Area. Protective fencing shall clearly mark and delineate all Nature Quality of Life Areas to be protected and preserved for the duration of the land-disturbing activities on the property; and
4. **Expiration.** The Nature Area review shall expire when the final plat for residential development approval expires, or when the site plan approval for a nonresidential development expires.
5. **Credit.** Any Nature Area that is preserved may be used towards meeting:
 - a. Parkland dedication in accordance with the City's Subdivision Ordinance.

- b. Drainage standards in accordance with Article III: Drainage.
- b). **Nature Area Field Assessments.** Nature Area field assessments provide a mechanism for the city to confirm the presence of Nature Areas and shall be conducted by the City Manager, or designee.

Section 4. Official Nature Area Map.

- a). **Nature Area Map.** The Comprehensive Plan contains the official map that identifies areas designated as Nature Quality of Life Areas, or Nature Areas.
- b). **Nature Areas Map Amendments.**
 - 1. The Nature Areas Map may be updated administratively when a Nature Area field assessment is conducted for a property and approved by the City Manager, or designee, pursuant to Section 3 (b): Nature Area Field Assessments.
 - 2. The Nature Areas map may be updated administratively when the FEMA 1% Annual Chance Flood Zones are revised or amended.
 - 3. Substantial amendments of the Nature Areas Map shall follow the procedure for amending the Comprehensive Plan as detailed in the City's Zoning Ordinance. "Substantial amendment" is defined as a change impacting the whole city, excepting changes caused by the publication of new flood insurance rate maps (FIRMs) by FEMA.
- c). **Text Applicability.** The text of this section describes and regulates the protected Nature Areas shown on the City's Nature Quality of Life Areas Map contained within the Comprehensive Plan. In the case of any discrepancy, the text of the Comprehensive Plan shall control.

Section 5. Floodplain Development Nature Areas.

Upon field verification, areas designated as FEMA 1% Annual Chance Floodplain would be classified according to the existing conditions as developed or undeveloped floodplains.

A. Developed Floodplain.

- 1. Development within the developed floodplains shall comply with Article III: Drainage.
- 2. Section 7.4.7: Riparian Buffer and Water-Related Habitat , applies when riparian buffers and water-related habitats are nested, partially or wholly, inside developed floodplain Nature Areas.

B. Undeveloped Floodplain.

- 1. **Permitted Uses and Activities.** The following permitted uses and activities are allowed, when in compliance with Article III: Drainage; and Subpart B, Chapter 30, of the Municipal Code of Ordinances:
 - a. The planting of any new trees or vegetation.
 - b. Restoration or enhancement of floodplains, riparian buffers, water related habitats, upland habitats, wetlands and streams as required by federal and state standards.
 - c. The placement of public or private utility facilities, such as sewer, storm water, water, electricity, gas, or other utilities, as long as the disturbed area is restored to minimized erosion and promote the recovery of the Nature Areas, and when adequately flood-proofed.

- d. Measures to remove or abate nuisances, the removal of invasive plant species, or any other violation of federal, state, or local law, with the approval of the City Manager, or designee.
- e. Parking lots, subject to the limitations on fill and constructed of pervious materials.
- f. Parks, open space, recreational uses, trails, walkways and bike paths.
- g. Storm water quality controls.
- h. Construction of roadways, as long as the disturbed areas are restored to minimize erosion and promote the recovery of the Nature Area, subject to approval of the City Manager, or designee.
- i. Routine repair and maintenance of existing structures, roadways, driveways, utilities, and accessory uses.
- j. Agricultural activity.
- k. Any action taken by federal, state, or local officials in an emergency to mitigate an existing or potential hazard.
- l. The construction of a private driveway, as long as the disturbed areas are restored to minimize erosion and to promote the recovery of the Nature Area, subject to the City Manager, or designee, approval.
- m. Gas well drilling and production as long as the disturbed areas are restored to minimize erosion and to promote the recovery of the Nature Area, subject to the City Manager, or designee, approval.
- n. Culverts and bridges, as long as the disturbed areas are restored to minimize erosion and to promote the recovery of the Nature Area, subject to the City Manager, or designee,

2. Prohibited Uses and Activities.

- a. Placement, handling, processing, or storage of hazardous waste.
- b. Hazardous waste and solid waste landfills.
- c. Land-disturbing activity not authorized by a U.S. Army Corps of Engineers Section 404 Permit or Letter of Permission.
- d. Any new structures or additions, including garages and carports, and storage sheds located within the area mapped as undeveloped floodplain.
- e. Tree and understory vegetation removal, except as allowed by Article IV, Section 3J: Floodways and Improvements.
- f. Septic tanks, septic tank drain fields, and other forms of on-site wastewater treatment.

3. Standards for Fill in Undeveloped Floodplains.

- a. Fill is not allowed in undeveloped floodplains without an equivalent and compensating volume of cut, or removal.

Section 6. Riparian Buffer and Water-Related Habitat Nature Areas.

The following subsection defines permitted and prohibited uses and activities within riparian buffers and water-related habitats.

a). Permitted Uses and Activities.

1. Placement of private residential yard amenities, including but not limited to: gardens; yards; trails; and clearings; that would result in disturbing up to 10 percent of the area, but in no instance shall the protective buffer width be decreased below 25 feet, measured each direction from the centerline of the existing channel or the outer edge of surface water bodies. No disturbance is permitted in delineated wetlands.
 2. Riparian buffers nested, partially or wholly, inside developed floodplains may be disturbed up to 10 percent of the riparian buffer area, but in no instance shall the protective buffer width be decreased below 25 feet, measured each direction from the centerline of the existing channel, or from the outer edge of surface water bodies. No disturbance is permitted in delineated wetlands.
 3. Repair, replacement, or improvement of public utility facilities where the disturbed portion of the Nature Area is restored, and vegetation listed as invasive is removed and replaced with vegetation from the Plant List.
 4. Additions, alterations, rehabilitation, or replacement of existing structures that do not increase the existing structural footprint in the riparian buffer or water related habitat. Any disturbed areas must be restored using native vegetative cover.
 5. Stream, wetland, riparian, and upland enhancement or restoration projects.
 6. Agricultural activity.
 7. Routine repair and maintenance of existing structures, roadways, driveways, utility facilities, accessory uses, and other development.
 8. Construction of roadways, as long as the disturbed areas are restored to minimize erosion and promote the recovery of the Nature Area, and subject to the approval of the City Manager, or designee.
 9. Measures to remove or abate nuisances, or any other violation of state statute, administrative rule, or the City of Van Ordinances.
 10. Any action taken by the city in an emergency to mitigate an existing or potential hazard.
 11. Gas well drilling and production within riparian buffers and water-related habitats as long as the disturbed areas are restored to minimize erosion and promote the recovery of the Nature Area, and subject to the approval of the City Manager, or designee.
- b). **Prohibited Uses and Activities.** The following uses and activities are not allowed in riparian buffers and water related habitats:
1. Land-disturbing activity not authorized by a U.S. Army Corps of Engineers, Section 404 Permit Letter of Permission;
 2. Tree and understory vegetation removal, except as allowed by Subsection 7.5.3J: Floodways and Improvements;
 3. Placement, handling, processing, or storage of hazardous waste;
 4. Any structures, including storage sheds, garages, and carports; and
 5. Septic tanks, septic tank drain fields, and other forms of on-site wastewater treatment.

Article IV: Drainage

Section 1. Purpose.

This section establishes standards that regulate drainage on property located within the city limits and Extra territorial jurisdiction (ETJ), in order to:

- A. Protect human life, health, and property;
- B. Minimize the expenditure of public monies for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the public;
- D. Retain natural floodplains in a condition that minimizes interference with floodwater conveyance, storage, aquatic, and terrestrial ecosystems as well as groundwater and surface water supplies;
- E. Minimize erosion and sedimentation problems and enhance water quality; and
- F. Minimize future operational and maintenance expenses.

Section 2. Applicability.

Except as otherwise provided in this Article III: Drainage, the standards of this section and shall apply as set forth in Article I, Section 4: Applicability.

Section 3. General Drainage Requirements.

- a). **Stormwater Design Criteria Manual Adopted.** In addition to meeting the requirements expressly set out in this ordinance, all drainage systems shall comply with the **Stormwater Design Criteria Manual**.
- b). **Drainage Computation Data.**
 - 1. Design standards for drainage facilities and improvements shall be based on hydraulic and hydrologic computation data submitted and approved by the City Engineer, or designee, prior to submission of the final plat.
 - 2. The City Engineer, or designee, may specify the form and manner in which the necessary data is to be submitted.
- c). **Separation of Stormwater and Sanitary Sewerage Systems.**
 - 1. Stormwater and sanitary sewerage systems are to be used and maintained as separate systems.
 - 2. Drainage facilities shall be designed so they do not connect, direct, or allow stormwater into the sanitary sewerage system.
- d). **Drainage Improvements Required.**
 - 1. All developments shall provide for new drainage facilities, improvements to existing drainage facilities, channel improvements, grading, driveway adjustments, culvert improvements, or any other improvement, drainage facility, or work that is necessary to provide for the stormwater drainage needs of a development, including but not limited to work that is necessary to:
 - a. Provide for the conveyance of all stormwater from the development when fully developed to an adequate discharge point;
 - b. Fulfill any purpose for which the requirements of this section are imposed;

- c. Adequately protect the development from flooding, including the effects of the 100-year flood;
 - d. Properly control any increase in the upstream or downstream stage, concentration, or water surface elevation caused by the development; or
 - e. Provide for the conveyance of off-site storm drainage based on ultimate developed watershed conditions through the development.
 - 2. Such improvements shall be in accordance with the requirements and design standards of this section.
- e). **Off-Site Drainage.**
- 1. Off-site drainage facilities and improvements shall be provided by the permittee whenever additional stormwater runoff from the development would adversely affect any off-site property or overload an existing drainage facility, whether natural or manmade.
 - 2. Where stormwater runoff from three or more acres has been collected or concentrated to one point, it shall not be discharged onto adjacent properties, except into existing streams, channels, or storm drains, unless drainage or flowage easements are obtained from those properties.
 - 3. If the permittee cannot obtain the necessary easements to make required off-site drainage improvements, upon the request of the permittee after compliance with the provisions of this ordinance, the city may, but shall not be required to, initiate eminent domain proceedings to obtain the off-site drainage easements.
- F. **Detention Facilities.** All detention facilities, whether maintained by the city, private property owner, home owners association, or private entity, shall comply with any applicable design requirements of the city and any state or federal laws or regulations, as amended, including the regulations of the Texas Commission on Environmental Quality (TCEQ) or its successor agency. The following standards shall apply to all detention facilities, to the extent they do not conflict with any applicable federal or state laws or regulations, as amended:
- 1. The 100-year flood shall be used to determine the volume of detention storage required. Water quality volume shall be designed per the Stormwater Design Criteria Manual.
 - 2. Detention facilities shall be designed so that any additional runoff generated by the proposed development will not increase the amount of original discharge for storm frequencies from the 1-year, 25-year, and 100-Year flood;
 - 3. Publicly dedicated or privately maintained detention facilities may be used to reduce peak discharges where conditions prevent conveying stormwater to an adequate discharge point or studies show that off-site structural facilities will not mitigate hydraulic effects more efficiently;
 - 4. All detention facilities shall comply with the standards of this section and the Stormwater Design Criteria Manual, as amended;
 - 5. A development may provide for drainage by participating in the design and construction of a regional detention facility. Detailed engineering studies of the entire basin shall be required to ensure that the timing of peak flows has not been altered to create higher peak flows elsewhere in the basin; and
 - 6. Detention facilities may be constructed in phases, if phased to provide for the timely needs of the development.

- G. **Flood Damage Prevention.** All developments regulated by this ordinance shall be subject to and comply with any applicable provision of FEMA Flood Damage and Prevention Regulations and the Municipal Code of Ordinances, Subpart B, Chapter 30: Flood Prevention and Protection Ordinance.
- H. **Floodplain Reclamation-Engineering Criteria.**
1. **Water Surface Elevation.**
 - a. Alterations of the floodplain shall not result in an increase in the 100-Year fully developed watershed water surface elevation on other properties under separate ownership.
 - b. Alteration of the floodplain that could result in any degree of increased flooding to other properties, adjacent, upstream, or downstream is prohibited.
 2. **Stream Velocity.**
 - a. Alterations of the floodplain shall not create an erosive water velocity on- or off-site. The mean velocity of stream flow at the site, after fill, shall be no greater than the mean velocity of the stream flow under existing conditions.
 - b. Alteration to the flood plain that would increase velocities of flood waters to the extent that the significant erosion of flood plain soils will occur either on the subject property or on other properties up or downstream is prohibited.
 - c. City staff shall determine what constitutes an "erosive" velocity based on analysis of the surface material and permissible velocities for specific cross-sections affected by the proposed alteration, using criteria established in the **Stormwater Design Criteria Manual**.
 3. **Conveyance.** Alterations of the flood plain shall be permitted only to the extent permitted by equal conveyance on both sides of the natural channel. The City Engineer's calculation of the impact of the proposed alteration shall be based on the "equal conveyance" principle in order to insure equitable treatment for all property owners. Under equal conveyance, if the city allows a change in the flood carrying capacity (capacity to carry a particular volume of water per unit of time) on one side of the stream due to a proposed alteration of the flood plain, it shall also allow an equal change to the owner on the other side. The combined change in flood carrying capacity, due to the proposed alteration, plus corresponding alteration to the other side of the stream, shall not cause either an increase in flood elevation or an erosive velocity, or violate the other criteria.
- I. **Floodplains.** Where regulations within this section require a development to make any drainage improvements in or adjacent to a floodplain to provide for the ultimate base flood, the permittee may, in lieu of making the required improvements, restrict development in the area subject to flooding because of the failure to provide for the drainage improvements. In such cases, the area to be left undeveloped shall be dedicated to the public as a floodplain and drainage easement on the final plat.
1. **Floodplain Restrictions.**
 - a. Development is prohibited within the floodplain of any stream or water course with a contributing drainage area of one square mile or more. These floodplain areas shall be preserved from all destruction or damage resulting from clearing, grading, or dumping of earth, waste or material, or stumps. Modifications of this requirement shall be considered by the Floodplain Administrator.

- b. The purpose of a floodplain easement is to preserve open space in an area subject to riverine flooding. Construction of new buildings within floodplain easements is prohibited. Filling, grading, or other activities that obstruct flood flows or remove flood storage are prohibited in floodplain easements. Floodplain easement regulations listed in this section also apply to drainage easements dedicated for the purpose of preserving floodplain areas as open space.
 - c. New fences shall not be permitted within the floodplain, regardless of whether or not there is a drainage easement. The Floodplain Administrator may approve exceptions to this prohibition for specific sites where adequate mitigation measures are provided, as determined by the Floodplain Administrator, such as provision of a breakaway area.
2. **Stream Restrictions.** Major streams (those with a contributing drainage area of one square mile or more) shall remain in open natural condition; smaller streams or drainage ways (contributing drainage area less than one square mile) may be channelized if allowed by Article II: Nature Areas, and provided they meet the criteria of the **Stormwater Design Criteria Manual**. When a stream or excavated channel is to remain open, or in its natural condition, it shall meet one of the following requirements:

Dedication, Ownership, and Maintenance Requirements.

- i. For single-family residential subdivisions where more than 50 percent of the lots are less than one-half acre in size, dedication of the stream or drainage way shall be made to the city or to an approved homeowner association (HOA).
- ii. A drainage or floodplain easement shall be dedicated as a single lot to the city, a homeowners association, or other legal entity as allowed by this subsection.
- iii. The Planning and Zoning Commission may waive this dedication requirement for the following reasons:
 - a. Replats which were originally platted prior to the dedication requirement.
 - b. Subdivisions of five lots or less.
- iv. Streams and drainage ways may be retained as a part of a nonresidential lot, and it shall be the property owner's responsibility to maintain this area as set forth by easement, except as otherwise provided.
- v. A maintenance easement shall be granted to the city and shall grant the right but not the obligation to maintain and construct drainage facilities if the stream or drainage way is not being properly maintained.
- vi. The maintenance entity's by-laws and covenants filed of record shall provide for ongoing maintenance. The easement shall authorize a lien against individual abutting lots in favor of the city to secure the payment to the city for any expenses incurred by the city in the event of default or to secure payment for any expenses incurred if the maintenance entity is not properly maintaining the stream or drainage way.
- vii. Adequate floodplain and drainage easements shall be required that give the city the right but not the obligation to maintain and construct

drainage facilities if, in the city's sole opinion, the maintenance entity is not properly maintaining the stream or drainage way.

viii. Where the city has designated a floodway or floodplain as part of the city park system, the permittee shall provide access by one of the following methods. In all cases, the city shall approve the proposed street alignment fronting on city parks as required for this purpose:

- a. Parallel streets fronting along the park; or
- b. Courtyard or cul-de-sac streets that provide public access fronting on the park; or
- c. Loop streets that provide public access fronting on the park.

3. **Minimum Finished Floor Elevations.**

- a. Minimum finished floor elevations, the datum used, and the source of the elevation information shall be labeled on the final plat where required. Vertical datum used for minimum finished floor elevations shall be the same as the datum used to establish 100-Year base flood elevations.
- b. The city reserves the right to specify a new or revised minimum finished floor elevation at the time of issuance of a building permit if new or more accurate information, as determined by the Floodplain Administrator, warrants the change. This minimum finish floor elevation shall apply to the building foundation, including basements, and electrical and mechanical equipment.
- c. Minimum lot and habitable space for lots within the 100-Year base flood, abutting the 100-Year base flood, or within 200 feet of the 100-Year base flood shall be established as follows:
 - i. For lots adjacent to a stream without Base Flood Elevations (BFE's) identified on the official FEMA Flood Insurance Rate Maps, any habitable structure shall have a finished floor elevation at least 18 inches above the 100-Year base flood elevation based on fully developed conditions. This shall apply to all rivers or streams regardless of whether the 100-Year floodplain is shown on the FEMA map.
 - ii. For lots adjacent to a stream with Base Flood Elevations (BFE's) identified on the official FEMA Flood Insurance Rate Maps, any habitable structure shall have a finished floor elevation at least 18 inches above the 100-Year base flood elevation based on fully developed conditions, or at least 30 inches above the FEMA Base Flood Elevation.

J. **Floodways and Improvements.**

1. Generally, floodways serving drainage areas larger than one square mile in area and that are still functioning primarily in a natural and adequate state shall not be altered or improved to provide for the drainage needs of a development, unless there is no other reasonable means or method to provide for such drainage.
2. As part of required improvements, debris, small brush, vines and other obstructions may be cleared from that portion of any channel located within or on the perimeter of the development, as directed by the City Manager, or designee, of Utilities, prior to the connection of any utilities for any building within a development.
3. A development may also be required to provide clearing of off-site floodways to the extent necessary to adequately receive or convey stormwater runoff from the

development, based on the roughness coefficient approved during the development review process.

4. Developments discharging stormwater runoff into a floodway shall provide grass or similar vegetation as approved by the city, on-site and off-site areas in public easements, when necessary to preserve or restore any disruption to the natural state.
5. The vegetation requirement shall apply to any portion of any floodway, on-site or off-site, that would be affected by runoff from the development.

K. **Channel Requirements.** Required channel improvements shall be based on the amount and concentration of the stormwater runoff from the development. All developments shall provide for the permanent improvement and modification of existing drainage system channels or dedication of floodplain areas based on flood conditions as necessary to serve the development, subject to and in accordance with the following:

1. Channels that serve as floodways having a drainage basin one square mile or larger shall be maintained in a natural state, as provided for in this section.
2. Channels serving a development shall contain the 100-Year base flood with at least one foot of freeboard.
3. Excavated channels shall have a concrete pilot channel, for access or erosion control, as outlined in the specifications of the Stormwater Design Criteria Manual. Locations where earth channel improvements are required to carry a flood discharge through an undeveloped area of the off-site property channel grade may be "daylighted" and no freeboard required until the area is developed.
4. The design for all open channels shall be based on geotechnical investigations, unless determined to be unnecessary by the City Engineer, or designee.
5. No development shall be designed to access a public street across a channel without providing adequate clearance for the channel under design storm conditions. No public access to a public street by means of a low water crossing will be permitted.
6. Bridges crossing channels serving drainage areas greater than one square mile in area shall have one foot of freeboard between the 100-Year base flood elevation and the lowest beam of the bridge.
7. Bridges crossing channels serving drainage areas less than one square mile in area shall have one foot of freeboard between the design water surface and the lowest top of road elevation of the bridge.
8. All culvert crossings shall have two feet of freeboard between the 100-Year base flood elevation and top-of-curb elevation.

L. **Lot Drainage.**

1. Generally, each lot shall be designed or graded to direct stormwater into an abutting street, alley, channel, or inlet. If drainage is provided in the rear of any lot by a surface or underground storm drainage system, the surface or underground drainage system shall be designed to convey runoff from the 100-Year storm event.
2. Where it is not practical to provide abutting drainage facilities for each lot, drainage facilities such as a closed pipe system or drainage ditch, shall generally be required whenever the cumulative stormwater runoff from more than two lots is

directed across a third lot or when the facilities are necessary to avoid an adverse effect on any other lot.

3. It shall be unlawful for any person to fill, modify or otherwise obstruct any public drainage easement designed or used as an overflow channel or structure.

M. Site Erosion Control.

1. To minimize erosion resulting from the removal of vegetation and to reduce the introduction of erosion materials into the storm drainage systems, all developments and any person undertaking any development activity shall make use of erosion and sediment control devices in accordance with the requirements of the **Stormwater Design Criteria Manual**.
2. The erosion and sediment control devices shall be installed and thereafter maintained until sufficient vegetation cover has been provided or been replaced to control erosion and sediment.

N. Easements. In addition to any other provisions of this ordinance relating to easements for public improvements, the following requirements for public drainage improvements, channels, and facilities required for any development shall apply:

1. All public drainage systems and facilities, that are not to be included within an existing or proposed public street right-of-way, shall be located within easements to be dedicated to the city and shall have adequate access to a public street.
2. Prior to acceptance of any public drainage facilities, all easements within which the facilities are located shall be cleared of all buildings, structures, fences or other obstacles that would interfere with access to the easements.
3. Restrictions of easements shall be described on the final plat and approved by the city.
4. Drainage easements through residential lots shall be placed entirely on one lot. Split lot easements shall not be allowed.
5. Structures, eaves and overhangs, fences, storage sheds, decks, pools, landscaping or other aboveground man-made improvements shall not be permitted in drainage easements or floodplains, except as specifically allowed in the **Stormwater Design Criteria Manual**. This provision includes, but is not limited to areas encompassing floodplain, channels, flumes, natural streams or swales, or any other system used to convey storm water through surface flow, regardless of whether or not there is an easement.

O. Payment in Lieu of Improvements. Any development required to provide drainage facilities or improvements in accordance with this section may elect to pay the city the total construction cost of the required facilities or improvements, excluding engineering and design cost, when:

1. The city's approved Capital Improvement Plan proposes to provide, within two years of the date the required improvements are to be undertaken, for the same or similar drainage improvements that would make the drainage improvements required by the development unnecessary;
2. Failure to provide the drainage improvements at the time of development would not adversely affect the development or any off-site properties, as determined by the City Engineer, or designee; and
3. The payment allowed in this subsection shall be made prior to beginning any construction of the development. If the money paid to the city is not used for the

required improvements within five years of payment; the funds shall be returned to the person making the payment.

Article V. Alternative Water and Sewer Facilities.

Section 1. Purpose.

All developments within the jurisdiction of the city shall be required to have approved water supply and sanitary sewerage facilities and shall be required to connect to the city facilities unless alternative arrangements have been approved by the city according to the following standards and procedures:

A. Basic Policy.

1. Alternative water and sewer systems will be considered for parcels that are located in areas that are impractical or economically infeasible to connect to the city's centralized water distribution and/or wastewater collection system.
2. The key factors that will be evaluated to determine the city's acceptance of these alternative water and sewer systems are:
 - a. General compliance with the city's land use element of the Comprehensive Plan and Water Distribution and/or Wastewater Collection System Master Plans.
 - b. The severity of the economic difference between the collective costs of the alternative water and/or sewage disposal systems necessary to serve the entire development and the costs to extend water and/or wastewater lines to the development.
 - c. The suitability of the soil conditions, topography and other environmental factors effecting the development for the installation of the individual on-site sewage disposal systems.
 - d. The total number of lots, size of lots and overall density of the development.
 - e. The impact on surrounding properties and designated Nature Areas adjacent to the development and the availability of buffer areas.
 - f. The impact on surrounding property's ability to develop with suitable access to water and/or sanitary sewer facilities.

Section 2: Approval Process.

1. All alternative water and sewer systems may be approved by the City Manager, or designee, based on the approval criteria established above and below.
2. All alternative systems shall be designed and operated in strict compliance with all applicable permits, ordinances, regulatory guidance and regulations including the EPA, TCEQ, Texas Department of State Health Services, and the city.

Section 3: Approval Criteria.

Alternative water and sewer systems will be considered for parcels, subject to the following:

1. **Individual Water Wells.** Individual parcels may be approved for individual water well facilities according to the following criteria:
 - a. Water well operation and quality meet state drinking water quality standards;

- b. Water wells are not used in any commercial sale of the water or for service to more than one parcel;
 - c. Cost to tie onto the city water system, exceeds the certified initial capital cost of a well;
 - d. Satisfying health and safety requirements, including fire standards; and
 - e. An applicant for approval of an individual water well shall submit the following evidence to the City Manager, or designee,
 - i. Water Well application;
 - ii. Water quality tests;
 - iii. Affidavits stating that no more than one household will use the well and/or the well water will not be used in any commercial sales;
 - iv. Certified cost estimate of well installation; and
 - v. Upon review of this evidence, the City Manager, or designee, may issue a Water Well Permit.
2. **Individual On-Site Sewage Disposal System.** Individual on-site sewage disposal systems will be considered for parcels that are located in areas that are impractical or economically infeasible to connect to the city's centralized wastewater collection system.
- a. **Approval Criteria.** The key factors that will be evaluated to determine the city's acceptance of these alternative individual on-site sewage disposal systems are:
 - i. General compliance with the city's land use element of the Comprehensive Plan.
 - ii. The severity of the economic difference between the collective costs of all of the individual on-site sewage disposal systems necessary to serve the entire development and the costs to extend wastewater lines to the development. In addition, the feasibility of low pressure sewer system shall be evaluated to serve the dwelling unit or the development.
 - iii. The suitability of the soil conditions, topography, and other environmental factors effecting the development for the installation of the individual on-site sewage disposal systems.
 - iv. The impact on surrounding properties and designated Nature Areas adjacent to the development and the availability of buffer areas.
 - v. The impact on surrounding properties ability to develop with suitable access to sanitary sewer facilities.
 - b. **Review of Subdivision or Development Plans.**
 - i. Prior to final plat approval and before the on-site sewage facility permit process for an individual on-site sewage facility can begin, persons proposing residential subdivisions, manufactured housing communities, multi-unit residential developments, business parks, or other similar uses and using on-site sewage facilities for sewage disposal shall submit planning materials for these developments to the City of Van.
 - ii. The planning materials shall be prepared by a professional engineer or professional sanitarian and shall include:

- a. An overall site plan;
- b. Topographic map;
- c. 100-Year floodplain map;
- d. Soil survey;
- e. Location of water wells;
- f. Locations of easements as identified in Texas Administrative Code, Title 30, Chapter 285;
- g. A complete report detailing the types of on-site sewage facilities to be considered and their compatibility with area wide drainage and groundwater; and
- h. A comprehensive drainage plan.

Article VI. Tree Preservation.

Section 1. Purpose.

Purpose and Intent. The Comprehensive Plan identifies the importance of environmental management, while allowing reasonable and responsible development of land within the city. Towards this end, the purpose of these regulations is to promote the preservation and expansion of the existing tree canopy, to facilitate site design and construction that contributes to the long term viability of existing trees, and to establish a process to manage the removal of existing trees and vegetation. Further, this section is intended to accomplish the following public purposes:

1. Protect trees and promote the ecological, environmental, and aesthetic values of the city;
2. Maintain and enhance a positive image of the city through the preservation, mitigation, and planting of trees;
3. Prevent the untimely and indiscriminate removal or destruction of trees and clear-cutting of land;
4. Provide for a permitting and enforcement procedure;
5. Preserve the public health, safety, and general welfare of citizens;
6. Encourage the protection of healthy trees and provide for the replacement and/or replanting of trees that are necessarily removed during construction, development, or redevelopment;
7. Provide for the preservation and protection of larger native and/or established trees, which provide a valuable amenity to the urban environment and which, once destroyed, can only be replaced after generations, if at all;
8. Enhance and preserve established tree stands adjacent to Environmentally Sensitive Areas in order to further protect wildlife habitats and reduce impacts from new developments;
9. Provide for shade, windbreaks, and the cooling of air; thereby, reducing the requirements for air conditioning and heating and the utilization of nonrenewable energy sources; and

10. Provide for open space and more efficient drainage of land; thereby, reducing the effects of soil erosion and the need for additional drainage facilities.

Section 2: Applicability and Exemptions.

1. Unless exempted in paragraph 2. below, the requirements of this subsection shall apply to:
 - a. Undeveloped land;
 - b. All properties to be redeveloped, including additions or alterations, but not including interior alterations or exterior alterations that do not change the footprint of the building, and that do not require the removal of trees; and
 - c. Properties applying for a demolition permit for the principal structure.
2. The following activities shall be exempt from this subsection:
 - a. Agricultural operations under Tex. Agric. Code Sec. 251.002(1);
 - b. Property on which a single-family or duplex dwelling unit(s) exists, provided that trees designated for preservation on an approved Tree Survey or Preservation Plan and/or an associated Plat shall be preserved unless otherwise exempt under TLGC 212.905 or its successor;
 - c. Any tree determined to be diseased beyond recovery, dying, dead, creating a public nuisance or damaging a foundation by a qualified professional;
 - d. Any tree determined to be causing a danger, or to constitute a hazardous condition, as a result of a natural event such as tornado, storm, flood or other act of God, that endangers the public health, welfare or safety and requires immediate removal;
 - e. Any tree listed on the Texas Department of Agriculture Noxious and Invasive Plant List;
 - f. Clearing of understory necessary to perform soil borings, boundary surveying of real property, to conduct tree surveys or inventories, or to install tree protection fencing, provided that clearing for surveying shall not exceed a width of four feet for general survey (e.g., of easement boundary) and eight feet for survey of property boundary lines, and provided that any protected tree having a dbh of 10 inches dbh or greater may not be removed under this exemption. For the installation of tree protection fencing the clearing shall not exceed a width of four feet, measured radially from the trunk, and must not encroach into the dripline or critical root zone of any tree to be protected; or
 - g. Site plan, preliminary, or final plat applications, or a building permit application deemed complete as of the effective date of this Article.

Section 3: Tree Removal Permit.

1. **New Development/Construction.**
 - a. In the event it becomes necessary to remove a tree for development or construction, a tree removal permit is required. No protected tree may be removed for development or construction until the final plat has been approved and the Building Official has properly issued a tree removal permit for that purpose. In instances where a final plat is not required, proposed removal of protected trees shall be reviewed with any required site plan for development.

- b. All areas within the public rights-of-way, utility easements or drainage easements, as shown on an approved plat, and areas designated as cut/fill on the related drainage plan approved by the City Engineer, shall be subject to the requirements of this section.
- 2. **Municipal/Public Property.** Property owned by the City of Van, State of Texas, a political subdivision of the State of Texas, or any public school, public school district, or nonprofit charter school shall be subject to these requirements.
- 3. **Tree Removal Permit Required.**
 - a. No protected trees may be removed or transported until authorized by a tree removal permit.
- 4. **Tree Removal Permit Review and Approval Process.**
 - a. Applicant submits a complete application, along with the applicable fees.
 - b. A tree survey and tree preservation plan is required for all new development
 - c. A tree removal permit is valid for 180 days, or for the duration of a building permit, clearing and grading permit, or clearing and grubbing permit issued in conjunction with the tree removal permit, whichever is longer.
 - d. Protected trees shall not be removed until:
 - i. Proper mitigation or replacement requirements have been determined and approved for the lot or site on an approved tree survey and preservation plan; and
 - ii. A preconstruction meeting has been held with proper city staff authorizing grading and construction activities to begin on the lot or site; and/or
 - iii. A tree removal permit has been issued for the lot or site.
- 5. **Standards for Relocating Heritage and Quality Trees.** All permitted tree relocations shall be in accordance with the applicable American National Standards for Tree Care Operations ANSI A300.
- 6. **Permits Issued for Public Need, Danger, or Calamity.** The City Manager, or designee, may issue a permit for the removal of a protected tree provided that it:
 - a. Is determined to be in a hazardous or dangerous condition so as to endanger the public health, welfare, or safety;
 - b. Hinders or obstructs the construction, maintenance, repair, or replacement of city streets, water and sewer lines, and drainage and storm sewer;
 - c. Is located in any right-of-way required under the mobility/thoroughfare plan to be dedicated to, and accepted by the city. This does not include trees being removed for proposed driveways, right and left turn lanes, or median openings required or warranted by a development. Trees removed in these instances shall be replaced per this ordinance;
 - d. Hinders or obstructs the construction, repair, maintenance, or replacement of public improvement projects including, but not limited to, major collection lines for sanitary sewer, distribution lines for water, collection and management of storm water runoff, and thoroughfares designated for construction.

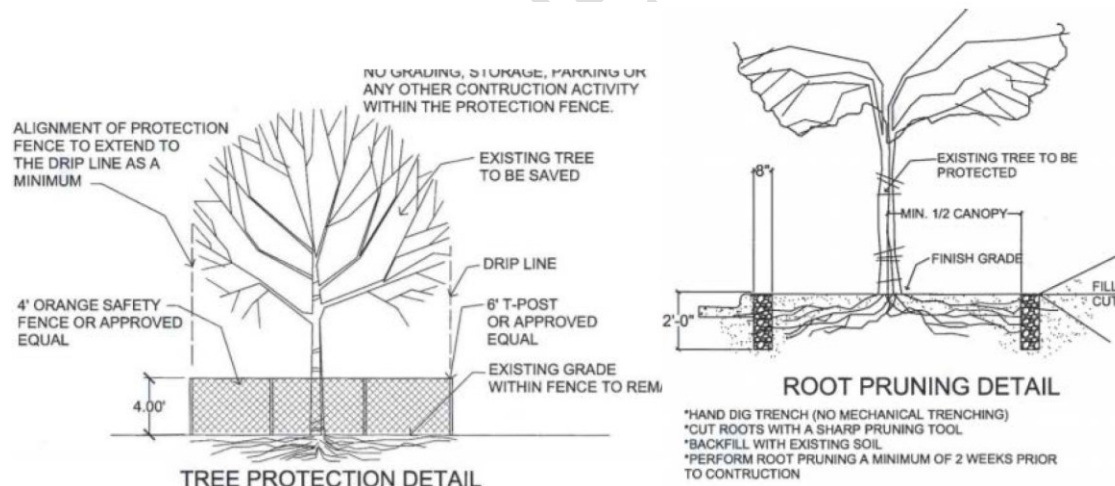
- e. Is damaged or killed by a tornado, ice or wind storms, flooding, or other acts of nature; or
- f. Is otherwise required by statute.

Section 4: Tree Protection Requirements During Construction.

Property owners shall adhere to the following tree protection measures on all construction sites, consistent with Figure 1: Tree Protection and Root Pruning Details.

1. Prior to grading, brush removal, or construction, the developer shall clearly tag or mark all trees to be preserved.
2. The developer shall erect an orange plastic mesh fence, or other approved fencing material, a minimum of four feet in height around each tree or group of trees to prevent the placement of debris, equipment, or fill within the dripline or critical root zone. The fence shall be installed prior to the release of any permit. If the protection fence is found removed, damaged, or altered at any time during construction prior to final inspection or landscape installation, a stop work order may be issued by the Building Official.
3. During the construction phase of development, the developer shall prohibit cleaning, parking, or storage of equipment or materials under the canopy of any tree or group of trees required to be preserved. The developer shall not allow the disposal of any waste material harmful to tree growth and health, such as, but not limited to, paint, oil, solvents, asphalt, concrete, or mortar in the dripline area.

Figure 1: Tree Protection and Root Pruning Details



4. No attachments or wires of any kind, other than those intended to identify or protect a protected tree, shall be attached to any tree.
5. No fill or excavation may occur within the dripline of a tree to be preserved unless there is a specific approved plan for use of tree wells or retaining walls. Any plan proposing the use of tree wells or retaining walls within the dripline of a tree to be preserved shall be designed by a licensed landscape architect. Major changes of grade (four inches or greater) will require additional measures to maintain proper oxygen and water exchange with the roots. In addition, the developer should adhere to the following guidelines to protect the trees to be preserved:

- a. With grade changes, a reinforced retaining wall or tree well of a design approved by the city should be constructed around the tree no closer than half the distance between the trunk and the drip line. The retaining wall should be constructed so as to maintain the existing grades around a tree or group of trees.
- b. At no time should a wall, pavement, or porous pavement be placed closer than five feet or one foot for every two inches in caliper, whichever is greater, to the trunk of the tree.
- c. In instances where tree wells or retaining walls are approved, root pruning may be necessary when the critical root zone is to be disturbed. See Figure 1.
- d. If a patio, sidewalk, drive, parking lot, or other paved surface must be placed within the drip line of an existing tree, material such as a porous pavement or other approved construction methods that will allow the passage of water and oxygen may be required.

Section 5: Tree Survey and Preservation/Replacement Plan.

1. A tree survey and preservation/replacement plan is required for the development impact areas and shall accompany the initial application for a site plan, preliminary plat, replat, gas well site plan, or a clear and grade permit, regardless of the number of trees present on a property.
2. A tree survey and preservation/replacement plan may be required to accompany a zoning application, specific use permit, or a planned development amendment where tree and landscaping requirements are relevant to the requested zoning or development amendment, as determined by the City Manager, or designee,.
3. Each tree survey and preservation/replacement plan shall contain, but not be limited to, the following required elements:
 - a. The locations of all trees to be preserved and removed on the subject site.
 - b. A table containing the following information for all trees:
 - i. Tree number;
 - ii. Common name of each tree;
 - iii. Circumference of each landmark tree;
 - iv. Diameter (dbh) of each tree;
 - v. General health and condition of each tree;
 - vi. Average canopy spread;
 - vii. Classification (quality, heritage, landmark, secondary, or non-protected) and status (preserve or remove) for each tree; and
 - viii. Mitigation worksheet as shown in Table A.
4. The tree survey and preservation/replacement plan shall be prepared by or under the supervision of an ISA certified or ASCA registered arborist, a SAF certified forester, botanist, professional land surveyor that has documented completion of at least eight hours of training in Texas tree identification, or a registered landscape architect.

5. Residential subdivisions that are to be developed in phases must provide a plan that complies with the preservation requirements at full build-out as approved on the preliminary plat or general development plan.
6. Any subsequent redevelopment of property shall preserve the minimum percentage dbh inches as indicated by the initial tree survey and preservation/replacement plan.
7. A notation must be placed on the preliminary plat, final plat, site plan, and building permit identifying the dbh of trees to be preserved and the location of the lots that contain preserved trees. The notation shall limit any future unauthorized land disturbing activity or construction that would impact and/or damage the tree(s) preserved.
8. A tree survey and preservation/replacement plan shall be approved if the minimum preservation and replacement requirements are met.
9. If there are no protected trees on a property, then a signed and notarized letter indicating such shall be prepared by or under the supervision of an ISA certified or ASCA registered arborist, a SAF certified forester, botanist, professional land surveyor that has documented completion of at least eight hours of training in Texas tree identification, or a registered landscape architect and submitted with the initial development application.

Section 6: Alternative Tree Preservation/Replacement Plan.

1. **Description and Intent.** The alternative tree preservation/replacement plan provides the option to further the purpose and intent of these regulations through a flexible process reviewed and approved by the City Manager, or designee, for one of the following purposes:
 - a. To allow trees measuring below the minimum dbh to be counted for Protected Trees when:
 - i. The allowance would result in the preservation of a greater number of post oak trees, regardless of dbh; or
 - ii. The preservation of protected tree(s) would cause a substantial burden, but smaller dbh non-secondary trees are located in such a way that the trees can be incorporated into the site design such as the parking lot, buffer, or front yard landscaping.
 - b. To allow secondary trees to count towards the minimum required preservation instead of quality trees.
 2. **Criteria for Approval.**
 - a. The proposed alternative tree preservation/replacement plan adequately achieves, or is an improvement on, the intent of the requirements of this subsection; and
 - b. The proposed site design has minimized the loss of protected trees to the greatest extent possible or has maintained existing tree stands.
 3. **Replacement Trees.** Required replacement and mitigation shall be required for these alternatives.
- g). **Minimum Preservation Requirements.**
1. **Tree Types and Required Preservation.**

- a. **Landmark Trees.** One hundred percent of all Landmark trees shall be preserved.
- b. **Heritage and Quality Trees.** A minimum of 30 percent of the total dbh shall be preserved within the development impact area. Removal of trees shall be replaced in accordance with this ordinance.
 - i. The 30 percent minimum preservation requirement may be reduced to 20 percent provided:
 - a. The 20 percent preserved dbh is in either a dedicated conservation easement or in a preserved habitat. All protected and non-protected trees, unless dead or diseased, that are greater than six inches dbh may be counted toward meeting the 20 percent requirement.
 - b. Preserved habitats may be dedicated as a conservation easement, and if not dedicated as a conservation easement must otherwise be restricted on a plat. Preserved habitat shall contain the prescribed minimum preservation amount, contain a stand of trees and understory, and shall be the greater of 10 percent of the property or 5,000 square feet.
 - c. All other trees remaining in the development impact area but removed shall be replaced in accordance with this ordinance, if applicable.
 - ii. Properties without a preserved habitat or conservation easement may reduce the 30 percent minimum to 20 percent provided:
 - a. The 10 percent reduction is mitigated at the following rates: heritage trees at two and three-quarters inches for every inch removed; and quality trees at two and one-quarter inches for every inch removed.
 - b. All other trees remaining in the development impact area but removed shall be replaced in accordance with this ordinance, if applicable.
- c. **Secondary Trees.** There is no minimum preservation of secondary trees required when there are quality and heritage trees located on a property. In instances where there are no quality or heritage trees located on a property, then a minimum of 20 percent of the total dbh for secondary trees on the property must be preserved within the development impact area.
- d. **Preservation Relief.** City Council may approve relief of the Preservation Requirements in accordance with Tree Preservation Relief Provisions in Paragraph j), and where required by State law.

Section 7: Tree Replacement.

- 1. In the event that it is necessary to remove a protected tree(s) as allowed in this section, the applicant shall be required to replace the tree(s) being removed with healthy trees or pay a mitigation fee as explained hereafter.
 - a. If it is determined that tree replacement is required, the tree preservation/replacement plan must be approved prior to approval of a final plat or replat and a note shall be placed on that plat referencing the approved tree replacement plan.

- b. If platting is not required, the tree replacement plan shall be included as part of a site plan approval or tree removal permit.
- 2. In accordance with TLGC, § 212.905, as amended, replacement trees must:
 - a. Be planted on property in which they were removed; or
 - b. Be planted at a location mutually agreed upon by the city and the property owner; and
 - c. Measure at least two inches dbh when planted.
- 3. In order to ensure biodiversity and protect against tree diseases, if 20 or more replacement trees are planted, no one species of tree may exceed 30 percent of the total new trees on the site.
- 4. To determine the replacement inches required by this section, the applicant shall inventory and combine the total inches of dbh of all protected trees that are to be removed and that are located within the development impact area.
- 5. This inventory shall be separated into inches of dbh removed per protected tree classification as calculated using the following replacement rates:
 - a. Heritage Tree - Two and one-half inches for every inch removed;
 - b. Quality Tree - Two inches for every inch removed; and
 - c. Secondary Tree - Four inches for every tree removed.
- 6. The total of the required inventories represents the replacement inches that shall be replaced through new tree plantings or preservation of existing trees. New trees required to satisfy the landscaping provisions of this section shall be counted towards satisfying this requirement.
- 7. Once each tree on the site is inventoried, tree mitigation shall be calculated as follows and as shown in Table 7.A: Sample Tree Mitigation Worksheet. The calculated dbh of each tree shall be the dbh of the tree multiplied by the appropriate classification ratio as described in paragraph 4 above. The total calculated dbh shall be the sum of all these trees.
- 8. In accordance with TLGC, § 212.905, as amended, a credit of 50 percent shall automatically be given to the total calculated dbh for all residential development, and 40 percent for nonresidential development. The preliminary mitigation dbh is 50 percent of the total calculated dbh for all residential, or 40 percent for nonresidential. Mixed-use developments shall be credited at the residential rate of 50 percent.
- 9. After calculating the preliminary mitigation dbh and subtracting the preserved credits, any remaining dbh is defined as the mitigation dbh. The mitigation dbh is required to be satisfied either by the planting of new trees on-site with an equivalent total dbh or by using one of the alternative methods described in Paragraph j).
- 10. If any preserved and/or replacement tree(s) dies within three years of initial planting or issuance of certificate of occupancy, the current property owner shall be subject to the same replacement requirements per these requirements, unless otherwise exempt or deemed a non-protected tree.

Section 8: Tree Preservation Credit.

Additional credit shall be given for all protected trees that are preserved. Preserved credits shall be the sum of:

1. A four-inch credit against mitigation for each one-inch of preliminary mitigation dbh shall be applied to the preservation of any landmark tree, or any trees preserved within a conservation easement or preserved habitat;
2. A three-inch credit against mitigation for each one-inch preliminary mitigation dbh shall be applied to the preservation of any other heritage tree; and
3. A two-inch credit against mitigation for each one-inch of Preliminary Mitigation dbh shall be applied to the preservation of any other quality tree.
4. An additional preserved credit may be credited against preliminary mitigation dbh for preserved secondary trees, provided:
 - a. The minimum preservation of 30 percent is achieved for heritage and quality trees;
 - b. A one-half inch credit against mitigation for each one-inch preliminary mitigation dbh shall be applied to the preservation of secondary trees; and
 - c. Credit for preserved secondary trees may not exceed 50 percent of the preserved dbh of quality trees.

Table A: Sample Tree Mitigation Worksheet			
dbh (Diameter at Breast Height)			
	Diameter at Breast Height (inches)		
Total dbh	120		
Non-protected dbh	20		
Total Protected dbh	100		
Required Preservation (30 percent)	30		
Dead Tree dbh	0		
Protected Trees Removed			
TYPE	dbh Removed (inches)	Replacement Ratio	Calculated dbh (inches)
Heritage	40	2.5:1	100
Quality	30	2:1	60
Subtotal	70		160
	Trees Removed	Replacement Ratio	Calculated dbh
Secondary	4	4": 1 tree	16
TOTAL			176
Preliminary Mitigation dbh		50 percent reduction	88
Trees Preserved			
TYPE	dbh Preserved (inches)	Credit Ratio	Preserved Credit (inches)

Heritage	20	3:1	60
Quality	10	2:1	20
Secondary	5	0.5:1	2.5
TOTAL	30		82.5
MITIGATION dbh			5.5

Section 9: Tree Preservation Relief Provisions.

1. **Purpose.** The purpose of this provision allows a determination of whether the application of this ordinance, as applied to a tree removal application and related development applications, would if not modified or other relief granted, may unreasonably burden the development of the property.
2. **Review Procedure.**
 - a. A property owner or his authorized agent may file an application for relief under this subsection following a final decision to deny or conditionally grant an application for a tree removal permit.
 - b. The City Manager, or designee, has the authority to establish requirements for applications for tree preservation relief. No application shall be accepted for filing until it is complete and the fee established by the City Council has been paid.
 - c. Upon approval of an application for relief in whole or in part by the City Council, the City Manager, or designee, shall process the tree removal permit and related development applications pursuant to the relief granted on the application for relief approved by the City Council.
 - d. A denial of an application for relief by the City Council is a final determination.
3. **Criteria for Approval.** In deciding whether to grant relief to the applicant, the City Council shall consider whether there is any evidence from which it can reasonably conclude that the application of all or a part of the provisions of this ordinance that apply to tree preservation may deprive the applicant of all economically viable use of the property, based on the following factors:
 - a. Whether there is a unique physical circumstance on the property.
 - b. Whether the proposed design has minimized the loss of trees to the extent possible.
 - c. Whether preservation and/or mitigation unduly burdens the development of the property.

Section 10: Alternatives to Tree Replacement Requirements.

In order to satisfy the mitigation dbh, the property owner may use any combination of alternative methods of compliance listed below. These alternative methods may also be used in combination with or in lieu of tree replacement, so long as the total replacement dbh is satisfied by one or all methods.

1. **Payment in Lieu of Replacement.**
 - a. Payment in lieu may be made in the amount prescribed separately and periodically by ordinance, and, if made, such a payment shall be deposited into the tree fund for the purposes described in this subsection. This amount

- is calculated by the average cost incurred by the city for the purchase, planting, and irrigation of a two-inch tree for three years.
- b. The applicant must pay the fees contributed to the tree fund prior to the issuance of a gas well site plan, or the filing of a final plat in the County Clerk's Office. If platting is not required, payment shall be prior to issuance of a tree removal permit.
 - c. Notwithstanding any other provision in this subsection, no tree mitigation fee may be collected or enforced in contravention of state law.
2. **Tree Donation.** The developer may donate the replacement tree(s) to the City's Parks Department for planting within the city, with the approval of the City Manager, or designee.
 3. **Conservation Easement.** The property owner may request to grant a conservation easement by plat to the city that includes protected trees and non-protected trees beyond the minimum preservation amount, and with a combined dbh equal to or exceeding the dbh for which mitigation is being requested.
 - a. In addition to the tree survey and preservation/replacement plan, a detailed baseline document describing the property's physical and biological condition, the general age of any tree stands, locations of easements and construction, and the conservation values protected by the easement, shall be required.
 - b. The city may decline the request for a conservation easement for any reason; however a request so declined will not satisfy the mitigation requirement and mitigation must be achieved in a different manner as described above.

Section 11: Tree Fund.

1. The city shall administer and use the tree fund to:
 - a. Purchase, plant, and maintain trees;
 - b. Conduct maintenance on conservation easements dedicated in accordance with this subsection;
 - c. Preserve wooded property remaining in a naturalistic state in perpetuity;
 - d. Perform and maintain a city-wide tree inventory;
 - e. Educate citizens and developers on the preservation, care, maintenance, benefits and value of trees within the City of Van; and
 - f. Support programs for the public purpose of increasing the tree canopy within the City of Van as approved by City Council.
2. Proceeds from the tree fund shall not be used to meet any requirements for preservation, mitigation, landscaping, buffering, streetscaping, or similar requirements in this ordinance or other City of Van Ordinances.
3. Voluntary contributions for tree planting shall be placed in the tree fund.

Section 12: Incentives.

1. **Energy Conservation Credit.** Mitigated or preserved large canopy shade trees located on the western or southern exposures of a habitable building may receive additional tree replacement credit. The trees must be located a minimum of 10 feet but a maximum of 30 feet in distance from the building. Required tree replacement may be credited at 1.5 times the existing or newly planted trees;

2. **Heritage Tree Credit.** A replacement credit of 4.0 times the dbh of a heritage tree preserved beyond the minimum preservation requirements may be counted toward meeting the required replacement;
3. **Conservation Easement Credit.** Required replacement trees may be credited 2.0 times if planted within the dedicated Conservation Easement;
4. **Tree Cluster(s).** In order to emphasize the importance of preserving trees in a cluster during development, additional mitigation credit will be given for a cluster(s) of three or more trees whose bases are located less than 10 feet apart and whose drip lines overlap. Credit shall be calculated at 1.15 times the dbh of each tree within the cluster; and
5. **Parking Space Reduction.** Upon application and verification by the City Manager, or designee, an individual shall be entitled to a reduction in the minimum parking to help meet the minimum tree preservation requirements. For the purpose of providing an incentive, the minimum parking requirements in Subsection 7.9.4, may be reduced by one parking space for every 12 inches dbh of trees that have been protected or mitigated on a site. Up to 15 percent of the required spaces may be reduced; or
6. The enforcement and penalty provisions of Section 1.6 shall apply to this subsection.

Article VII: Landscape Requirements.

Section 1: Purpose

Section 2: Applicability

1. Single-family, Duplex, and Townhome Dwellings:
 - a. Existing single-family, duplex, townhome, triplex, and fourplex lots that are currently developed are exempt from the minimum requirements.
 - b. New detached single-family, duplex, townhome, triplex, and fourplex subdivisions are required to provide landscaping as specified in subsection E.
2. Multifamily and nonresidential developments are required to comply with all landscaping and tree canopy requirements in this section.
3. All replacement trees included as part of the approved tree preservation/replacement plan shall be credited against the trees planted, as required by this section.

Section 3: Minimum Landscape Requirements.

Landscape area is the portion of a parcel that is between the forward building façade and the front property line.

Minimum Trees

Minimum Shrubs

Minimum Ground Cover

Irrigation Requirements

C. Measurement and Calculation of Landscape and Tree Canopy Areas.

1. Tree Canopy Measurement.

- a. Tree canopy is measured by computing the area that the mature canopy will encompass, based on the tree list contained in the Site Design Criteria Manual. The mature canopies may be estimated for existing trees on-site. Any tree not on the tree list may be estimated by a registered landscape architect.
- b. The required percentage of tree canopy required shall be based on the zoning of the property as described in Table 7.D. The required tree canopy area shall apply to either:
 - i. The entire development impact area, or
 - ii. The entire lot being developed, minus the footprint area of any proposed buildings.
- c. The selected method for calculating the required tree canopy must be explicitly stated on the Landscape Plan.

2. Qualifying Types of Landscaping and Tree Canopy - General. The following may count towards meeting the landscape and tree canopy requirements:

- a. All landscaped areas planted and maintained within the development impact area;
- b. Tree canopy in the adjacent public right-of-way;
- c. All required mitigation trees may count towards landscaping (including street trees and yard trees) if planted trees have a minimum of two-inches dbh; and
- d. Plazas and pedestrian circulation areas if constructed with pervious material and not located within the public right-of-way.

3. Qualifying Types of Low Impact Development (LID) Designs. Low Impact Development (LID) options count toward required landscape if installed and maintained pursuant to the WHAT? Texas Council of Governments Integrated Storm Water Management (iSWM) strategies, including:

- a. **Bioswales:** Bioswales are vegetated swales planted with wet tolerant species of plants or ornamental grasses. They transport, store, and allow infiltration of water, and can be designed as a landscape feature. Bioswales are not grassed, but are planted with a variety of plant species that can withstand occasional water inundation for short periods of time.
- b. **Grassed Swales:** Grassed swales are designed conveyance devices used to transport water over the surface of the ground to a point of disposal that may be a catch basin, ditch, or water body that will filter, infiltrate, evaporate, and clean the water of total suspended solids and other pollutants. Swales are often appropriate along property lines, public streets, and around buildings.
- c. **Bioretention Facilities:** (a.k.a. Rain Gardens) Bioretention facilities are small shallow depressions planted with a variety of native or ornamental plants that can treat small amounts of runoff to improve water quality. Bioretention facilities are generally small collections of flood-tolerant plants planted on a low site area that naturally collects rainfall.
- d. **Sand Filters:** Sand filters are depressions, trenches, barriers, or sand lens, constructed of porous mineral matter that improve ground water recharge, to filter, clean and trap waterborne pollutants.

D. Appropriate Planting Materials.

1. Ninety percent of plantings shall be from the approved landscape plant list in the Site Design Criteria Manual.
2. In order to ensure biodiversity and protect against tree disease, if 20 or more trees are planted, no one species of tree may exceed 30 percent of the total new trees on the site.
3. At least 50 percent of the trees planted must be native, indigenous, or adapted, as indicated on the approved landscape plant list.

E. Minimum Landscaping for Single-Family Detached Dwelling, Duplex, Townhome, Triplex, and Fourplex Lots.

1. All single-family, duplex, and townhome lots must contain a minimum of one large shade tree per dwelling.
2. All triplex and fourplex lots must contain a minimum of one large shade tree per lot.
3. At least 30 percent of the front yard shall be landscaped.
4. At least 20 percent of the rear yard shall be landscaped.

F. Landscape Plan and Point System. In addition to the above standards, the following requirements shall apply to all developments except single-family detached dwelling, duplex, and townhome lots:

1. A landscape plan is required for all developments demonstrating compliance with the required minimum landscape area requirements, at the time of application for whichever of the following comes first:
 - a. Specific use permit;
 - b. Site plan; or
 - c. Building permit.
2. All landscape plans shall be drawn and sealed by a registered landscape architect.
3. All landscape plans shall contain at a minimum the following elements:
 - a. A delineation of the property boundary, the development impact area, Nature Areas, preserved habitat areas, and any easements;
 - b. Dimensioned buffer areas, right-of-way screening areas, and parking lot landscaping areas;
 - c. Location and tabulation of all proposed plantings, including size at the time of planting and expected canopy area of all trees at maturity, as provided for in the Site Design Criteria Manual;
 - d. Tabulation of how the required landscape and buffer points, as described in the sections below, are provided;
 - e. Tabulation of the required and provided number of street trees, unless provided on a separate street tree plan at the time of platting; and
 - f. Any additional information required to demonstrate compliance with the requirements of this section.
4. Landscape area and tree canopy shall be designed using a combination of elements from the point system described below:

- a. All developments are required to provide a combination of landscaping elements from Table 7.E, totaling at least 30 points and meeting the minimum required percentage of landscape area and tree canopy.
- b. At least two elements must be selected from both Sections A and B in Table 7.E, except as noted below. The remaining points may be selected from Sections A, B, or C.
 - i. Right-of-way screening shall be provided between the front-most row of parking and the street. Screening area shall begin at the back edge of either the right-of-way or public utility easement, as necessary to prevent encroachment into those areas. The area dedicated to right-of-way screening must contain sufficient area to plant the proposed screening elements and allow for full growth potential. For developments where parking is not located between the building and the street, any drive aisles located in front of the building are required to be screened by at least one of the elements in Section A in Table 7.E.
 - ii. Parking lot landscaping shall be provided internal to the parking lot. Turf grass does not satisfy requirements for planting materials in parking lot landscaping areas. Planting materials permitted include drought-tolerant plants, ornamental and/or native grasses, and pervious non-living ground cover installed with a permeable weed-barrier.
 - iii. If proposed, living walls and living green roofs should be engineered in accordance with building industry standards to ensure building safety and longevity of the plant material. Living green roofs shall be installed in a manner allowing for inspection consistent with applicable OSHA standards, along with all other site landscaping.

Table 7.E: Landscape Area Point System	
Section A. Right-of-Way Elements (Minimum 2 unless no front parking, then 1)	Points
A landscaped berm with a maximum 3:1 side slope on both sides.	5
One large canopy tree planted every 40 linear feet.	5
Three small accent trees clustered every 30 linear feet when space does not permit large canopy trees.	5
A minimum three-foot high continuous hedge of evergreen shrubs.	5
A minimum three-foot high continuous wall made of any combination of wrought iron, masonry, or stone. If wrought iron is used, vines shall be planted every 10 feet on center on the wrought iron to create a more opaque wall.	5
Section B. Parking Lot Landscaping Elements (Minimum 2)	Points
Internal landscape islands with an area of at least nine feet by 18 feet containing at least one large canopy tree placed evenly at an average of one for every ten spaces (or portion thereof). For lots of ten spaces or less, at least one internal landscape island is required but does not have to be centrally located within a row of parking spaces.	5

End caps with an area of at least 9-feet by 18-feet containing at least one large canopy tree.	5
A landscape median of at least 8-feet wide running the length of a parking row and containing at least one large tree per 30 linear feet.	5
Section C. Other Site Landscaping Elements	Points
A minimum 10-foot wide area provided for the length of the building frontage between the front of the building and the parking lot and containing a five-foot wide landscaped area abutting the building wall. This area may be paved as a walkway if pots or planters are provided along at least 75 percent of the building frontage.	3
Each planted tree meets or exceeds four caliper inches at the time of planting.	5
At least 75 percent of plants proposed are drought-tolerant as indicated in the approved landscape plant list or adaptive to Van's plan hardiness zone as determined by the US Department of Agriculture.	5
Landscape area provided exceeds required minimum by an additional 10 percent or more.	3
No more than 30 percent of landscaped areas are covered in turf grass.	3
Tree canopy exceeding minimum requirement by an additional 25 percent or more.	3
A mixture of bioswales, grassed swales, bioretention facilities, and sand filter (low-impact design techniques pursuant to Subsection 7.7.5C.3) as described in this section. If designed as part of a parking lot island or median, points may be counted for both elements.	7
Living walls/vertical gardens provided in a designated pedestrian area or as an architectural feature of a principal building wall. Living walls must account for at least 25 percent of the wall face.	5
Rooftop vegetation provided as part of an engineered green roof accounting for at least 25 percent of the roof area.	5
Butterfly or pollinator gardens that include native milkweed and nectar plants that are provided as part of a designated pedestrian amenity or plaza area and that comprise at least five percent of the required overall landscape area. Butterfly and pollinator gardens are encouraged.	5

G. Landscape Installation and Maintenance.

1. Landscaping installed as part of the requirements of the landscape standards shall be free from diseases and insects and maintained in a healthy and growing condition at all times.
2. The property owner is responsible for regular weeding, mowing, irrigation, fertilizing, pruning, litter removal, and other maintenance as needed for all plantings.

3. The property owner shall remove and replace any required landscaping as part of an approved landscape plan that dies with other approved living plants from the approved plant list contained in the Site Design Criteria Manual no later than 30 days after: The landscaping has died, or after the postmarked date of written notification from the city, whichever is sooner. The City Manager, or designee may, in his sole discretion, extend this time period due to weather, appropriate planting season, or other events outside of the reasonable control of the property owner.

H. **Irrigation.** To ensure viability, landscape areas shall be irrigated by one or a combination of the following methods:

1. An automated underground system;
2. A drip irrigation system; and/or
3. The City Manager, or designee, may waive the irrigation system requirement if the approved landscape plan includes drought tolerant plants, a xeriscape system, or other approved materials. In such cases, a temporary irrigation system shall be installed and maintained until the plants are established.

I. **Permits, Enforcement, and Drought.**

1. No permits will be issued for any nonresidential and multifamily development until a landscape plan is submitted as part of the site plan, specific use permit, or building permit review process.
2. Prior to the issuance of a certificate of occupancy for any building or structure, all screening and landscaping shall be in place in accordance with the approved landscape plan and applicant shall call for inspection of all landscape installation.
3. An as-built landscape plan shall be provided to the city upon final inspection.
4. Landscaping that dies shall be replaced by the owner with plants of similar variety and size no later than 30 days after the landscaping dies or 30 days after being notified from the City Manager, or designee, whichever occurs first. The City Manager, or designee, may in his sole discretion, extend this time period due to weather or other events outside of the reasonable control of the property owner. Replacement trees of similar mature canopy may be replanted with approval from the City Manager, or designee. Replacement trees must be a minimum of three-inch caliper, measured six inches above the ground.
5. A planting extension may be granted by the City Manager, or designee, in his sole discretion, if substantial evidence is presented to indicate abnormal circumstances beyond the control of the owner or his agent. Seasons of drought, extreme heat, or heavy rainfall causing construction delays are examples of abnormal circumstances.

J. **Payment in Lieu of Planting.** In instances where easements, encumbrances, physical constraints, or life safety requirements limit the ability to plant the required trees needed to meet the minimum tree canopy coverage, an applicant may pay into the tree fund as an alternative. The City Manager, or designee, may approve a reduction in minimum tree canopy area of up to 10 percent of the required amount. Any reduction in tree canopy area shall be mitigated by payment into the city's tree fund based upon the standard canopy size of a large canopy tree as specified in the Site Design Criteria Manual, assuming each required tree measures two caliper inches. The payment per inch shall be calculated as provided in the city's payment schedule.

Article VIII: Access and Circulation

Section 1 Purpose.

The purpose of this section is to reduce the number and length of automobile trips and related greenhouse gas emissions by encouraging walking and bicycling by integrating sidewalks and bicycle routes in new development and redevelopment, and by providing for shorter and more direct routes between many destinations.

Section 2 Applicability.

Except as otherwise provided in this Article VII: Access and Circulation, the standards in this section, shall apply as set forth in Article II, Section 2: Applicability.

Section 3 Parking and Circulation Plan Required.

- A. All development, except for single-family, duplex, and townhouse residential uses within previously platted subdivisions shall prepare a parking and circulation plan. The plan shall contain the following information:
 - 1. Internal circulation and connectivity to existing street network;
 - 2. Emergency and service vehicle access;
 - 3. Parking layout;
 - 4. Loading operations;
 - 5. Turning radii based on uses;
 - 6. Traffic calming measures where future "cut-through" traffic is likely;
 - 7. Pedestrian, bicycle, and transit facilities; and
 - 8. Other similar issues identified by the City Manager, or designee,
- B. The City Manager, or designee, may waive the requirement for a circulation plan on a case-by-case basis if a development is expected to have no impact upon circulation or proposes no change in existing circulation patterns. This standard shall not be construed to exempt development that includes additional parking, driveways, or substantial modifications to the existing pedestrian network.
- C. A circulation plan shall be submitted with the respective site plan or subdivision application, as appropriate.

Section 4 Compliance with Specifications.

- A. Developments shall provide for streets, sidewalks, and bicycle, facilities to serve the development in accordance with the requirements of this section.
- B. All street, sidewalk, and bicycle, improvements shall be constructed in accordance with the city's standard specifications.
- C. For sidewalks or other pedestrian facilities proposed in a TxDOT right-of-way, Texas Department of Licensing review must occur prior to applying for a TxDOT Permit. Proof of review must be submitted with the Permit application.

Section 5 Street Design.

All streets shall be designed to comply with the City's street standards.

Section 6 Street Connectivity.

- A. **Purpose.** Street and block patterns shall include a clear hierarchy of well-connected streets that distribute traffic over multiple streets and avoid traffic congestion on principal routes. Within each development, the access and circulation system should accommodate the safe, efficient, and convenient movement of vehicles, bicycles, and pedestrians through the development, and provide ample opportunities for linking adjacent neighborhoods, properties, and land uses consistent with the Comprehensive Plan. Local neighborhood street systems are intended to provide multiple, direct connections to and between local destinations such as parks, schools, and shopping.
- B. **Applicability.** All developments shall provide the necessary street system to ensure safe and adequate access to each lot within the development in accordance with these standards, and any other applicable City Ordinance.
- C. **General Standards.**
 - 1. **Alignment.** All streets shall be aligned with existing streets by continuation of the centerline.
 - 2. **Coordination with Surrounding Streets.**
 - a. The street system for each development shall connect with existing, proposed, and anticipated streets within and outside the development and shall extend to the property boundary to provide for adequate access and the safe and effective movement and circulation of traffic.
 - b. Street sections from an existing development shall continue to the first intersection of the new development. Requirements concerning block length, land use versus street sections and maximum traffic trips are all applicable in the extension of existing streets into a new development.
 - c. If there are no adjacent public streets, subdivisions and/or site plans shall provide for connections along each boundary abutting adjacent vacant land for future connections spaced at intervals not to exceed 600 feet.
 - d. An extension or connection of a public street and right-of-way to an abutting property shall include the extension or connection of associated bikeways and sidewalks.
 - e. The street system for each development should ensure that the grid is expanded as a result of the development with street connections extended or anticipated in all durations relative to the City's existing grid.
 - 3. **Temporary Turnarounds.**
 - a. The City Manager, or designee, and/or the City Engineer may require a temporary turnaround at the end of a roadway extension if needed to facilitate traffic flow or to accommodate emergency vehicles pending the roadway's connection to other roadways. In cases where a temporary turnaround is required, it shall be designed as a temporary cul-de-sac on the final plat.
 - b. Temporary dead-end streets may be approved by the City Manager, or designee, based on the criteria set forth below, without a temporary cul-de-sac. If a temporary cul-de-sac is not required, signage shall be posted indicating that the street will be extended in the future is required.
- D. **Modifications to Street Connectivity.**

1. In limited circumstances, the City Manager, or designee, may modify the requirements or standards for the extension or connection of a public street from or to an abutting property if such extension or connection is impractical or undesirable because it would:
 - a. Require crossing a significant physical barrier or environmentally sensitive area (e.g., watercourses, floodplains, riparian areas, steep slopes; wildfire hazard areas);
 - b. Require the extension or connection of a proposed internal public street to an abutting property with existing development whose design makes it unlikely that the street will ever be part of a network of public streets (for example, the abutting existing development has no public streets, or there are no "stubbed-out" street rights-of-way or open corridors between the proposed development site and public streets in the abutting development to accommodate a current or future extension or connection);
 - c. Require the extension or connection of a proposed internal public street to an abutting property owned by a government or public utility to which vehicular access is restricted, or other property to which vehicular access is restricted by easement or deed; or
 - d. Require the extension or connection of a proposed internal public street to an abutting property that is developed or zoned for a use whose level and type of generated traffic would be incompatible with the proposed development.
2. Any modification that is not considered impractical as listed above shall follow the variance procedures established in the City's Zoning Ordinance

Section 7: Developer Responsibility for Access and Circulation Improvements.

A. Internal Streets.

1. If a street is proposed within a development site, the developer shall provide street, bikeway, sidewalk, and other access and circulation improvements in accordance with the standards in this ordinance, or another adopted plan and shall dedicate or reserve any required rights-of-way or easements as determined necessary by the city.
2. If a development site includes the proposed corridor of a street designated on an adopted plan, the development shall incorporate a provision of the street into the design of the development, and shall dedicate right-of-way that meets the right-of-way width standards for the street, and an additional five feet to provide for any sloping needed between the pavement and the property line, as determined by the city.
3. All streets shall be provided with curb and gutter along the side abutting the development.

B. Perimeter Streets.

1. Unimproved Perimeter Streets.

- a. Any development on the perimeter of an unimproved street shall dedicate the right-of-way and improve or reconstruct the street to the same extent as is required for new streets, unless the perimeter street has already been partially improved, in which case the development shall dedicate the

additional right-of-way and make the additional street improvements necessary to complete the perimeter street to the classification required.

- b. For the purpose of this subsection, an "unimproved perimeter street" shall mean a perimeter street which does not have curb and gutter or which does not substantially comply with the standards for street construction.
- c. Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision.
- d. Any perimeter street required to be improved to meet the specifications for new streets shall be connected to existing off-site streets.
- e. The City Manager, or designee, may authorize a developer to not improve a street and instead pay a prorated share when the City Engineer has determined that the entire street will need to be improved in the near future.

2. Phasing of Perimeter Paving Improvements.

- a. Perimeter paving improvements are required to be constructed adjacent to the property which is final platted.
- b. In a development where final platting will occur in phases, the developer may choose to perform the required perimeter paving improvements adjacent to each phase as it is platted, or may choose to perform all perimeter paving improvements at one time with the platting of a latter phase as long as the paving is constructed prior to or with the phase of the development that includes 50 percent of the lots in the entire development and the subject perimeter road is not the sole access to the property.
- c. The developer will be required to enter into a perimeter paving postponement escrow agreement.

3. Exemptions to Perimeter Street Requirements. The provisions requiring the improvement of existing unimproved perimeter streets to city specifications for new streets shall not apply to the following:

- a. A plat for a single-family detached, duplex, or townhome residential lot, where such lot is not part of a larger general scheme of development or subdivision of land containing more than one residential lot;
- b. A development that abuts less than 100 feet of an existing perimeter street, where the existing off-site perimeter street on either side of the abutting perimeter street is not improved to city specifications and there are no proposals or plans for improvements to the perimeter street on either side of the abutting perimeter street as evidenced by the City's Capital Improvement Plan or plats approved or pending approval;
- c. A development that:
 - i. Is not required or does not propose to extend a city water line to the property to serve the development; and
 - ii. Is located more than 8,000 feet from an existing city water line, measured along a straight line from the nearest boundary of the development to the nearest water line; or
 - iii. A state or federal highway.

4. **Rural/Suburban Streets.** Upon recommendation of the City Engineer, a required perimeter street meeting standards for a rural/suburban street may be approved whenever:
 - a. The required perimeter street is in a rural district, as shown in the Comprehensive Plan;
 - b. The development is not located in an area where the pattern or intensity of development would create the need for improved urban drainage facilities in the foreseeable future; and
 - c. There are no existing or proposed improved drainage facilities, in such proximity to the development that would connect to or receive the drainage waters from the required street drainage improvements.

C. Improvements to Existing Off-Site Streets.

1. **Fewer than 100 Daily Vehicle Trips.** Developments generating fewer than 100 vehicles per day are not required to make pavement improvements to off-site streets, but shall be required to participate in the cost of any proposed signal improvements at the nearest intersection in accordance with the Transportation Design Criteria Manual if signalization in the future is expected.
2. **Between 100 and 1,000 Daily Vehicle Trips and Less than 100 Trips per Hour.**
 - a. Developments expected to generate at least 100 but less than 1,000 vehicle trips per day and less than 100 vehicle trips per hour at full development shall improve or repair connecting off-site streets as necessary to provide a safe and adequate paved surface for the amount and type of traffic generated by the development.
 - b. The off-site street improvements or repairs need not meet the specifications for new streets, but shall be made to a standard determined to be necessary by the City Engineer to provide for the safe movement of vehicular traffic generated by the development, pursuant to a distress rating performed by the City Engineer in accordance with the Transportation Design Criteria Manual.
 - c. Off-site street improvements shall not be required to extend beyond the nearest existing intersecting arterial or collector street as indicated on the roadway component of the Mobility Plan.
 - d. Such developments accessing an arterial street shall provide right turn lanes into each entrance and left turn lanes into each entrance that left turns are possible.
 - e. Such developments shall be required to participate in the cost of any proposed signal improvements at nearby intersections determined by the City Engineer in accordance with the Transportation Design Criteria Manual if signalization in the future is expected.
3. **More than 1,000 Daily Vehicle Trips and More than 100 Trips per Hour.**
 - a. Developments generating 1,000 or more vehicle trips per day or 100 or more vehicle trips per hour shall provide offsite street improvements as determined by the City Engineer in accordance with an approved Transportation Impact Analysis.
 - b. Offsite improvements may include but are not limited to installation of turn lanes, pavement widening, pavement reconstruction, signal construction,

installation of pavement markings, signage or equitable participation in the cost of any of the listed types of improvements.

- c. Such improvements shall be required to the extent that the effects of the increased traffic the development generates will not reduce level of service of surrounding streets rather than allowing absorption of existing street capacity on a first come first serve basis.

D. Payment in Lieu of Improvements.

1. Where any development would be required by this ordinance to improve an existing unimproved street to less than its full width and the city's approved Capital Improvement Plan proposes improvement of the existing perimeter street to city specifications within three years of the date the required improvements are to be undertaken, the development may elect, in lieu of making the required perimeter street improvements, to pay to the city prior to filing the plat, the total construction cost, excluding engineering and design cost, of the required street improvements.
2. The amount to be paid shall be determined by the City Engineer, based on the actual cost of providing for the improvements, as shown in the most recent public bids for the same or similar type street improvements.
3. If the money paid to the city is not used for the required improvements within five years of payment, the funds shall be returned to the person making the payment.
4. In the event that the plat is not filed until after the city has entered a contract with a contractor to construct the subject street improvements, the payment by the development is no longer required.

Section 8: Driveways and Access.

- A. **Applicability.** No person shall construct, reconstruct, replace, relocate, alter, enlarge, improve or perform any work on or make use of any driveway for any property within the city, except in accordance with the requirements of this section, and any other relevant standard in this ordinance.

B. Compliance with Specifications.

1. All driveway improvements shall comply with the design specifications, as contained in _____.
2. All driveway improvements shall be constructed in accordance with _____.
3. All driveways shall be designed, installed, located and constructed in accordance with the approved specifications, plans, conditions and requirements of the permit issued for the property and the requirements of this section.
4. No certificate of occupancy shall be issued for any building on any property for which a permit is required, until the construction, improvements, alterations or other work covered by the permit is completed in accordance with the permit issued, the requirements of this section or the provisions of any other applicable ordinance.
5. Where no building permit was required in connection with the requested permit, no driveway on the property for which the permit was issued shall be used until and unless the work is completed in accordance with the permit and this ordinance.

C. General Standards.

1. Every lot shall have sufficient access providing adequate means of ingress and egress for emergency vehicles and for those needing access to the property for its intended use.
2. All driveway entrances and other openings onto streets shall be constructed so that:
 - a. Vehicles may safely enter and exit the property;
 - b. Interference with the free and convenient flow of traffic in abutting or surrounding streets is minimized; and
 - c. Shared driveways are provided to the maximum extent feasible to minimize the number of access points to streets.
3. Unobstructed, direct, and convenient access for vehicles to and from a public street shall be provided for all off-street parking spaces. Access from any parking area to a public street shall be designed to allow vehicles to enter and exit in forward drive.
4. Driveways shall align with existing driveways and "T" intersections on the opposite side of the street.
5. Driveway approaches shall be paved with concrete surfacing.

D. Vehicle Maneuvering.

1. Except for single-family detached or duplex uses, groups of more than five parking spaces per lot shall be provided with adequate aisles or turn-around areas so that all vehicles may enter the street in a forward manner.
2. Except for single-family detached or duplex uses, more than five parking spaces shall be served by a driveway designed and constructed to facilitate the flow of traffic on or off the site, with due regard to pedestrian and vehicle safety, and shall be clearly and permanently marked and defined.
4. Parking lots exceeding 100 spaces shall be designed with a clear hierarchy of circulation. The hierarchy shall consist of:
 - a. Major entry driveways without parking spaces; then
 - b. Major circulation drives with little or no parking; then
 - c. Parking aisles for direct access to parking spaces.

e). Access to Freeways.

1. Direct access to freeway main lanes shall only be provided by ramps and interchanges.
2. Direct access to freeway frontage roads shall be prohibited in the vicinity of ramp connections and shall be subject to Texas Department of Transportation requirements.

f). Temporary Driveways for Agricultural Purposes. A driveway that does not meet the minimum requirements of this ordinance may be permitted for undeveloped property used for agricultural purposes under the following conditions:

1. No building or parking lot permit is being applied for;
2. The driveway will be located a minimum of 50 feet from adjacent intersections;
3. The driveway will not be paved;

4. The driveway will be a minimum of 15 feet wide, but no more than 24 feet wide;
 5. All drainage structures associated with the driveway will be sized to carry a 100-Year storm; and
 6. If applicable, the driveway meets Texas Department of Transportation Design Criteria.
- g). **Residential.** Residential driveways shall meet minimum and maximum widths as determined by the City Manager, or designee.
- h). **Closing Driveways.**
1. Where the closing or relocating of one or more existing driveways or portions thereof is necessary to comply with this ordinance or a curb cut permit issued, access shall be closed by the removal of the existing driveway approach and the installation of curb and gutter along the gutter line of the street, all in accordance with city specifications.
 2. If there is no existing curb and gutter on the street, the driveway shall be closed in the manner specified by the City Engineer.
 3. Where the closing or relocating of one or more existing driveways or portions thereof, drainage patterns must be maintained or improved to meet the standards of this ordinance and vegetation shall be installed to meet the standards of this ordinance.

Section 9: Cross-Access Between Abutting Development.

- A. All nonresidential development shall be designed to allow for cross-access to adjacent properties to encourage shared parking and shared access points on public or private streets. This may be established by one or more of the following:
1. Connecting streets and drives;
 2. Coordinating parking structure and parking lot entrances;
 3. Common service/delivery areas;
 4. Legally shared parking structures and parking lots;
 5. Linkages between parking lots and parking structures; or
 6. Providing shared driveways for two adjacent lots from public rights-of-way to minimize curb cuts.
- B. When cross-access is deemed impractical by the City Manager, or designee, and/or City Engineer on the basis of topography, the presence of natural features, or vehicular or pedestrian safety factors, this requirement may be waived provided that appropriate bicycle and pedestrian connections are provided between adjacent developments or land uses.
- C. Cross-access and maintenance agreements associated with such interconnections shall be recorded with the County Clerk and provided, if necessary, with the associated subdivision or development application.

Section 10: Pedestrian and Bicycle Circulation.

- A. **Applicability.** All developments shall provide for the pedestrian and bicycle facilities necessary to serve pedestrian/bicycle traffic to, from, or across the development.
- B. **Exemptions.** Pedestrian and bicycle improvements required by this Section 10 shall not apply to the following:

1. Except for Planned Developments, along streets fronted by a subdivision in the RR zoning district provided that:
 - a. All lots are platted and have a minimum lot area of five acres; and
 - b. The lots do not have access from a street that serves more than 200 total vehicle trips per day.
 2. For a replat of property zoned for single-family detached residential use if the preceding plat covering the same property did not require sidewalks or bicycle facilities and a zoning change to a district other than single-family detached residential use is not anticipated.
 3. Improvements that result in an increase in the floor area of the existing building or buildings by less than 10 percent;
 5. Improvements will not require the construction of additional parking spaces.
- C. **Types of Facilities.**
1. **Sidewalk.**
 - a. Intended for the use of pedestrian traffic only and located outside of the street pavement.
 - b. Sidewalks are required along all roads and streets.
 2. **On-Road Bicycle Path.**
 - a. Intended for the use of bicycle traffic only and required within the street pavement on State Highways.
 3. **Off-Road Combination Pedestrian and Bicycle Path.**
 - a. Intended for the use of bicycle and pedestrian traffic, located outside of the street pavement.
 - b. These facilities are required along greenways, and along designated roadways as established by the City Manager, or designee.
- D. **On-Site Pedestrian Walkways.**
1. **On-Site Pedestrian Walkways Required.** All development shall provide an on-site system of pedestrian walkways with a minimum width of five feet designed to provide direct access and connections to and between the following:
 - a. The primary entrance or entrances to each building, including pad site buildings;
 - b. Any sidewalks, walkways, or multi-use paths on adjacent properties that extend to the boundaries shared with the development. Interconnected walkways should be designed with similar and/or complementary details, colors, finishes, etc.;
 - c. Any parking areas intended to serve the development;
 - d. Any sidewalk system along the perimeter streets adjacent to the development;
 - e. Any public transit station areas, transit stops, park and ride facilities, or other transit facilities on-site or along an adjacent street;
 - f. Any adjacent residential neighborhoods (planned or existing) if sidewalk stubs are planned or existing; and

- g. Any adjacent or on-site public park, trail system, open space, greenway, or other public or civic use or amenity.
- 2. **On-Site Pedestrian Walkway Design.** Required on-site pedestrian walkways shall:
 - a. Be a minimum of five feet in width;
 - b. Be distinguishable from areas used by vehicles using one or more of the following techniques:
 - i. Changing paving material, patterns, and/or paving color, but not including the painting of the paving material;
 - ii. Changing paving height;
 - iii. Decorative bollards;
 - iv. Raised median walkways with landscaped buffers;
 - c. Have adequate lighting for security and safety;
 - d. Be conveniently and centrally located on the subject property;
 - e. Be ADA accessible; and
 - f. Not include barriers that limit pedestrian access between the subject property and adjacent properties.
- E. **Pedestrian Access through Parking Areas.**
 - 1. All parking lots that contain more than 100 parking spaces shall include pedestrian walkways through the parking lot to the principal building entrance or a sidewalk providing access to the principal building entrance. At a minimum, walkways shall be provided for every three driving aisles or at a distance of not more than 150 foot intervals, whichever is less.
 - 2. Parking lots with 100 spaces or more shall be divided into separate areas and divided by landscaped areas or walkways at least 10 feet in width, or by a building or group of buildings.
- F. **Pedestrian Access through Parking Garages.** Pedestrian walkways shall be provided through parking garages from the parking area to the abutting public right-of-way and/or to the primary entrance of the building served. Pedestrian walkways shall not use vehicle entrance or exit driveways from the parking area to a public right-of-way.
- G. **Crosswalks.**
 - 1. Crosswalks shall be identified in consultation with the City Traffic Engineer to meet the specific need and functionality of pedestrian movement at a particular location.
 - 2. The type and size of the crosswalk shall be determined based on federal and state guidelines described in the Manual on Uniform Traffic Control Devices (MUTCD).
- h). **Required Bicycle Access.**
 - 1. All new development, except individual lot development of single-family detached, duplex, or townhome dwellings, shall be served by an internal bicycle circulation system (including shared roadway lanes, widened outside roadway lanes, bike lanes, shoulders, and/or separate bike paths) that permits safe, convenient, efficient, and orderly movement of bicyclists among the following origin and destination points within the development:

- a. Bicycle parking facilities or areas near the primary entrance(s) of principal buildings (or the buildable area of lots, for subdivisions), as well as any adjacent transit station areas, transit stops and shelters, public parks, greenways, schools, universities, community centers, and shopping areas;
 - b. Any designated or planned bus stops and shelters; and
 - c. Recreation facilities and other common use area and amenities.
 - 2. The development's internal bicycle circulation system shall not conflict with the safe, convenient, efficient, and orderly movement of vehicles between the development's internal origin and destination points and adjacent parts of an existing or planned external, community-wide bicycle circulation system, as well as any adjacent transit stations, bus stops and shelters, public parks, trails, greenways, schools, community centers, and shopping areas.
 - 3. Sidewalks shall not be used to satisfy the bicycle circulation requirement.
 - 4. Required bike lanes shall be provided within the right-of-way of the street unless the City Engineer determines that location within the right-of-way is not practicable or preferable—in which case, alternatives may be allowed by the City Manager, or designee, and/or the City Engineer.
- i). **Use and Maintenance of Pedestrian Connections.**
- 1. **Restrictions on Use.** Sidewalks, walkways, and trails are intended to provide pedestrian access. Vehicle parking, garbage containers, merchandise storage or display, utility boxes and poles, signs, trees, and other obstructions shall not encroach into the required minimum clear width of any required sidewalk, trail, walkway, or other pedestrian way. Pedestrian amenities including bollards and trash receptacles for pedestrians are exempt from this requirement.
 - 2. **Maintenance.** Sidewalks, trails, and walkways required by this title shall be maintained in usable condition throughout the year.

Article IX:. Enforcement

Section 1.Purpose.

This Section 1.6 establishes procedures through which the city seeks to ensure compliance with the provisions of this ordinance and obtain corrections for violations of this ordinance. This section also sets forth the remedies and penalties that apply to violations of this ordinance.

Section 2. Violations.

- A. **Generally.** Any person who violates any applicable provision of this ordinance shall be deemed guilty of a violation punishable in accordance with Subsection 1.6.5. For purposes of this section, the term "violation" shall mean a final finding by a court of record that an ordinance has been violated.
- B. **Prior Violations.** If a development or activity in violation of the prior development regulations fully complies with this ordinance, such development or activity shall no longer be deemed a violation. Unpaid fees and/or penalties from prior enforcement of violations are still valid and shall remain the responsibility of the violator under the prior regulations.
- C. **Violations within the Extraterritorial Jurisdiction.** Any person who violates any applicable provision of this ordinance within the extraterritorial jurisdiction shall not be

guilty of a misdemeanor; however, the city may institute any appropriate action or proceeding in the District Court to enjoin the violation of this ordinance.

D. Activities Constituting a Violation.

1. **Activity Inconsistent with this ordinance.** Any erection, construction, reconstruction, remodeling, alteration, maintenance, expansion, movement, or use of any land, building, structure, or sign that is inconsistent with this ordinance.
2. **Activity Inconsistent with a Permit or Approval.** Any development, use, or other activity that is in any way inconsistent with the terms or conditions of any permit or approval required to engage in such activity under this ordinance.
3. **Illustrative Examples of Violations.** Examples of violations of this ordinance include, but are not limited to:
 - a. Increase of the density or intensity of any use of land or structure except in accordance with the requirements of this ordinance;
 - b. Reduction or diminishment of lot area, setbacks, buffers, open space, or other standards below the minimum requirements set forth in this ordinance;
 - c. Creation, expansion, replacement, or change of a nonconformity inconsistent with this ordinance;
 - d. Failure to install, improve, or maintain any public or private improvements required by the terms of any permit or approval;
 - e. Failure to abide by conditions of any approval or agreements executed in association with an approval;
 - f. Failure to comply with applicable requirements for a certificate of occupancy or building permit; or

Section 3. Continuing Violations.

Any violation of this ordinance shall be considered a separate offense for each day during any portion of which any violation of this ordinance is continued past the date of the issuance of notice of violation, with each violation punishable in accordance with Subsection 1.6.5.

Section 4. Enforcement Actions.

- A. **Responsibility for Enforcement.** This ordinance shall be administered and enforced by the City Manager, or designee
 - B. **Investigation.** Whenever the City Manager, or designee, receives a written, signed, third-party complaint alleging a violation of this ordinance or a permit or approval issued under this ordinance, the City Manager, or designee, shall investigate the complaint and inform the complainant in writing of his or her findings and any actions that have been, or will be taken.
 - C. **Persons Liable.** The owner, tenant, manager, or occupant of any building or land, or any part thereof, and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this ordinance or a permit or approval issued pursuant to this ordinance, may be held responsible for the violation and be subject to the penalties and remedies provided in this section.
- D. Procedures upon Discovery of Violations.**

1. If the City Manager, or designee, finds that any provision of this ordinance is being violated, the City Manager, or designee, shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the City Manager, or designee's discretion.
 2. The City Manager, or designee, shall not be required to provide notice of intent to suspend or revoke for violations of this ordinance that cause imminent destruction of property or injury to persons.
 3. When a delay would seriously threaten the effective enforcement of the ordinance, or pose a danger to the public health, safety, and welfare, the City Manager, or designee, may immediately issue an order for compliance by personal service, posting of the property as indicated in the current Van Central Appraisal District records, or certified mail with return receipt required to the owner of record of the subject property, or to the homeowners association, as applicable, and seek enforcement through the municipal court as authorized below.
- E. **Continuation of Prior Enforcement Actions.** Nothing in this ordinance shall prohibit the continuation of previous enforcement actions undertaken by the city pursuant to previous regulations.

Section 5. Penalties and Remedies.

- A. **Fines.** Any violator of this ordinance pursuant to Subsection 1.6.2 shall be guilty of a misdemeanor, and upon conviction shall be subject to the penalties prescribed in Subpart A, Section 1-12: General Penalty, of the Municipal Code of Ordinances.
- B. **Deny, Withhold, or Revoke Approval.** Any form of approval or permit issued under this ordinance may be denied, withheld, or revoked after notice and a hearing, when the City Manager, or designee, determines that:
1. There is a departure from the approved plans, specifications, limitations, or conditions as required under the approval;
 2. The approval or permit was established by false representation;
 3. The approval or permit was issued in error; or
 4. There is any other violation of this ordinance.
- C. **Stop-Work Orders.**
1. The Building Official may issue a stop-work order whenever any building, structure, site, or portion of a building, structure, or site is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, in substantial violation of any state or local building provision, or in a manner that endangers life or property.
 2. The Building Official may issue a stop-work order on any property with an uncorrected violation of this ordinance or approval issued under this ordinance.
 3. A stop-work order shall be in writing and directed to the applicant/permit holder and/or person performing the work, and shall specify the provision of this ordinance or other law in violation.
 4. If a stop-work order is issued, no work shall proceed on any building, structure, site, or portion of a building, structure, or site subject to the order except to correct a violation or to comply with the order.

5. Once conditions cited in the stop-work order have been adequately addressed, the Building Official shall rescind the stop-work order.

Section 6. Continuation of Prior Enforcement Actions.

Nothing in this section shall be construed to prevent the city from pursuing any other remedies it may have for violations of this ordinance.