

OLD BUSINESS

Sec. 35-A101. Definitions and Rules of Interpretation.

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(b) **Definitions.** Words with specific defined meanings are as follows:

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Specified sexual activity means actual and simulated human genitals in a state of sexual stimulation or arousal, even if completely and opaquely covered, actual or simulated human masturbation, sexual intercourse, sodomy, fellatio, cunnilingus, fondling or other erotic touching of human genitals, pubic region, buttock or female breast, and excretory functions as part of or in connection with the above described activity or any act of bestiality, sadomasochism or physical contact with a person's own or another person's specified anatomical area.

Sport Court. A hard or paved surface accompanied by sporting equipment such as nets or goals, which is used primarily for the playing of sports such as tennis or basketball. A patio, porch, pool, or driveway shall not be considered a sport court.

Sport Court Fence. A solid screen enclosure which surrounds a sport court wholly or in part and which serves to protect abutting and adjacent properties from impacts from sporting equipment. Sport court fencing may be temporary or permanent in nature. Guard rails and protective netting shall not constitute a sport court fence.

Stabilization. The act or process of applying measures designed to reestablish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated building, object, site, or structure while maintaining the essential form as it exists at present.

NEW BUSINESS

Sec. 35-515. Lot Layout Regulations.

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(c) Lots.

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(4) **Frontage.** All lots shall front on a public or private street or platted irrevocable ingress/egress easement and shall have a minimum frontage width as indicated in section 35-310. A ~~Where a~~ platted irrevocable ingress/egress easement ~~is~~may be utilized for frontage to serve 1 or 2 lots and shall provide a minimum access requirement of section 35-506(d)(11); however, for the purposes of street naming, addressing and/or fronting more than 2 lots, the private street provisions of ~~section 35-506~~ this chapter for street name, addressing and design standards, respectively shall be met. Neither the use of an irrevocable ingress/egress easement nor use of a private street shall be allowed to satisfy the major thoroughfare plan requirements. Frontage of a lot shall be determined by the property line of the lot adjacent to the right-of-way of the street upon which the property's address is based. On irregular shaped lots, a minimum street frontage of fifteen (15) feet shall be required. Single-family residential lots shall not front on a collector street, arterial street, or parkway except as specified under subsection 35-506(r)(2). An "irregular shaped lot" includes any lot located on a cul-de-sac or adjoining a curved section of a roadway with a centerline radius of less than two hundred (200) feet.

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Sec. 35-202. Conventional and Enclave Subdivision.

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(a) **Applicability.** The provisions of this section apply to any application for subdivision plat approval for a ~~conventional~~ subdivision with public streets or ~~an enclave subdivision with~~ private streets within a base zoning district or within the ETJ, except as otherwise provided in this chapter. For the purpose of this chapter as it applies in the ETJ, the term “conventional” applies to subdivisions with public streets and the term “enclave” applies to subdivisions with private streets following public street standards. The description “enclave” shall be prominently indicated on the subdivision plat when a subdivision with private streets is proposed following the standards outlined below.

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(c) **Size and Location of Site.** There is no minimum size for conventional or enclave subdivisions. ~~but there~~ Enclave subdivisions within a base zoning district shall be a maximum size ~~limit~~ of one hundred fifty (150) acres ~~for enclave subdivisions.~~

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(n) **Outdoor Storage.** Conventional and enclave subdivisions shall comply with the outdoor storage standards of this chapter. The provisions of this subsection do not apply to the city's extraterritorial jurisdiction.

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Sec. 35-344. - "PUD" Planned Unit Development District.

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- (a) Evaluation Criteria. In order to foster the attractiveness of a planned unit development and its surrounding neighborhoods and thereby preserve property values, and in order to provide an efficient road and utility network, ensure the movement of traffic, implement comprehensive planning, and better serve the public health, safety, and general welfare, the following criteria shall be utilized by the planning commission in reviewing PUD plans. These criteria shall neither be regarded as inflexible requirements nor are they intended to discourage creativity or innovation.

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(5) Planned unit developments in the ETJ shall comply with the provisions contained in this section with the exception of subsections (c) related to density, (d) related to height and yard requirements, and (j) related to PUD plans. In addition, planned unit developments in the ETJ are exempt from the zoning procedures contained in this section.

(6) The description "planned unit development" or "PUD" shall be prominently indicated in the subdivision plat name.

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Sec. 35-501. - General Provisions.

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(g) Americans With Disabilities Act.

(1) **Infrastructure.** Infrastructure construction and improvements of facilities shall comply with the Americans with Disabilities Act of 1990 (42 U.S.C subsection 12181 et seq., Pub. L 101-336 and implementing regulations at 28 C.F.R. parts 35 and 36) and the latest version of the Texas Accessibility Standards of the Texas Department of Licensing and Regulation. Applicants should consult the ADA Technical Assistance Manual from the U.S. Department of Justice on the Internet at <http://www.usdoj.gov/crt/ada/taman3.html>, and Technical Assistance Manual for State and Local Governments @ <http://www.usdoj.gov/crt/ada/taman2.html> and the latest version of the Texas Accessibility Standards available at <http://www.tdlr.texas.gov/ab/abtas.htm>.

(2) **Multi-Family Housing.** Multi-family housing development shall comply with section 804 (f)(5)(C) Fair Housing Amendments Act of 1988 and the implementing regulations codified at 24 CFR 100.205. Applicants should consult the Fair Housing Accessibility Guidelines from the U.S. Department of Housing and Urban development on the Internet at <http://www.hud.gov/fhefhag.html>. See also HUD Fair Housing Assistance Providers Web site: <http://www.hud.gov/fairhsg1.html>.

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Sec. 35-523. Tree Preservation.

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(e) Americans With Disabilities Act.

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(1) Standards.

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C. The city arborist may allow the applicant to defer the minimum tree canopy cover requirements to the building permit phase of the development with plans depicting final canopy cover of preserved trees and newly planted trees and the method to assure that the requirements will be met before the issuance of a building permit, or at platting the final tree canopy cover of preserved tree areas shall be designated as such when the area(s) is platted, or with a guarantee of performance executed and filed with the City of San Antonio. The city arborist shall determine the probable maximum amount of tree mitigation required (measured in dollars) that may be attributable to the development.

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Sec. 35-523. Tree Preservation.

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(f) Minimum Tree Preservation Requirements.

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(2) Tree Survey Methodology.

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A. **Standards.** Table 523-1A establishes the minimum percentage of all diameter inches of significant or heritage trees or tree stand delineation canopy area that must be preserved or mitigated. In environmentally sensitive areas the minimum percentage shall include the understory of the preserved trees. For all development projects ~~single-family dwellings, developers and builders~~ applicants may elect to preserve trees at the MDP, platting or permitting stage; if an applicant ~~developer or builder~~ elects to preserve trees at the MDP or platting stage, this method must be used throughout completion of the project.

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Sec. 35-523. Tree Preservation.

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(i) Tree Preservation Incentives.

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(11) **Heritage Tree Canopy Credit.** A canopy cover credit of two (2) times the tree canopy area of a heritage tree preserved beyond the minimum preservation requirements may be counted toward meeting the final tree canopy coverage using the tree survey or tree stand delineation method. To use this credit when using the tree stand delineation method a heritage tree survey is required. The minimum root protection zone requirements shall be met to receive this credit. A heritage tree with a tree warranty does not receive two (2) times the tree canopy area credit.

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Sec. 35-523. Tree Preservation.

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(j) Root Protection Zone.

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(1) **Root Protection Zone.** A root protection zone must be established around the trunk of each tree preserved or mitigation tree. For multi-family and nonresidential construction the root protection zone shall be an area defined by an average radius extending outward from the trunk of the tree a distance of one (1) linear foot for each inch (DBH). The root protection zone area shall be preserved at natural grade, with natural groundcover. No cutting, filling, trenching, root disturbance, soil disturbance, or construction impacts (including installation of silt fencing that exceeds a depth of three (3) inches) shall occur closer to the trunk than one-half ($\frac{1}{2}$) the root protection zone radius except in parking areas where approved alternative materials and methods are used, construction may be as close as five (5) feet from the root flares on one (1) side of the tree. Filling shall be allowed to accomplish water conservation goals established by the City of San Antonio or by a public utility. Native understory vegetation within the root protection zone shall be preserved, however this requirement does not apply to root protection zone areas that have been landscaped using native, drought tolerant plants. The root protection zone may be shifted and clustered as long as there is no construction closer to the trunk than one-half ($\frac{1}{2}$) the root protection zone radius. The construction of sidewalks shall be allowed in the root protection zone, as long as excavation does not exceed three (3) inches.

The area contained within a root protection zone required under this subsection must be left in a pervious condition after construction and development are completed unless approved alternative construction methods are used. The arborist shall establish a written set of technical criteria on which such approval shall be based. These criteria will be updated at least every five (5) years with the assistance of a committee consisting of, at a minimum, the city arborist, the regional urban forester from the Texas Forest Service, a landscape architect and an engineer. During construction activity on the site, at least a six-inch layer of coarse mulch shall be placed and maintained over the root protection zone. The impervious cover may encroach within the root protection zone if said encroachment is approved by the city arborist.

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Sec. 35-523. Tree Preservation.

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(1) **General Maintenance.** Significant, heritage, ~~or~~ mitigation, or trees planted to meet tree canopy requirements must be maintained in a healthy condition at all times. The property owner is responsible for irrigating, fertilizing, pruning and other maintenance of all trees as needed. Except for residential development, mitigation trees that are planted on the property and that die within twelve (12) months of final inspection are subject to the mitigation requirements set forth in subsection (g) ~~(e)~~ at a ratio of one-inch mitigation for every one (1) inch of a significant, heritage, or mitigation trees that dies. However, a significant or heritage or mitigation tree that dies from other than natural causes shall be mitigated at a ratio as defined in table 523-2. Any tree that dies must be replaced with another living tree of the same category type or better within ninety (90) days after notification by the city. The director of planning and development services may extend this time period up to an additional ninety (90) days due to weather considerations. If the plants have not been replaced after appropriate notification and/or extension, the property owner shall be in violation of this section. If a public utility disturbs trees, it shall make every reasonable effort to preserve the trees and return them to their prior location and condition after the utility work is completed. If nonetheless, trees die, replacement is not the responsibility of the property owner if the death or destruction of the trees is due to the action of a public utility.

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Sec. 35-523. Tree Preservation.

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(o) Tree Mitigation Fund.

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(3) **Use of Funds.** The funds collected from civil penalties and mitigation fees in the fund shall be utilized to pay for the planting of trees, to include a maintenance period not to exceed three years. Generated funds may be used by the city forester to plant trees on public or private properties. Trees planted with mitigation funds shall not be used to meet any municipal code requirements for preservation, mitigation, landscaping, buffers, streetscape or other requirements. [Trees planted with Tree Mitigation Funds are considered mitigation trees as defined in Appendix A of the UDC.](#) The funding of tree preservation including the yearly digital imagery and planting programs shall be administered by the parks and recreation department and city forester. The director of the parks and recreation department shall seek the advice of the parks and recreation board in regard to the selection of projects to be funded. A portion of the fund may be used, on an annual basis, to fund activities directed towards educating the public on the importance of trees in the environment, ecological issues and pollution prevention.

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(q) Tree Canopy Investment Fund.

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(3) **Use of Funds.** The funds collected shall be utilized to pay for the planting and maintenance of trees to include a maintenance period not to exceed three (3) years. Generated funds may be used by the city forester to plant trees on public or private properties and the yearly digital imagery to proactively enhance the city's tree canopy area. [Trees planted utilizing funds from the Tree Canopy Fund are protected trees, and if approved to be removed, shall be mitigated at 1:1 unless heritage-size which are mitigated at 3:1 \(with the exception of species listed in table 523-2, column B, row 1 which will be mitigated at 1:1\) and are to be maintained by the project applicant.](#) In addition, ten (10) percent of the funds collected will be kept in a separate budget line to be used for any litigation necessary in the enforcement of this section. The program is to be administered by the parks and recreation department. The director of the parks and recreation department and the city forester shall seek the advice of the parks and recreation board on the selection of projects to be funded.

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Sec. 35-510. Buffers.

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(a) Applicability.

(1) Activities Subject to Buffer Regulations. This section shall apply to any of the following, except where exempted pursuant to subsection (2), below.

- A. The construction or erection of any new occupiable building or structure for which a building permit is required.
- B. Any enlargement exceeding one thousand (1,000) square feet or ten (10) percent in area, whichever is greater, of the exterior dimensions of an existing building for which a building permit is required. When a building or parking lot is enlarged to the extent that a buffer of at least one hundred (100) feet in lineal footage is required, the requirements of this section shall be applied incrementally such that buffers shall be required only in proportion to the enlarged building area or off-street parking area to the existing development. For example, a ten (10) percent increase requires ten (10) percent of the required buffering that would otherwise be required for the entire development. No buffer is required if the incremental footage imposed by this section is less than one hundred (100) lineal feet.
- C. Any construction of a new parking lot regardless of size.
- D. Expansion of an existing parking lot ~~within the street yard~~ by more than two thousand (2,000) square feet or ten (10) percent in area whichever is greater.

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Sec. 35-511. Landscaping.

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(a) Applicability.

(1) **Generally.** This section shall apply to any of the following, except where exempted pursuant to subsection (2), below:

- A. The construction or erection of any new occupiable building or structure for which a building permit is required.
- B. Any enlargement exceeding one thousand (1,000) square feet or ten (10) percent in area, whichever is greater, of the exterior dimensions of an existing building for which a building permit is required.
- C. Any construction of a new parking lot regardless of size.
- D. Expansion of an existing parking lot ~~within the street yard~~ by more than two thousand (2,000) square feet or ten (10) percent in area whichever is greater. Parking lots in residential zoning districts shall be subject to the requirements of subsection (e) of this section.

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Sec. 35-511. Landscaping.

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(c) Mandatory Criteria.

(2) Acceptable Landscape Materials.

A. No artificial plant materials shall be used to satisfy the requirements of this section.

B. Plant materials required by this section shall [be consistent with Appendix E and shall](#) comply with the minimum size requirements of Table 511-1 at the time of installation. Plant height shall be measured from the average grade level of the immediate planting area to the top horizontal plane of the shrub at planting, for single trunk trees, the measurement shall be taken at six (6) inches above grade level, and for multi-trunk trees, the tree shall be measured from the average grade level of the immediate planting area.

C. Planting areas shall consist of permeable surface areas only. The permeable surface areas for shrubs may be included within permeable surface areas required for trees.

D. In satisfying the requirements of this section, the use of four (4) inches of organic mulch material shall be provided at the time of planting.

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Sec. 35-B124. Tree Permit – Tree Affidavit Option.

In lieu of a tree permit, a notarized tree affidavit with fees and required information may be submitted verifying that no significant or heritage tree required to be counted for calculating minimum tree preservation requirements will be damaged or removed as a result of the application or receipt of the approval requested. The applicant shall also provide a habitat compliance form consistent with section 35-B133, as applicable.

(a) **Number of Copies.** The applicant shall submit a tree preservation/affidavit application with one (1) copy at the platting stage and three (3) sets at the building permit stage.

(b) **Format.**

(1) A vicinity map, project name, street address (or plat #, parcel #, or legal description), date, scale, north arrow and the names, addresses and telephone numbers of the person(s) preparing the plan,

(2) Any aerial photograph that cannot be plotted on a single sheet shall be plotted with appropriate match lines on two (2) or more sheets. A tree preservation survey sheet may also include the tree area calculations and the tree protection notes at the discretion of the applicant. It is the applicant's responsibility to insure that all parts of the tree preservation plan are transferred to each appropriate person concerned with the development project.

(3) Any proposed site work associated with a tree affidavit where there are protected significant, and heritage trees, and areas of tree canopy, the applicant shall provide tree protection notes and tree protection details.

(4) Prior to commencement of any site work, where there are protected significant, and heritage trees, and areas of tree canopy the applicant shall request a pre-construction conference with the city arborist in order to review procedures for protection and management of all significant, heritage or mitigation trees or areas of tree canopy.

(c) **Contents.**

(1) A current aerial photograph (a minimum resolution of six-inch pixels) with an overlay of the development, an outline of the tree area(s) and the tree area(s) and understory that are to be preserved to meet the requirement standards; and

(2) The location of property lines, existing grades and proposed grades, location and widths of existing and proposed streets and alleys, utility easements, driveways, parkways, and sidewalks on or adjacent to the project; and

(3) Basic descriptive information regarding the vegetation type(s) that are within the existing tree area(s).

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Sec. 35-344. "PUD" Planned Unit Development District.

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(e) Required Setbacks.

(1) **For Single-Family or Multi-Family Residential Uses.** Required PUD perimeter setbacks within the city limits or the ETJ for residential uses in a PUD shall be twenty (20) feet.

Nonresidential Uses. Required PUD perimeter setbacks within the city limits or the ETJ for nonresidential uses in a PUD shall be the same as for the applicable zoning district which the nonresidential use would be allowed in if within the city limits of the City of San Antonio.

The PUD perimeter setback lines shall be indicated on the PUD plan prior to receiving approval of the PUD plan. The planning commission may approve lesser setbacks after considering physical features such as the location of trees, waterways, steep slopes, other buffers and/or compatibility of the PUD with adjacent land uses provided such setbacks meet the requirements of the current adopted International Building Code.

No setbacks are required for residential or nonresidential interior lots provided the requirements of the current adopted International Building [Code or the International Residential Code](#) are met. [Provisions of Section 35-373\(c\) Zero Lot Line Development do not apply in a PUD.](#)

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Sec. 35-344. "PUD" Planned Unit Development District.

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(a) **Evaluation Criteria.** In order to foster the attractiveness of a planned unit development and its surrounding neighborhoods and thereby preserve property values, and in order to provide an efficient road and utility network, ensure the movement of traffic, implement comprehensive planning, and better serve the public health, safety, and general welfare, the following criteria shall be utilized by the zoning planning commission and city council in reviewing requests for PUD zoning and accompanying site plans (PUD plans). These criteria shall neither be regarded as inflexible requirements nor are they intended to discourage creativity or innovation.

- (1) Insofar as practicable, the landscape shall be preserved in its natural state by minimizing tree and soil removal.
- (2) Proposed buildings shall be sited harmoniously to the terrain and to other buildings in the vicinity that have a visual relationship to the proposed buildings.
- (3) With respect to vehicular and pedestrian circulation and parking, special attention shall be given to the location and number of access points to public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, and the arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the design of proposed structures and neighboring properties.
- (4) Private streets and gates shall conform to article V of this chapter.

(b) **Minimum Size.** There is no minimum size for a planned unit development.

(c) Zoning Site Plan. A zoning site plan (PUD plan), prepared to scale, illustrating the proposed land uses by location, type (residential, office, commercial, light industry), density and size shall accompany an application for rezoning to "PUD" for review and recommendation by the zoning commission and consideration by the city council. PUD plans shall be distributed to the appropriate city departments for review and comments.

(d) Permitted Uses and Density.

- (1) **Uses.** A planned unit development may include residential, commercial and industrial uses; cluster housing; common areas; unusual arrangements of structures on-site; or other combinations of structures and uses that depart from standard development. The uses permitted in a "PUD" are those designated in the approved PUD plan. Density limits are used to determine the maximum number of permitted dwelling units.

Planned unit developments containing one (1) single zoning district shall be annotated with the zoning district (PUD "RE," PUD "R-20," etc.) and may be developed to the density indicated in the maximum density table in subsection (2) below.

Planned unit developments which contain more than one (1) zoning district shall have each zoning district annotated as (PUD "RE," PUD "R-20," etc.) and each

individual district may be developed to the density indicated in the maximum density table in subsection (2) below.

- (2) Density Table. The PUD plan shall divide the PUD into land use categories and shall indicate the uses permitted in each category. For residential land use categories, the maximum number of dwelling units permitted per acre for each land use category is as follows:

<i>Land Use Category</i>	<i>Maximum Density</i>
"RE"	1
"R-20"	2
"R-6"	5
"RM-6"	5
"R-5"	6
"RM-5"	6
"R-4"	7
"R-3"	10
"RM-4"	7
"MF-18"	18
"MF-25"	25
"MF-33"	33
"MF-40"	40
"MF-50"	50
<u>"MF-65"</u>	<u>65</u>

Total allowable density is calculated by multiplying the amount of net usable acres times the appropriate number above. Floodplains (100-year), steep slopes, non-buildable areas and existing easements are not used to determine net acreage.

Example: On a twelve (12) acre tract with one and one-half (1½) acres of unusable space, with an "R-6" zoning district. Usable acreage ten and one-half (10½) times table number (5) allows fifty-two and one-half (52½) units. The maximum number of units that may be built may not be further increased by using the provisions of vivision 6 flexible zoning of this article.

- (3) Attached Dwelling Units. Dwelling units may be attached in all PUD districts except for land use categories designated "RE" and "R-20."

- (4) Lots. There is no minimum area requirement for lots and lots need not front onto a street. Lot boundaries may coincide with structure boundaries except where perimeter lot setbacks are required.

(e) Height and Yard Requirements.

- (1) Height Limitation. The maximum height of structures shall be as prescribed below; however, any portion of a structure may exceed this limit provided such portion is set back from the side and rear lot lines, or setbacks if required, one (1) foot for each two (2) feet of height in excess of the maximum building height. Distance credit shall be permitted for space occupied by structures of conforming height extending from the lot lines or setbacks as applicable.

<i>Structures devoted to the following uses:</i>	<i>Shall be restricted to the following height:</i>
Dwelling, one family; Dwelling, single-family; Duplex; Dwelling, one-family attached; Dwelling, Single-Family Detached; Dwelling, two-family (duplex); Dwelling, two-family attached; Dwelling, three-family (triplex); Dwelling, four-family (quadraplexes)	35 ft/ 32.5 stories
Multi-Family not exceeding 25 units/acre	45
Multi-Family not exceeding 33 units/acre	60
Multi-Family not exceeding 40 units/acre	84
Multi-Family not exceeding 65 50 units/acre	—
Commercial Buildings (LBCS Structure Classification 2100–2593, 3000, 4000), except as otherwise listed below	35
Malls, shopping centers, or collection of shops - regional center (enclosed mall with two (2) or more anchors) or super regional center (similar to regional, but with three (3) or more anchors)	45
Light Industrial uses (<u>uses permitted in the “L” district</u> LBCS Structure Classification 2610, 2700)	35
General Industrial uses (<u>uses permitted in the “I-1” and “MI-1” districts</u> LBCS Structure Classification 2610, 2700)	60
<u>Mixed use buildings may be as tall as allowed by the most intense use included in the structure pursuant to this table</u>	

(2) Fences.

- A. Along collector and arterial streets, fences or walls within a PUD may extend to a height of eight (8) feet subject to the clear vision area [requirements for fences in subsection 35-514](#).

- B. No such fence or wall, or portion thereof, shall exceed one hundred (100) horizontal feet in length unless one (1) of the following architectural features visible from the paved surface of the street is provided as part of the fence:
1. A column or pillar; or
 2. Articulation of the surface plane wall by incorporating plane projections or recesses having a depth of at least one (1) foot and extending a horizontal distance not less than three (3) or more than twenty (20) feet.
- C. The provisions of subsection B., above, shall not apply to a fence or wall constructed of brick, masonry, or wrought iron ~~fences~~ consisting of at least fifty (50) percent open voids. The square footage of the fence shall be measured by taking the total square footage of an area defined by the length of the fence and its average height. The percent of open voids shall then be derived by dividing the total square footage of the open voids by the total square footage of the area calculated above, and multiplying this figure by one hundred (100). The fence's framing (the vertical posts supporting the fence from the ground and no more than three (3) horizontal cross bars between the posts, or brick or stone pillars) shall not be included in the calculation of the total square footage, provided the framing posts and cross bars do not exceed a four-inch width and the posts are spaced at least eight (8) feet apart.

(fe) Required Setbacks.

- (1) ~~For Single Family or Multi Family~~ Residential including Multi-Family Uses. Required PUD perimeter setbacks ~~within the city limits or the ETJ for residential uses in a PUD~~ shall be twenty (20) feet.

Nonresidential Uses. Required PUD perimeter setbacks ~~within the city limits or the ETJ for nonresidential uses in a PUD~~ shall be the same as for the applicable zoning district which the nonresidential use would be allowed in if it were not a PUD ~~within the city limits of the City of San Antonio~~.

The PUD perimeter setback lines shall be indicated on the PUD plan prior to receiving approval of the PUD plan. The ~~zoning planning~~ commission may recommend and city council may approve lesser setbacks after considering physical features such as the location of trees, waterways, steep slopes, easements, other buffers and/or compatibility of the PUD with adjacent land uses provided such setbacks meet the requirements of the current adopted International Building Code.

No setbacks are required for residential or nonresidential interior lots provided the requirements of the current adopted International Building Code are met.

- (2) If access to a garage is provided from the front or side of a lot, then the garage shall maintain a setback as indicated in subsection 35-516(g) of this chapter.

(gf) Infrastructure Requirements.

- (1) Streets and Sidewalks. Streets within a PUD may be public or private. Vehicular circulation may also be provided by internal private drives. Private drives must meet the requirements for fire lanes as per the International Fire Code Appendix D for width, lengths turnarounds, and parking requirements whether for a commercial or residential base zoning. A building permit must be obtained for private drives, and would include site plan review and inspection for flatwork/civil work within the public ROW. However, the planning commission may require dedication and construction of public streets through or into a PUD [through the platting process](#). Public or private streets shall conform to the transportation standards of this chapter (see section 35-506 of this chapter).
- (2) Utilities. All utility systems shall comply with the utilities standards of this chapter. Water and sanitary sewer systems within a PUD may be publicly or privately owned; however, the maintenance of private systems shall be the responsibility of the PUD community association. Public utility systems shall be approved by the applicable agency or city department.
- (3) Easements. Publicly owned and/or maintained utilities shall be placed in public streets or easements which are a minimum of sixteen (16) feet in width unless a narrower width is approved by the applicable utility. Dead-end easements shall not be permitted unless a city approved vehicular turnaround is provided at the end of each such easement.
- (4) Garbage Collection. If in the opinion of the solid waste management director, private streets in a PUD are arranged so that garbage may be collected without creating a safety hazard, the city will collect the garbage provided proper indemnification is received from the community association or individual property owners. Garbage collection locations shall be subject to the approval of the solid waste management director. In the event the city does not collect garbage within a PUD, all units within the PUD may be exempted from payment of garbage fees upon furnishing of evidence ensuring acceptable removal of all garbage and refuse by private means. To receive such exemption, written application must be submitted to and approved by the finance director ~~of finance~~.

[\(hg\)](#) Parks/Open Space.

- (1) Residential. Each residential PUD plan shall provide for a minimum amount of parks/open space as required by the parks/open space standards (35-503) of this chapter. Residential PUDs may not use a fee in lieu for meeting parks/open space requirements.
- (2) Commercial. All commercial and industrial PUDs will contain a minimum of twenty (20) percent of parks/open space.
- (3) Mixed-Use. Mixed-use developments shall be divided into separate residential and commercial areas which must separately meet the requirements of this paragraph and subsection 35-344(c)(2). [Mixed use buildings that include residential use shall meet the residential requirements of this subsection.](#)
- (4) Reduction in Parks/Open Space. At its discretion, the ~~zoning~~[planning](#) commission may [recommend and city council may](#) approve a decrease in the amount of required

parcs/open space when the PUD plan includes unique design features or amenities which achieve an especially attractive and desirable development such as, but not limited to, terraces, sculpture, water features, preservation and enhancement of unusual natural features, or landscape sculpture (areas which are intensely landscaped).

(h) Parking Requirements. Off-street parking and truck loading facilities shall be provided in accordance with parking standards of this chapter. Parking shall be prohibited on any private street or private drive, excluding driveways on interior lots less than twenty-eight (28) feet in width, and if utilized on streets twenty-eight (28) feet or wider, the parking must be clearly distinguishable from the movement lanes.

~~(i) Common Areas and Facilities. Provisions shall be made for a property owners' association that is designated as the representative of the owners of property in a residential subdivision. The property owners' association shall have the direct responsibility to provide for the operation and maintenance of all common areas and facilities, including private streets and sidewalks, which are a part of the PUD. The applicant shall submit the dedicatory instrument(s) covering the establishment, maintenance, and operation of a residential subdivision. The dedicatory instrument(s) shall establish a plan for the use and permanent maintenance of the common areas/facilities and demonstrate that the property owners' association is self-perpetuating and adequately funded by regular assessment and/or special assessment to accomplish its purposes. The dedicatory instrument(s) shall include provisions that provide the city with permission for access at any time without liability when on official business, and further, to permit the city to remove obstructions if necessary for emergency vehicle access and assess the cost of removal to the owner of the obstruction. The dedicatory instrument(s) must be approved by the city attorney as to legal form prior to any plat recordation and shall be recorded at the same time as the plat.~~

~~"Property owners' association" means an incorporated or unincorporated association that;~~

~~A. Is designated as the representative of the owners of property in a residential subdivision;~~

~~B. Has a membership primarily consisting of the owners of property covered by the dedicatory instrument for the residential subdivision; and~~

~~C. Manages or regulates the residential subdivision for the benefit of the owners of property in the subdivision.~~

~~"Dedicatory instrument" means each governing instrument covering the establishment, maintenance, and operation of a residential subdivision. The term includes restrictions or other similar instruments that subject property to restrictive covenants, bylaws, or similar instruments governing the administration or operation of a property owners' association; allow for properly adopted rules and regulations of the property owners' association; and authorize enactment of lawful amendments to the covenants, bylaws, rules, or regulations.~~

~~"Property owners' association" means the designated representative of the owners of property in a subdivision and may be referred to as a "homeowners association," "community association," "civic association," "civic club," "association," "committee," or similar term contained in the dedicatory instrument.~~

~~"Regular assessment" means an assessment, a charge, a fee, or dues that each owner of property within a residential subdivision is required to pay to the property owners' association on a regular basis and that is designated for use by the property owners' association for the benefit of the residential subdivision as provided by the dedicatory instrument.~~

~~"Special assessment" means an assessment, a charge, a fee, or dues, other than a regular assessment, that each owner of property within a residential subdivision is required to pay to the property owners' association, according to the procedures required by the dedicatory instrument, for:~~

~~A. Defraying, in whole or part, the cost whether incurred before or after the assessment, of any construction or reconstruction, unexpected repair, or replacement of a capital improvement in common areas owned by the property owners' association, including the necessary fixtures and personal property related to the common areas;~~

~~B. Maintenance and improvement of common areas owned by the property owners' association; or~~

~~C. Other purposes of the property owners' association as stated in its articles of incorporation or the dedicatory instrument for the residential subdivision.~~

- (j) PUD Plan. The PUD zoning and accompanying plan must be approved by the city council~~After the PUD zoning is granted, a PUD plan shall be submitted to and approved by the planning commission~~ prior to approval of any plats or the issuance of any building permits or certificates of occupancy. The PUD plan shall incorporate any conditions imposed with the granting of the PUD zoning. The PUD plan shall also delineate the measures that will be taken by the developer and/or owner to disclose to buyers of properties within PUDs of the increased financial responsibilities for the cost and responsibility for the maintenance of any private streets and other commonly owned facilities.

- (k) Amendments. Amendments may be classified as minor or major and shall be processed in accordance with Section 35-423 (g).

~~(k) Time Limit.~~

~~(1) Applications. The director of development services shall provide a written response indicating whether or not the planned unit development application is complete within five (5) working days after submittal. The applicant shall file a written response to any staff comments or resolve outstanding issues prior to final approval of completeness. This response shall occur within thirty (30) days of the notification date of staff comments unless a time extension is requested and granted~~

~~in writing. The maximum limit on an extension is six (6) months from the original staff comment date. The appellate agency for purposes of completeness review shall be the planning commission.~~

~~PUD plan application approval shall expire, and shall be void for all purposes if a PUD plan is not approved in accordance with this chapter within two (2) years from the date of acceptance of the complete application. Upon expiration of the PUD plan application, a new PUD plan number, application, and fee shall be required if PUD plan approval is still sought.~~

- ~~(2) PUD Approval and Completion. A PUD plan, deemed complete and approved, shall remain valid for a period of six (6) years from the date of the last recorded plat or the date of planning commission approval if no plats are recorded. Time extensions for up to one year may be granted by the planning commission if it finds that additional time is warranted. Failure to initiate development within the approved time period shall void the approved PUD plan and no building permits or utility connections shall be issued until a new application and plan have been submitted and approved.~~
- ~~(3) Amendments. An approved/completed PUD may be amended in the future subject to any applicable criteria or requirements of this chapter.~~

Sec. 35-413. Reserved. ~~PUD Plan.~~

- ~~(a) Public Hearing. Upon submission of the PUD plan, the director of development services shall distribute copies to appropriate city departments and agencies for review. Upon receipt of all required items and reviews, the director of development services shall schedule a public hearing by the planning commission on the proposed plan and shall provide written notice of the hearing to the owners of real property lying within two hundred (200) feet of the PUD boundaries. The notice shall be mailed at least ten (10) days prior to the public hearing date.~~
- ~~(b) Plan Approval. After the public hearing the commission may approve the plan as submitted, amend and approve the plan as amended, or disapprove the plan. If approved, the plan with any amendments shall be signed by the chairman and secretary of the commission. A copy of the approved PUD plan shall be distributed to the development services director and other appropriate departments/agencies for use in issuing permits.~~
- ~~(c) Plan Changes. Alterations to a PUD plan shall be classified as either substantial or non-substantial amendments. Non-substantial amendments may be approved by the development services director. Substantial amendments shall be considered by the planning commission following the same procedure required for the initial approval of the plan, including payment of the plan review fee. The following criteria shall be used to identify a substantial amendment:~~

- ~~(1) A change which would include a land use not previously permitted under the approved PUD zoning.~~
- ~~(2) A change which would alter the land use type adjacent to a PUD boundary.~~
- ~~(3) A change which would increase the overall density of the PUD by more than ten (10) percent. However, in no instance may the overall density of the PUD exceed that permitted by the base zoning district.~~
- ~~(4) A change which the director of development services determines would significantly alter the general character or overall design of the plan.~~

Sec. 35-420. Comprehensive, Neighborhood, Community, ~~and~~ Perimeter and Sector Plans.**STATEMENT OF PURPOSE**

Neighborhoods are an essential building block of local planning. The master plan provides strong policies encouraging neighborhood participation in the planning and land development process. Neighborhood planning is an important process when it is participatory and inclusive. At the same time, the master plan requires development approval processes to be fair and equitable, and for permitting to be streamlined.

- (a) **Applicability.** The provisions of this section govern the development of neighborhood, community, ~~and~~ perimeter, and sector plans. There are four (4) ~~three (3)~~ categories of plans that may be adopted pursuant to this section, as set forth in subsections (1) through ~~(3)~~ (4) below. For purposes of this section, a "plan" shall mean and refer to any neighborhood plan, community plan, ~~or~~ perimeter plan, sector plan or any plan adopted pursuant to Texas Local Government Code Chapter 213 ~~V.T.C.A. Local Government Code Ch. 219~~, unless otherwise indicated.
- (1) **Neighborhood Plans.** Neighborhood plans may include at least one (1) neighborhood unit. A neighborhood unit may encompass an area which includes residences, businesses, parks, schools, undeveloped land, and other community facilities. Populations should generally range from four thousand (4,000) to ten thousand (10,000) people depending on the geographic area and boundaries. A neighborhood unit usually contains at least one thousand five hundred (1,500) housing units. Neighborhood plans may be incorporated into community plans and shall function as building blocks in the development of community plans.
- (2) **Community Plans.** Based on the master plan policy for sector planning, the community building and neighborhood planning program includes a citywide system of community areas in order to develop community plans. The objective of dividing the entire city into community areas is to establish a framework for: developing community plans that impact and service all citizens of San Antonio; creating a citywide service system that fosters community-based partnerships and civic awareness that improves neighborhoods; and providing a means for articulating community values that is readily available to public and private entities which shape the future development of the community. The proposed community areas shall be identified by the department of planning and community development based on the city's current population, and boundaries based on community association areas, the parks and recreation system plan service areas, creeks, freeways, major arterials, and census tracts.
- (3) **Perimeter Plans.** Perimeter plans are similar to community plans but may cover land areas that lie within the corporate limits, the city's ETJ and that portion of the county outside of the city's present ETJ. Perimeter plans shall serve as amendments to the city's master plan for those areas lying within the city limits and shall be subject under state law to the zoning ordinances of the City of San Antonio. All other areas covered by the

perimeter plan outside of the corporate limits of the city shall be for general guidance for the subdivision of land and implementation of the major thoroughfare plan.

- (4) Sector Plans. Sector plans are components of the City's Master Plan Polices, but also provide appropriate guidance for land use, transportation, and public facilities planning in each of the City's sector areas. Sector plans shall serve as amendments to the city's master plan for those areas lying within the city limits and shall be subject under state law to the zoning ordinances of the City of San Antonio. All other areas covered by the sector plan outside of the corporate limits of the city shall be for general guidance for the subdivision of land and implementation of the major thoroughfare plan.

* * * * *

(f) Comprehensive, Neighborhood, Community, Perimeter and Sector Plan Amendments
Subsequent Applications

- (1) Applicability. The provisions of this section apply to any application for a change to the future land use component of adopted plans or for changes to the text of Community, Neighborhood, Perimeter or Sector Plans. The comprehensive master plan is the city's long-range approved plan. The Neighborhood, Community, Perimeter and Sector Plans are elements of the comprehensive plan. An amendment to the master plan should demonstrate that a substantial public need exists and the amendatory ordinance must bear a substantial relationship to the public health, safety, morals, or general welfare or protect and preserve historical and cultural places and areas. Each application for a change to the city's long range plan must follow the city's comprehensive plan and should not redetermine as an original matter the city's master plan policies.
- (2) Initiation. Plans are prepared to address needs of the Planning area, existing development patterns, and opportunities for growth over the next five or more years. As such, physical, market and development conditions will continue to evolve within the planning areas. These variables can result in necessary changes to an adopted plan. All petitions, recommendations or proposals for changes in the future land use component of adopted plans or changes to the text of the plan shall be filed with the planning commission. Text amendments may be proposed by any person. A proposed amendment may be initiated by:
- A. The city council by resolution; or
- B. An application properly signed and filed by the owner or, with the owner's specific written consent, a contract purchaser or owner's agent of a property included within the boundaries of a proposed amendment, unless otherwise provided for by this chapter.^{3[1]} When an amendment is initiated, an

application for such amendment shall be submitted to the director. The applicant may file an application for subdivision plat approval concurrent with an application for an amendment.

C. The director of development services pursuant to an annexation service plan or to correct an administrative error in the rezoning or amendment of a tract of land pursuant to this chapter.

(3) Completeness Review. The director of development services shall conduct a completeness review as set forth in section 35-402 of this chapter within two (2) working days of application submittal. The appellate agency for purposes of completeness review (see subsection 35-402(c) of this chapter) shall be the planning commission.

(4) **Decision.** Upon certification by the director that the application is complete and required fees have been paid, the application shall be deemed complete and referred to the planning commission for its review and recommendation.

A. **Type of Hearing.** The public hearings before the planning commission and city council shall be conducted in accordance with section 35-404, above.

B. **Planning Commission.** The planning commission, after public notice in accordance with Table 35.403-1, Notice Requirements, shall hold at least one (1) public hearing on such application and as a result thereof shall transmit a resolution report to the city council. All applications for an amendment which have been considered by the planning commission shall be presented by the applicant to the city council within six (6) months from the date of the commission's final consideration. In the event the applicant fails to present the application for an amendment to the city council within the prescribed period, a new original application and fees shall be required. A new application shall not be submitted to the planning commission for consideration prior to the expiration of the six-month time period specified in subsection (5), below. See subsection 35-404(b) for rules relating to failure of the planning commission to submit a recommendation.

C. **City Council.** After the resolution of the planning commission is submitted to the city council as provided in subsection B above the council shall consider an amendment after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Before the fifteenth day prior to the date of the hearing, notice of the time and place of the hearing shall be published in an official newspaper or a newspaper of general circulation in the city. After the receipt of the final report of the planning commission, the city council shall approve or deny the amendment.

All applications for an amendment which have been considered by the planning commission shall be presented by the applicant to the city

council within six (6) months from the date of the commission's final consideration. In the event the applicant fails to present the application to the city council within the prescribed period, a new original application and fees shall be required. A new application shall not be submitted to the planning commission for consideration prior to the expiration of the six-month time period specified in subsection (5), below. See subsection 35-404(b) for rules relating to failure of the planning commission to submit a recommendation.

(5) Postponement of a Case by Applicant.

- A. Prior to the city publishing notice of the amendment in the newspaper, an applicant may request in writing that the case not be scheduled for a public hearing date. In such cases, the applicant shall have six (6) months from the date of the written request to schedule the case. After expiration of the six-month period, the applicant will have to submit a new application with new fees for further consideration of an amendment on the subject property.
- B. If a written request for postponement is submitted by the applicant after the city has published the case in the newspaper, the fees paid shall be non-refundable and the case will not be rescheduled for a public hearing date until the postponement fee has been paid by the applicant. In such cases, the applicant shall have six (6) months from the date of the written request for postponement to reactivate the case. After expiration of the six-month period, the applicant will have to submit a new application with new fees for further consideration of an amendment on the subject property. In no instance shall a postponement extend beyond six (6) months from the date of the commission's final consideration.
- C. If a request for postponement is not received by 4:30 p.m. on the seventh day prior to the public hearing date, the case shall remain on the public hearing agenda and will require the applicant to personally request such a postponement in front of the planning commission or city council.

(6) Subsequent Applications.

- A. Applicability. The provisions of this subsection shall not apply to any application which is initiated by the city council.
- B. Withdrawal of an Application.
 - 1. Withdrawal without time penalty. An applicant may withdraw an application up to the time that it is called forward and the city staff begins presentation of the application during a duly advertised public meeting without a time penalty on resubmission of another application for

the property whether by the original applicant or a new applicant.

2. Withdrawal with time penalty. An applicant may withdraw an application after it has been called forward for discussion and staff has begun presentation however such withdrawal shall be penalized by imposing an automatic six-month time period following the date of withdrawal before the same or another application for the same property can be submitted for processing.
3. Waiver of time penalty in subsection 2. above for resubmission. At the time of withdrawal of an application the planning commission may consider a request by the applicant to bring the application or a modification of the application back prior to the expiration of six (6) months subject to all notifications and postings of the case being observed. If the planning commission fails to approve such resubmission prior to continuing with the next agenda item the six-month submission limitation shall stand.
4. Request of relief of time penalty. If new relevant and substantial evidence which could not have been secured at the time set for the original hearing shall be produced by applicant, under a sworn affidavit to that effect, then in that event, the planning commission may elect to hear and consider such application prior to the expiration of the time penalty.

C. Denial of Amendment. It is further provided that no application for the amendment of any lot, lots or block of land situated in the city shall be received or filed with the planning commission of the city and no hearing had thereon, if within one (1) year prior thereto the city council, after consideration and hearing, has denied an application for an amendment of the same property.

(7)Amendments. Any subsequent amendments to future land use or text changes to the Community, Neighborhood, Perimeter or Sector Plans requires a new application and shall be processed as set forth in subsections (2) through (4) of this section.

35.421. Zoning Amendments.

- (d) **Consistency.** For all applications for rezoning, the development services department, based on the information provided by the applicant, shall make a determination regarding consistency with the policies contained in the master plan of the city or if applicable the land use element of a neighborhood, community, ~~or~~ perimeter, or sector plan adopted pursuant to section 35-420 of this chapter, within five (5) working days. A rezoning request for an “S” or “CD” where the current base district is not requesting to change does not require a determination for consistency with the plan.
- (1) If the development services department makes a determination that the requested rezoning is inconsistent with the master plan policies or the land use element of the applicable neighborhood, community, ~~or~~ perimeter ~~plan~~ or sector plan, then the application for rezoning shall not be deemed complete until a completed application for a master plan amendment is filed with the ~~planning and community development~~ development services department. The requested rezoning shall not be considered by the zoning commission until the planning commission has considered the master plan amendment request.
 - (2) If the development services department determines that the requested change is consistent with the master plan policies or the land use element of the applicable neighborhood, community or perimeter plan, then the zoning case may be deemed complete without an amendment to the master plan of the city.
 - (3) The appellate agency for purposes of consistency determination shall be the planning commission.

Commentary: The master plan is the comprehensive plan for the physical development of the city, as prescribed in the City Charter. The master plan includes any unit or part of such plan separately adopted and any amendment to such plan or part thereof. Neighborhood, community, ~~and~~ perimeter ~~and~~ sector plans are components of the master plan.

- (e) **Decision.** Upon certification by the director that the application is complete and required fees have been paid, the application shall be deemed complete and referred to the zoning commission for its review and recommendation as provided by V.T.C.A. Local Government Code § 211.007.
- (3) **City Council.** After the final report of the zoning commission is submitted to the city council as provided in subsection B above the council shall consider a master plan amendment after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Before the fifteenth day prior to the date of the hearing, notice of the time and place of the hearing shall be published in an official newspaper or a newspaper of general circulation in the city. After the

receipt of the final report of the zoning commission, the city council shall approve or deny the rezoning or text amendment in accordance with with V.T.C.A. Local Government Code § 211.007.

If the proposed rezoning is inconsistent with the land use plan of a neighborhood plan, community plan, ~~or~~ perimeter plan, or sector plan, an application for an amendment to the neighborhood plan, community plan, ~~or~~ perimeter plan, or sector plan, shall be submitted by the applicant.

Amendments to both the official zoning map and the neighborhood plan, community, ~~or~~ perimeter plan, or sector plan, may be considered concurrently.

An affirmative vote of at least three-fourths ($\frac{3}{4}$) of all members of the city council is required to approve a proposed change to a regulation or boundary if the change is protested. The protest must be written and signed by the owners of at least twenty (20) percent of either the area of the lots or land covered by the proposed change or the area of the lots or land immediately adjoining the area covered by the proposed change and extending two hundred (200) feet therefrom. In computing the percentage of land area, the area of streets and alleys shall be included in the computation. Written protests must be received by the director at the department of ~~planning and~~ development services offices no later than 4:00 p.m. of the previous business day prior to the posted date and time for the zoning hearing on the city council's agenda. If the written protests appear to be at least twenty (20) percent of either the area of the lots or land covered by the proposed change or the area of the lots or land immediately adjoining the area covered by the proposed change and extending two hundred (200) feet there from the applicant shall be entitled to, but is not required to request an automatic continuance if all members of the city council are not present.

* * * * *

(g) Postponement of a Case by Applicant.

- (1) Prior to the city publishing the zoning case in the newspaper, an applicant may request in writing that the case not be scheduled for a public hearing date. In such cases, the applicant shall have six (6) months from the date of the written request to schedule the case. After expiration of the six-month period, the applicant will have to submit a new application with new fees for further consideration of a zoning change on the subject property.
- (2) If a written request for postponement is submitted by the applicant after the city has published the case in the newspaper, the fees paid shall be non-refundable and the case will not be rescheduled for a public hearing date until the postponement fee has been paid by the applicant. In such cases, the

applicant shall have six (6) months from the date of the written request for postponement to reactivate the case. After expiration of the six-month period, the applicant will have to submit a new application with new fees for further consideration of a zoning change on the subject property. In no instance shall a postponement extend beyond six (6) months from the date of the commission's final consideration.

- (3) If a request for postponement is not received by 4:30 p.m. on the seventh day prior to the public hearing date, the case shall remain on the public hearing agenda and will require the applicant to personally request such a postponement in front of the zoning commission or city council.

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Sec. 35-679. Other Requirements and Regulations.

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- (d) **Monuments, Markers, Memorials, and Acknowledgements.** Monuments, markers or memorial plaques are not permitted on the riverside of property abutting the river, or within the publicly owned right-of-way without the express written consent of the [historic preservation officer](#) ~~historic and design review commission~~. The following standards shall apply:

(1) ~~A.~~ Texas historical markers are permitted, but must be mounted to walls or structures. Pole mounted THC markers are not permitted in "RIO-3."

(2) ~~B.~~ Monuments and memorial plaques must commemorate an event or person significant to the Riverwalk or the history of the Riverwalk. To assure that the significance of an event or person has withstood the test of time, memorial plaques may commemorate an event ten (10) years or older a person ten (10) years or more posthumously.

(3) ~~C.~~ Memorial gifts, such as benches, fountains or art etc. may from time to time be accepted as gifts by the city, plaques acknowledging the gift, shall be bronze and no larger the ten inches by four inches (10" x 4"). Memorial plaques for a gift of a tree or other plantings are not permitted.

(4) ~~D.~~ Placement of monuments, memorials and markers will be under the jurisdiction of the director of parks and recreation, rather than the director of planning, after consultation with the [historic preservation officer](#) ~~historic and design review commission~~.

(5) ~~E.~~ Plaques recognizing donors for significant improvements or plaques acknowledging the naming of significant improvements such as, but not limited to, pocket parks, footbridges, fountains, grottos, gardens, gazebos, boat landings, overlooks and other significant features may be placed along the San Antonio River. The plaques may be no larger than four (4) square feet and must be made of either cast bronze, cast aluminum (or other suitable metal), carved stone, or tile. Language utilized (in recognition of an individual, corporation or foundation) on a plaque must contain language substantially similar to "sponsored by, underwritten by, a gift from."

(e) Vending in the Riverwalk Area.

- (1) **Definitions.** The following definitions apply to this subsection 35-679(e) in addition to those definitions contained in Appendix "A":

* * * * *

Vend shall have the meaning provided in [Appendix A](#). ~~means offering goods, merchandise, or services in exchange for compensation; accepting compensation in exchange for goods, merchandise, or services; or distribution or display of merchandise or commercial advertising matter.~~

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Sec. 35-451. Certificate of Appropriateness.

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(d) Decision.

(1) **Commission Review.** The commission shall make its written final recommendation to either approve, deny, or approve with stipulations the application within sixty (60) days after the historic preservation officer's receipt of the completed application. In cases involving demolition applications, the Historic Preservation Officer may extend this timeline consistent with Section 35-455(d). Applications forwarded to the commission shall include all required materials and documents from the applicant. If the commission does not make its final recommendation within a sixty-day period, the application shall be deemed recommended by the commission for ~~disapproval~~ **approval**, and the city manager or her designee shall either approve, deny or approve with conditions the application within five (5) days of the applicant's demand. The sixty-day time period may be extended up to three additional times, with each time not exceeding thirty (30) days, with the concurrence of the applicant if additional time is required for the preparation of information or for research required by the commission.

(2) **City Manager Review.** Upon receipt of the recommendation by the commission, or on their own initiative, the city manager or designee may implement such recommendation by notifying the applicant within ten (10) business days from receipt of such recommendation that the application has been approved, conditionally approved, or disapproved. The city manager designee for this purpose shall be the historic preservation officer, unless the city manager chooses to designate otherwise. The city manager or designee shall also submit a copy of the decision to the commission for its information, to the department of planning and development services for issuance of permits, and to other departments, as applicable. The city manager or designee shall assure the decision is based on the criteria established by the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation, and was considered by the commission in the determination as to issuance or denial of any certificate.

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Sec. 35-455. Demolition Permit Applications.

* * * * *

(d) Decision.

(1) **Other Demolition Permits.** If the property is not a historic landmark, contributing property, or an intrusion in the district, the historic preservation officer shall determine whether or not the building, object, site, or structure may have historic, cultural, architectural, or archaeological significance within thirty (30) days ~~after receipt of the completed application and shall notify the director of planning and development services in writing.~~ In making this determination, the historic preservation officer shall apply the appropriate definitions in Appendix A of this chapter, as well as any applicable standards or guidelines adopted by the city council. If the building, object, site, or structure is determined to have no cultural, historical, architectural, or archaeological significance, a demolition permit may be issued immediately, provided such application otherwise complies with the provisions of the demolition ordinance and all city code requirements. The historic preservation officer shall retain a written statement summarizing the reasons for their determination for such period as required under applicable record retention laws. If the building, object, site, or structure is determined by the historic preservation officer to have historic, cultural, architectural, or archaeological significance, the historic preservation officer shall make such information available to the historic and design review commission for review and recommendation as to significance. If the historic and design review commission concurs in the significance, the historic and design review commission shall recommend that the building, object, site, or structure be designated as a historic landmark. Following such determination, the applicant may request a demolition permit by following the procedures for historic landmarks or properties within a historic district as prescribed in this section.

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Sec. 35-452. Certificate of Appropriateness for Administrative Approval.

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(d) **Decision.** Applications for ordinary repair and maintenance may be approved by the [City Manager or their designee](#) ~~director of planning and development services upon recommendation from the historic preservation officer~~. The decision may be appealed in the same manner as set forth in section 35-481.

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Sec. 35-672. Neighborhood Wide Design Standards.

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(a) **Pedestrian Circulation.** Pedestrian access shall be provided among properties to integrate neighborhoods.

(1) Provide sidewalks that link with existing sidewalks on adjoining properties. If no sidewalk currently exists on an adjoining property, the applicant will have discretion in the placement of the sidewalk provided the following criteria are met:

- A. Provide a sidewalk connection from one (1) side of the applicant's property to the other, parallel to the [river bank or](#) public right-of way. ~~on the street sides of the property in all river improvement overlay districts~~
- B. Provide a connection from the street level sidewalk to the Riverwalk at cross streets and bridges and other designated access points. This requirement may be waived if there is already a public connection from the street level to the Riverwalk.
- C. In order to preserve the rural character of "RIO-6," the HPO, in coordination with the development services department, may waive the requirement of sidewalks.
 - In "RIO-3," the width of the pathway along the river shall match those widths established in the historic Hugman drawings. If there are no sidewalks in the Hugman drawings, the path will not exceed eight (8) feet in width.

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Sec. 35-672. Demolition of Historic Features in the ~~Riverwalk~~ River Improvement Overlay Districts.

Demolition of architectural features, artwork, furniture, and other items shown on the Robert Hugman plans as well as other historic Riverwalk construction dating back to Spanish Colonial times and including works by the WPA, the CCC and the National Youth Administration constitutes an irreplaceable loss to the quality, character, ambiance and atmosphere of the San Antonio Riverwalk in the river improvement overlay districts. Accordingly, these procedures provide criteria to prevent unnecessary damage to the unique character of the city's Riverwalk areas and character.

(a) **Applicability.** The provisions of this section apply to any application for demolition of important architectural features on or immediately adjacent to the river and or the Riverwalk in the river improvement overlay districts.

Items shown on the Robert Hugman Plans for the Riverwalk in "RIO-3."

~~No certificate shall be issued for demolition of any~~ Items shown on the Robert Hugman Plans for the Riverwalk in "RIO-3-" must be preserved ~~This prohibition against demolition of Hugman features includes but is including but~~ not limited to staircases, walkways, furniture, bridges, tile and other artwork, light fixtures, handrail ornaments, boat landings, fountains, waterways, water features, retaining walls and the overall landscaping plan for placement of planting beds. ~~This prohibition shall also apply to~~, and the earlier, hand-built river retention walls found in "RIO-3" as identified in the city records and commonly known as the Tobin walls and the Stucco walls. ~~However, a~~ Appropriate penetrations of these historic retention walls will be permitted subject to commission approval.

Heritage Trees. Removal or damage to heritage trees such as large Cypress trees and other, old significant trees at top of bank or along the Riverwalk is prohibited in all river improvement overlay districts. Except where the tree is damaged due to disease, age or physical condition and must be removed for the safety reasons. Then with a recommendation from the city arborist, or the official urban forester, the historic and design review commission may grant approval for demolition.

Other Items of Historic or Archaeological Interest. No certificate shall be issued for demolition of such historic and archaeological features dating from Spanish Colonial times including but not limited to acequias, dams, aqueducts, old mills, trailways, and other river related features or similar items.

(b) **Unusual and Compelling Circumstances for Demolition of the Above.** The historic and design review commission may consider unusual and compelling circumstances in order to approve a certificate of appropriateness for the demolition or removal of the

items listed in section 35-680. It shall be guided in its decision by balancing the contribution of the object, site or structure to the character of the river improvement overlay districts with the special merit of the proposed replacement project.

The historic and design review commission, using criteria set forth in this article, shall determine whether unusual and compelling circumstances exist and shall be guided in its recommendation in such instances by the following additional considerations:

- A. The historic or architectural significance of the object, site, or structure;
 - B. The importance of the object, site, or structure to the integrity and character of the river improvement overlay district;
 - C. The difficulty or the impossibility of reproducing such an object, site, or structure because of its design, texture, material, detail, or unique location;
 - D. Whether the object, site, or structure is one (1) of the last remaining examples of its kind in the neighborhood, the city, county, region, state, or nation;
 - E. Whether reasonable measures can be taken to save the object, site, structure, or cluster from further deterioration, collapse, arson, vandalism or neglect.
- (c) **Penalties.** Penalties for demolition of architectural features, artwork, furniture and other items discussed in this section shall be the same as those listed in subsections 35-491(c)(3) and (c)(4).

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Sec. 35-A101. Definitions and Rules of Interpretation.

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(b) **Definitions.** Words with specific defined meanings are as follows:

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Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Substantial rehabilitation. Certified improvements to a historic building in which the cost of the project is approximately equal to or greater than ~~fifty (50) percent~~ 30 percent of the appraised pre-rehabilitation improvement value of the property and which constitutes major work on enhancing existing mechanical or structural systems that preserve the historical integrity, while extending the life of the building.

Swale. A low lying or depressed stretch of land without a defined channel or tributaries.

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Sec. 35-345. "MPCD" Master Planned Community Districts.

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(e) Amendments to "MPCD" Master Site Plan.

- (1) Revisions to a previously approved "MPCD" master site plan shall be classified as minor or major changes. An application for a major or minor change to "MPCD" site plan shall be subject to subsection 35-412(c) completeness review provisions of this chapter. Within five (5) working days after filing the proposed revisions, required items and information, the director of planning and development services shall provide a written response indicating whether or not the submitted revised "MPCD" site plan has been accepted as a minor or major revision. If it is determined by the director of ~~planning and~~ development services that the revised submittal is considered a minor change then said submittal shall processed by the director of ~~planning and~~ development services and shall not require review by the zoning commission or approval by the city council. The applicant may appeal a conditional acceptance by the director of ~~planning and~~ development services using the same process as the initial "MPCD" site plan submittal described in subsection (c) of this section. If it is determined by the director of ~~planning and~~ development services that the proposed revision is a major change then said proposed major revisions shall be processed in the same manner as the initial "MPCD" site plan submittal described in subsection (c) of this section. Major amendments to an MPCD site plan constitutes a new project with respect to the area of the project that is modified.

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Sec. 35-306. Rezoning.

The city council may, from time to time, reclassify a parcel from one zoning district to another as provided by V.T.C.A. Local Government Code § 211.007 and section 35-421 ~~of this chapter~~. If any portion of a parcel is rezoned and a remainder not included in such rezoning measures less than fifty (50) feet, the entire parcel will be considered rezoned.

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Sec. 35-437. Performance Agreement.

When site improvements, other than gas and electric lines, are required in conjunction with a plat, a performance agreement to ensure construction of the site improvements shall be executed by the applicant and filed with the planning commission together with the plat. Such instrument shall be substantially the same as form "F" in Appendix "B," section 35-121 and shall be filed with the City of San Antonio when a guarantee of performance is required. A request for an extension of time for plat recordation shall include a request for an extension of the performance agreement.

(a) **Guarantee of Performance.** As is provided for in subsection 35-432(i), an approved plat may be filed for record before the required site improvements are completed if one (1) of the following guarantees of performance is approved and filed with the City of San Antonio within three (3) years after the plat has been approved by the planning commission: a performance bond, an irrevocable trust agreement, ~~a or~~ an irrevocable standby letter of credit, or a cash or cashier's check. In no event shall an applicant self-insure, notwithstanding that that applicant is a surety company, trust institution, or bank. All site improvement estimates submitted to the director of development services shall detail the specific improvements needed, and shall bear the official seal and signature of a professional engineer attesting to the accuracy of the dollar amounts contained in the estimate. Any guarantee submitted shall clearly state the procedure and complete contact information for collection should a claim or draw be necessary, and shall cover the time period from submittal and approval to three (3) years, or three (3) years and ninety (90) days in the case of a letter of credit, from the date of plat approval.

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(2) **Irrevocable Trust Agreement.** The subdivider shall cause to be placed in a trust account on deposit with a "Trust Institution", as defined by the Texas Finance Code, Title 3. Financial Institutions and Businesses, that is licensed to do business in the State of Texas, (specifically, a bank, trust company, savings bank, savings association or credit union as selected by the subdivider and approved by the director of development services) a sum of money equal to the cost estimate, as approved by the director of development services, of all uncompleted and unaccepted site improvements (other than gas and electric lines) required by these regulations. The trust account must be drawable in Texas and shall be established by agreement which shall be substantially in the same form as form "J" set out in Appendix "B", subsection 35-B121 The director of development services is authorized to sign the agreement on behalf of the city and the city attorney shall approve same as to form.

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(b) **Substituting Guarantees.** When a subdivider has given security in any of the forms hereinabove provided, and fifty (50) percent of the required site improvements have been completed and approved in writing by the director of development services, the subdivider may substitute for the original guarantee, a new single guarantee in an amount

equal to the cost of the remaining site improvements. The cost estimate shall be approved by the director of development services. Such new guarantee need not be in the same form as the original guarantee so long as such guarantee is one that is listed in subsection (a). However, in no event shall the substitution of one security for another in any way change or modify the terms and conditions of the performance agreement or the obligation of the subdivider as specified in the performance agreement. Additionally, a guarantee (not including [irrevocable](#) trust agreements) may not be substituted more than two (2) times (not to include a one-time substitution approved by the director of development services upon the granting of a time extension) and in no event shall the amount of a substituted guarantee be less than ten (10) percent of the total amount of the original guarantee amount. For [irrevocable](#) trust agreements, subdivider may withdraw from the [irrevocable](#) trust amount when fifty (50) percent or more of the remaining cost estimate has been completed and approved in writing by the director of development services. Subdivider may not withdraw more than four (4) times (not to include a one-time substitution approved by the director of planning and development services upon the granting of a time extension) during the life of the [irrevocable](#) trust. In no event shall the amount of the [irrevocable](#) trust be less than twenty (20) percent of the total amount of the original cost estimate until all improvements have been completed and approved.

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(d) Release Upon Completion of Site Improvements. Upon completion of the required site improvements and final inspection by the director of development services, and county engineer if the site is located in the extraterritorial jurisdiction of the city, an instrument releasing the applicant from the provisions of the performance agreement and the performance guarantee shall be filed with the City of San Antonio. Such release shall be substantially the same as form "L" in Appendix "B", subsection 35-B121. [If a Warranty Bond is required under subsection B35-501\(h\), release of any Performance Bond is conditioned upon acceptance of such Warranty Bond.](#) If the necessary permits required to complete the site improvements (including, but not limited to, floodplain development permits) are denied by the city and are no longer required to serve the lots within the subdivision, the director of development services shall approve and release the performance agreement and guarantee as provided herein.

Sec. 35-440. Replatting Without Vacating Preceding Plat.

(a) **Applicability.** Pursuant to V.T.C.A. Local Government Code § 212.014, a replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat ~~if the replat~~ if either:

(1) the replat is the only instrument by which any covenants and restrictions therein are recorded, and the replat:

~~(1A)~~ (A) Is signed and acknowledged by only the owners of the property being replatted;

~~(2B)~~ (B) Is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the municipal authority responsible for approving plats; and

~~(3C)~~ (C) Does not attempt to amend or remove any covenants or restrictions.

or, (2) the replat is NOT the only instrument by which any covenants and restrictions therein are recorded, and:

(A) the replat is signed and acknowledged by each owner and only the owners of the property being replatted;

(B) the municipal authority responsible for approving plats holds a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard;

(C) the replat does not amend, remove, or violate, or have the effect of amending, removing, or violating, any covenants or restrictions that are contained or referenced in a dedicatory instrument recorded in the real property records separately from the preceding plat or replat;

(D) the replat does not attempt to amend, remove, or violate, or have the effect of amending, removing, or violating, any existing public utility easements without the consent of the affected utility companies; and

(E) the municipal authority responsible for approving plats approves the replat after determining that the replat complies with this chapter and rules adopted under Section 212.002 and this section in effect at the time the application for the replat is filed.

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(d) **Decision.** Pursuant to V.T.C.A. Local Government Code ~~§ 212.014, a replat shall be approved by the planning commission in the same manner as a major subdivision.~~ §§ 212.002, 212.014, and 212.0146, the municipal authority responsible for approving plats shall approve the replat after determining that the replat complies with this chapter and rules adopted under Section 212.002 and this section in effect at the time the application for the replat is filed.

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(j) **Affidavits.** Applications for replat approval shall be accompanied by a signed affidavit of no conflict with existing covenants or restrictions. Such affidavit shall be in substantially the same form as the appropriate sample form in 35-B121.

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Sec. 35-483. Subdivision Variances.

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(g) **Scope of Approval.** A variance granted by the planning commission shall remain valid for three (3) years from the date of plat approval. The force and effect of the variance shall become null and void unless the planning commission grants an extension in accordance with subsection 35-430(f)(2). Per Section 35-483(a), except for those administrative exemptions provided by section 35-501, variances shall be granted only with respect to the standards for subdivision plat approval, and not for the process for obtaining subdivision plat approval.

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Sec. 35-501. General Provisions.

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(h) Extended Warranty Bond.

(1) General. All subdivisions requiring public streets and/or drainage improvements within the City of San Antonio and the extraterritorial jurisdiction shall be subject to a minimum one-year maintenance bond.

Prior to acceptance of subdivision improvements, the developer shall provide the city, or county if within the ETJ, an extended warranty bond or cashier's check meeting the requirements and timeline set out below.

[Release of any Performance Bond is conditioned upon acceptance of a Warranty Bond, when applicable.](#)

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(2) **Bond Requirements.** An extended warranty bond submitted under this chapter shall meet the following requirements:

A. Issued by a corporate surety listed at the time of bond submission on the United States Department of the Treasury's listing of Approved Sureties and be approved by the director of development services;

B. ~~The bond shall be of a form acceptable to the city, or county if within the ETJ;~~ The bond shall be in the form shown in Appendix B121, section (f), subsection (8), Form H.

C. The amount of the bond shall be based on construction costs submitted by a license engineer in the State of Texas. Construction costs shall detail the specific improvements and amounts covered and shall bear the official seal and signature of the professional engineer attesting to the accuracy of the dollar amounts;

D. The warranty bond amount submitted shall be a minimum ten (10) percent value of the construction costs, but no less than twenty-five thousand dollars (\$25,000.00);

E. The expiration date of the bond shall be at least one (1) year from the warranty start date specified in subsection 35-501(h)(5);

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Sec. 35-807. Planning Commission.

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(b) **Rules and Regulations.** The planning commission shall observe the following rules and regulations:

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(3) A quorum shall consist of five (5) members of the commission. No final action shall be taken on any matter except pursuant to a majority vote of the members present; however, in no case shall less than five (5) votes constitute a majority. When a motion to approve, deny, or approve with conditions fails to pass with the requisite number of five votes, such outcome shall be deemed to be the approval of a motion to reconsider the question, and an automatic continuance to the next regularly scheduled meeting of the commission. However, such automatic continuance shall apply only when an application has been heard and the chair calls for motions, and so long as no subsequent motions on the application are made.

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Sec. 35-808. Zoning Commission.

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(f) **Quorum, Majority Vote.** A quorum shall consist of six (6) members of the commission. The chairman shall be counted as any other member when establishing a quorum. Final action on any matter shall require a majority vote of six (6) members except when the commission has held a public hearing and considered a zoning application and ~~is unable to reach a majority vote. In such instances the director shall place the zoning application on the next regularly scheduled agenda.~~ votes for and against a question are equal in number, or when the majority votes on a question number less than required to pass a measure. In that circumstance, such outcome shall be deemed to be the approval of a motion to reconsider the question at the next regularly scheduled meeting of the commission. In the event that the commission has twice held a public hearing and considered a zoning application and is unable to reach a majority vote, the commission shall submit a report instead of a recommendation to the city council.

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(i) **Procedure.** Whenever any question of procedure or qualification may be raised at a commission meeting, the chairman shall rule thereon. A member may move to overrule the chairman's decision, which may be done only by a majority vote of the members present. In the event such a vote fails, the decision of the chairman shall stand.

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Sec. 35-A101. Definitions and Rules of Interpretation.

* * * * *

(b) **Definitions.** Words with specific defined meanings are as follows:

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Certificate of appropriateness. ~~The official notice of action issued by the city manager, or his or her designee, charged with the jurisdiction for permitting or denying the appropriateness of proposed office of historic preservation applications, including changes or additions to historic structures or districts.~~ A document issued by the city manager, or their designee, stating that the proposed work is appropriate and in conformance with any applicable standards and guidelines.

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Downtown Business District. For the purposes of this chapter, “downtown business district” shall include the area described as follows:

Start at the intersection of Salado and El Paso Streets; north on Salado to its intersection with Frio Street; thence northeast in a straight line to the intersection of IH-10 and Cadwallader; south on IH-10 to IH-35; northeast on IH-35 to a perpendicular point connecting with Cherry Street; south on Cherry Street to César E. Chávez Boulevard; west on César E. Chávez Boulevard to the San Antonio River; south along the San Antonio River to Arsenal Street; west on Arsenal to El Paso Street; and then west on El Paso to Salado.

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Historically significant site in need of tax relief to encourage preservation. A building, site, or structure together with the land necessary for access and use which is determined by the historic and design review commission to be in substantial need of rehabilitation or restoration and is one (1) or more of the following:

- (a) Designated a National Historic Landmark;
- (b) Listed on the National Register of Historic Places; or
- (c) Located in a National Register Historic District and certified by the Secretary of Interior as being of historic significance to the district; or
- (d) Designated as a Recorded Texas Historic Landmark by the Texas Historical Commission; or

- (e) Designated a State Archaeological Landmark; or
- (f) Designated as a ~~an exceptional or significant~~ landmark by the city as provided in this chapter; or
- (g) Located in a historic district designated by the city and certified by the historic and design review commission as being of historic significance to the district.

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Infrastructure expenses. Infrastructure expenses shall include engineering costs, impact fees, platting fees (including the amount of bond, irrevocable trust agreement, or irrevocable letter of credit posted with the city to assure compliance with platting requirements), as well as necessary development costs actually paid (if such costs actually paid exceed or are necessary but not included infrastructure costs covered by the bond, irrevocable trust agreement or irrevocable letter of credit) including off-site infrastructure costs that are necessary for plat approval of a specific parcel of real property. Further, a property owner or developer shall be allowed to include as infrastructure expenses, costs incurred by voluntary compliance with development ordinances including by way of example but not limitation, tree survey costs.

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Trust Institution. A bank, credit union, foreign bank, savings association, or trust company that is authorized by its charter to conduct a trust business.

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Vend. Offering goods, merchandise, or services in exchange for compensation; accepting compensation in exchange for goods, merchandise, or services; or distribution or display of merchandise or commercial advertising matter.

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