

# Chapter 3 – Building and Construction

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## **ARTICLE 3.01.00. BUILDING INSPECTOR**

### **Sec. 3.01.01. Created.**

- A. The office of Building Inspector is hereby created. The Building Inspector shall be appointed by the Board of Aldermen, and shall serve at the discretion of the Board of Alderman. In the absence of a Building Inspector, the Mayor shall appoint an interim Building Inspector until the Board of Aldermen can make an appointment. (Ord. No. 03-09.)

### **Sec. 3.01.02. Compensation**

- A. The Building Inspector shall receive such compensation as may be fixed by the Board of Alderman.

### **Sec. 3.01.03. Term**

- A. The Building Inspector shall not be appointed for a definite term, but may be removed at the will and pleasure of the Board of Aldermen by a vote of the majority of the entire Board. The action of the Board in suspending or removing the Building Inspector shall be final.

### **Sec. 3.01.04. Duties**

- A. The Building Inspector shall have the following duties:
  - 1. Enforce the building codes and restrictions of the City of Bayou Vista.
  - 2. Inspect and approve construction work on an as needed basis under whatever arrangement the Board of Aldermen deems to be in the best interest the City.

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**Article 3.02.00. RESERVED FOR FUTURE USE**

**REPEALED (ORD. NO. 2018-05, 3-27-2018)**

MOVED TO CHAPTER 7 NUISANCE AND OFFENSES  
ARTICLE 07.09.00

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### ARTICLE 3.03.00. SUBSTANDARD STRUCTURES

#### Sec. 3.03.01. Substandard structures constituted and defined.

- A. The following structures shall be deemed to be substandard and subject to this article: all fences, sheds, awnings, bulkheads or other shoreline protection or other structures, or parts of a structure which are so structurally deteriorated that they are in danger of collapse and endanger persons or property, or so constructed as to endanger persons or property.
- B. Definitions:
1. *Bulkheads or other shoreline protection.* As used herein shall mean an upright partition, or a retaining wall located at the edge of a body of water.
  2. *Owner.* As used herein shall mean the owner of the structure, the owner's agent, or the owner or occupant of the property on which the structure is located.
  3. *Governing body.* As used herein shall mean the Board of Aldermen of the City of Bayou Vista, Texas.
  4. *Shed.* As used herein shall mean a small structure for shelter or storage.
  5. *Awning.* As used herein shall mean a structure, as of canvas, extended before a window, door, etc. as a protection from the sun or rain.  
(Ord. No. 93-07, § I, 10-5-1993)

#### Sec. 3.03.02. Declaring substandard structures a public nuisance.

- A. All substandard structures within the terms of this article shall constitute a menace to the health, safety or general welfare of its occupants or of the public and are declared to be public nuisances and shall be ordered repaired or removed as hereinafter provided. (Ord. No. 93-07, § II, 10-5-1993)

#### Sec. 3.03.03. Procedures for declaring substandard structures.

- A. When it shall come to the notice of the Building Inspector that a structure is substandard under the terms of this article, the Building Inspector may cite the owner of the structure to appear before the governing body and show cause why he/she should not be ordered to repair or remove such structure. The date of the hearing shall not be less than ten (10) days after such citation shall have been made.
- B. Such citation may be served by United States Certified Mail or by delivery of a copy thereof to the owner or if the owner cannot be located after diligent search, by attaching a copy of such citation in a place of prominence on such structure.
- C. On the day set in such citation for hearing, hearing shall be had and on the basis of such hearing the governing body shall determine whether or not such structure is a substandard structure; and if it is determined that such is a substandard structure, then, in that event the governing body shall issue such orders as shall appear reasonably necessary to prevent the said structure from being a hazard to life or property and eliminate the structure's substandard qualities.

**\*State law references:** Authority of municipality to regulate unsafe and substandard structures, V.T.C.A., Local Government Code, Chapter 214.  
(Ord. No. 93-07, § III, 10-5-1993)

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### **Sec. 3.03.04. Standards to be followed.**

- A. The following standards may be followed in substance by the governing body in ordering repair or removal:
  - 1. If the structure can reasonably be repaired so that it will no longer be in a condition which is in violation of the terms of this article it shall be ordered repaired.
  - 2. In all cases where a structure cannot be repaired so that its existence will no longer be in violation of this article it shall be removed and, if its removal causes a hazard to life or property, it shall be ordered replaced. (Ord. No. 93-07, § IV, 10-5-1993)

### **Sec. 3.03.05. Procedures for failure to obey order of the Board of Aldermen.**

- A. Should the orders of the Board of Aldermen not be followed or carried out within the time limitations stated in the order, the governing body may do whatever is necessary to make the necessary repairs or otherwise remove or remedy the condition, or cause the same to be done, and charge the expenses incurred thereby to the owner of such property or premises and such expenses shall be assessed against the real estate upon which the work was done. The doing of such work and the charging and assessing of the expenses thereof against the owner shall not relieve the owner or occupant of any such premises from prosecution for violation of this article.
- B. The mayor shall file a statement of expenses incurred in repairing, removing or otherwise remedying the condition as previously set forth in the order of the governing body, giving the amount of such expense and the date on which the work was done or the improvements made, with the County Clerk of Galveston County, Texas, and the City shall have a privilege lien on such lot or real estate upon which the work was done or the improvements made to secure the expenditures so made, which lien shall be second only to the tax liens and liens for street improvements. The amount of such expenses shall bear ten (10) percent interest from the date such statement is filed. For any such expenditures and interest, suit may be instituted and recovery and foreclosure of such lien may be made in the name of the City, and the statement of expenses so made, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements.
- C. Neither the City of Bayou Vista nor any authorized agent acting under the terms of this article shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this article.
- D. Notice of such assessment shall be made to the owner by United States Certified Mail or if, after diligent search, the owner cannot be located, by single publication of such notice in a newspaper of general circulation in Galveston County, Texas. (Ord. No. 93-07, § V, 10-5-1993)

### **Sec. 3.03.06. Penalties.**

- A. Any person who fails to comply with an order issued by the Board of Aldermen shall be deemed guilty of a misdemeanor and, shall be subject to a fine in accordance with the general penalty provision found in section 1.01.06 of this Code, and each and every day's violation shall constitute a separate and distinct offense. (Ord. No. 93-07, § VI, 10-5-1993)

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## **ARTICLE 3.04.00. FLOOD DAMAGE PREVENTION**

### **Section 3.04.01 Statutory Authorization**

- A. The Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, Section 16.315 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City of Bayou Vista, Texas does ordain as follows:

### **Section 3.04.02. Findings of Facts**

- A. The flood hazard areas of the City of Bayou Vista are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed or otherwise protected from flood damage.

### **Section 3.04.03. Statement of Purpose**

- A. It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
1. Protect human life and health;
  2. Minimize expenditure of public money for costly flood control projects;
  3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  4. Minimize prolonged business interruptions;
  5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
  6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas and
  7. Insure that potential buyers are notified that property is in a flood area.

### **Section 3.04.04. Methods of Reducing Flood Losses**

- A. In order to accomplish its purposes, this ordinance uses the following methods:
1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
  2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

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3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

### Section 3.04.05. Definitions

- A. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.
1. **Alluvial Fan Flooding** means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.
  2. **Apex** means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
  3. **Appurtenant Structure** means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
  4. **Area of Future Conditions Flood Hazard** – means the land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.
  5. **Area of Shallow Flooding** - means a designated AO, AH, AR/AO, AR/AH, or VOzone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
  6. **Area of Special Flood Hazard** is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.
  7. **Base Flood** - means the flood having a 1 percent chance of being equaled or exceeded in any given year.
  8. **Base Flood Elevation (BFE)** - The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year - also called the Base Flood.

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9. **Breakaway Wall** – means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under-specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
10. **Critical Feature** - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.
11. **Development** - means any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
12. **Elevated Building** – means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
13. **Existing Construction** - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."
14. **Flood or Flooding** - means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  1. the overflow of inland or tidal waters.
  2. the unusual and rapid accumulation or runoff of surface waters from any source.
15. **Flood Elevation Study** – means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
16. **Flood Insurance Rate Map (FIRM)**- means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
17. **Flood Insurance Study (FIS)** – see *Flood Elevation Study*
18. **Floodplain or Flood-Prone Area** - means any land area susceptible to being inundated by water from any source (see definition of flooding).
19. **Floodplain Management** - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
20. **Floodplain Management Regulations** - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

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21. **Flood Protection System** - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
22. **Flood Proofing** - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
23. **Floodway – see Regulatory Floodway**
24. **Functionally Dependent Use** - means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
25. **Highest Adjacent Grade** - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
26. **Historic Structure** - means any structure that is:
  - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
  - d. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
    - i. By an approved state program as determined by the Secretary of the Interior or;
    - ii. Directly by the Secretary of the Interior in states without approved programs.
27. **Levee** - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

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28. **Levee System** - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.
29. **Lowest Floor** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.
30. **Mean Sea Level** - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
31. **New Construction** - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
32. **Primary Frontal Dune** - means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.
33. **Recreational Vehicle** - means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
34. **Regulatory Floodway** - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
35. **Riverine** - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
36. **Sand Dunes** - mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.
37. **Special Flood Hazard Area** - see *Area of Special Flood Hazard*

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38. **Start of Construction** - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
39. **Structure** – means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, which is principally above ground. (Ordinance 2015-03, 03-31-15)
40. **Substantial Damage** - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
41. **Substantial Improvement** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "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 to assure safe living 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."
42. **Variance** – means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)
43. **Violation** - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.
44. **Water Surface Elevation** - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. (Ordinance No. 2015-03, 03-31-15)

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### **Sec. 3.04.06. Lands To Which This Ordinance Applies**

- A. The ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Bayou Vista.

### **Sec. 3.04.07. Basis for Establishing the Areas of Special Flood Hazard**

- A. The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for the City of Bayou Vista," dated August 15, 2019, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance. (Ord. No. 2019-04, July 2, 2019)

### **Sec. 3.04.08. Establishment of Development Permit**

- A. A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

### **Sec. 3.04.09. Compliance**

- A. No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

### **Sec. 3.04.10. Abrogation and Greater Restrictions**

- A. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### **Sec. 3.04.11. Interpretation**

- A. In the interpretation and application of this ordinance, all provisions shall be; (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

### **Sec. 3.04.12. Warning and Disclaimer or Liability**

- A. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

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### **Sec. 3.04.13. Administration and Designation of the Floodplain Administrator**

- A. The Building Inspector is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

### **Sec. 3.04.14. Duties and Responsibilities of the Floodplain Administrator**

- A. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
  2. Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
  3. Review, approve or deny all applications for development permits required by adoption of this ordinance.
  4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
  5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
  6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Water Development Board (TWDB), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
  7. Assure that the flood carrying capacity within the altered or relocated portion course is maintained.
  8. When base flood elevation data has not been provided in accordance with this Article, Section 3.04.07 Basis for Establishing the Areas of Special Flood Hazard, the Flood plain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from Federal, State or other sources, in order to administer the provisions of, Article 03.05.00 Provisions for Flood Hazard Reduction.
  9. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

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10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community **first** completes all of the provisions required by Section 65.12.

### **Sec. 3.04.15. Permit Procedures**

- A. Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
  1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
  2. Elevation in relation to mean sea level to which any nonresidential structure shall be flood-proofed;
  3. A certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure shall meet the flood-proofing criteria of Article 3.05.00 Provisions for Flood Hazard Reduction, Section 3.05.02 Specific Standards (2)
  4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
  5. Maintain a record of all such information in accordance with the Article, Section 3.04.14 Duties and Responsibilities of the Floodplain Administrator A (1).
- B. Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
  1. The danger to life and property due to flooding or erosion damage;
  2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  3. The danger that materials may be swept onto other lands to the injury of others;
  4. The compatibility of the proposed use with existing and anticipated development;
  5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
  7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

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8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

### **Sec. 3.04.16. Variance Procedures**

- A. The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this ordinance.
- B. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- C. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- D. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- E. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
- F. Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in this Article, Section 3.04.15 Permit Procedures (B) ) have been fully considered. As the lot size increases beyond the 1/2 half acre, the technical justification required for issuing the variance increases.
- G. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance of this Article, Section 3.04.03. Statement of Purpose.
- H. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- I. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- J. Prerequisites for granting variances:
  1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  2. Variances shall only be issued upon: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create

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nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

3. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in this Article, Section 3.04.16 (A) through (I) are met, and (ii) the structure other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety. (Ordinance No. 2015-03, 03-31-15)

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### **ARTICLE 3.05.00. PROVISIONS FOR FLOOD HAZARD REDUCTION**

#### **Sec. 3.05.01. General Standards**

- A. In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:
1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage; and address proper surface water drainage for each individual lot. (Ord. No. 2017-04 – 03-28-17)
  3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
  4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
  6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
  7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
  8. Before the City will issue a building permit, any and all owners of new or substantially improved property are required to certify that a structure will be constructed to meet the latest version of the National Flood Insurance Program (“NFIP”) requirements.
  9. Before the City will issue a Certificate of Occupancy, any and all owners of new or substantially improved property are required to certify that a structure has been constructed to meet the latest version of the National Flood Insurance Program (“NFIP”) requirements including but not limited to the requirement that enclosures below the lowest floor must not be subsequently modified without meeting all NFIP requirements. The non-conversion agreement form shall be approved by the City and may be amended from time to time without the necessity of amending this ordinance.
  10. The City shall use its best efforts to document and maintain photographic evidence of the enclosures below the lowest floor prior to issuing the certificate of occupancy.
  11. The City shall deny the issuance of a building permit or certificate of occupancy, as applicable for failure of the building construction to meet the safety requirements of this section. (Ordinance No. 2017-07, 07-25-17)

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### Sec. 3.05.02. Specific Standards

- A. In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i), Article 03.04.00, Section 3.04.07 Basis for Establishing the Areas of Special Flood Hazard (ii) Section 3.04.14 Duties and Responsibilities of the Flood plain Administrator (8) or (iii) of this Article, Section 3.05.03 Standards for Subdivision Proposal (C)\_the following provisions are required:
1. **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor elevated to or above the base flood elevation and said elevation shall not exceed two (2) stories above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in, Article 3.04.00 Flood Damage Prevention, Section 3.04.15 Permit Procedures (A) is satisfied. (Ordinance No. 2015, 03-31-15)
  2. **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of 3.3. buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood-proofed shall be maintained by the Floodplain Administrator.
  3. **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
    - a. A minimum of two openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
    - b. The bottom of all openings shall be no higher than 1 foot above grade.
    - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  4. **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either (i) be on the

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site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Article 3.04.00 Section 3.04.15 Permit Procedures (1) and the elevation and anchoring requirements for “manufactured homes” in Section 3.05.02 Specific Standards (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions. (Ordinance No. 2015-03,03-31-15)

### **Sec. 3.05.03. Standards For Subdivision Proposals**

- A. All subdivision proposals shall be consistent with Article 3.04.00, Section 3.04.02 Findings of Facts, Section 3.04.03 Statement of Purpose, Section 3.04.04 Methods of Reducing Flood Losses of this ordinance. (Ordinance No. 2015-03, 03-31-15)
- B. All proposals for the development of the subdivision shall meet Floodplain Development Permit requirements of Article 3.04.00, Section 3.04.08 Establishment of Development Permit, Section 3.04.15 Permit Procedures, and of this Article.(Ordinance 2015-03,03-31-15.)
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.(Ordinance No. 2015-03, 03-31-15)
- D. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage. (Ordinance No. 2015-03,03-31-15)

### **Sec. 3.05.04. Standards for Areas of Shallow Flooding (AO/AH Zones)**

- A. Located within the areas of special flood hazard established in Article 3.04.00, Section 3.04.07. Basis for Establishing the Areas of Special Flood Hazard are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:
  - 1. All new construction and substantial improvements of **residential** structures have the lowest floor elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community’s FIRM. (Ordinance No. 2015-03,03-31-15)
  - 2. All new construction and substantial improvements of **non-residential** structures;
    - a. have the lowest floor elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM. (Ordinance No. 2015-03, 03-31-15)
    - b. together with attendant utility and sanitary facilities be designed so. that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

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3. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 3.04.00 - Section 3.04.13 Administration and Designation of the Floodplain Administrator are satisfied.
4. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

### **Sec. 3.05.05. Floodways**

- A. Floodways - located within areas of special flood hazard established in Article 3.04.00, Section 3.04.07 Basis for Establishing the Areas of Special Flood Hazard are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:
1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  2. If this Article is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Article.
  3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by Section 65.12.

### **Sec. 3.05.06. Coastal High Hazard Areas**

- A. Located within the areas of special flood hazard established in, Article 3.04.00, Section 3.04.07 Basis for Establishing the Areas of Special Flood Hazard are areas designated as Coastal High Hazard Areas (Zones V1-30, VE, and/or V). These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, in addition to meeting all provisions outlined in this ordinance, the following provisions must also apply:
1. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures. The Floodplain Administrator shall maintain a record of all such information. (Ordinance No. 2015, 03,03-31-15)
  2. All new construction shall be located landward of the reach of mean high tide.
  3. All new construction and substantial improvements shall be elevated on pilings and columns so that:
    - a. the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level;
    - b. the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of

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wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of Section 3.05.06. Coastal High Hazard Areas (3) a and b of this Article.

4. Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
  - a. breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
  - b. the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards. Such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
5. Prohibit the use of fill for structural support of buildings.
6. Recreational Vehicles -

Require that recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the requirements in Article 3.04.00 Flood Damage Prevention, Section 3.04.08 Establishment of Development Permit. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions. (Ord. 13-09, 12-02-09, Ordinance No. 2015-03,03-31-15)

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### **ARTICLE 3.06.00. BUILDING CODE FOR RESIDENTIAL, UNRESTRICTED PROPERTY & COMMERCIAL FOUNDATIONS**

#### **Sec. 3.06.01. General**

- A. In order to promote an orderly and consistent development of the City of Bayou Vista, the City hereby adopts the following Rules, Regulations, and Requirements for the land lying within the corporate limits of the City or within one-half of a mile of the corporate limits.
- B. Before any design or re-design drawings or repair of a building plans of a building or structure in the City or within one-half mile of the City which shall be properly certified by a Registered Professional Engineer or Architect, are used or construction is begun, they shall first be approved by the City Council or the Building Inspector.
- C. These Rules, Regulations and Requirements and any further additions thereto and changes thereof, will be binding on all land within the Jurisdiction of the City and must be complied with before approval or acceptance of any new or redesigned buildings or construction within the jurisdiction of the City.
- D. All design and construction work for and within the City shall be in accordance with currently accepted engineering and construction practices.

#### **Sec. 3.06.02. Definitions**

- A. For the purpose of these regulations, the following terms, phrases, words and their derivations shall have a meaning ascribed to them in this section:
  - 1. **Base Flood Elevation:** The crest elevation in relation to mean-sea-level, using the National Geodetic Vertical Datum, expected to be reached during a flood which encompasses the regulatory flood plain.
  - 2. **Builder:** The individual or company which contracts with the owner to construct, repair, or re-design a structure.
  - 3. **Building Inspector:** The individual authorized by the Board of Aldermen to inspect and approve building permits and structures in accordance with the regulatory codes.
  - 4. **Easement:** Areas set aside for installation and maintenance of utilities by public and private utility operators. You cannot typically build on these areas because they would limit access to the utilities.(Ordinance No. 2015-03, 03-31-15)
  - 6. **Coastal High Hazard Area:** An area within the regulatory flood plain which is subject to high velocity winds and waters, including hurricane wave wash.
  - 7. **Deed Restriction:** A limitation included in a conveyance of realty whereby title to realty is transferred from one to another which restricts the use of real property or the kind of buildings that may be erected thereupon.
  - 8. **Excavation.** The removing of soil or other material to a specified depth to prepare the building site for construction.

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9. **Flood:** A temporary rise in stream level that results in inundation of areas not ordinarily covered by water.
  10. **Floodway:** A channel of a watercourse and portions of the adjoining flood plain which are reasonably required to carry and discharge the regulatory flood.
  11. **Floodplain:** That area inundated by storm water runoff equivalent to that which would occur from a 100-year frequency after a total development of a watershed; said area defined by an elevation plus one foot below which no development can take place, unless consistent with these regulations.
  12. **Engineer:** A person authorized under the provisions of the Texas Engineering Restriction Act, as heretofore or hereafter amended, to practice the profession of engineering.
  13. **Lot:** An undivided tract or parcel of land having frontage on a public street and which is, or in the future may be, offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract and which is identified by a tract or lot number or symbol in a duly approved subdivision plat, which has been properly filed or recorded.
  14. **Final Inspection:** Texas Department of Insurance Inspector approves final inspection, licensed electrical and plumbing inspector approves final electrical and plumbing inspection, and City Building Inspector approves framing exterior completion including roof and issues Certificate of Occupancy.
  15. **Owner:** The individual to whom the structure belongs.
  16. **Piles:** A structural, usually vertical, member designed to carry vertical loads and horizontal loads as from wind pressure.
- B. Points of Measurements guidelines stipulations shall be: (Ordinance No. 2015-03-,03-31-15)
1. **Regulatory Flood:** A flood which is representative of a large flood known to have occurred generally in the area and reasonably characteristic of what can be expected to occur on a particular stream. Regulatory Flood generally has a flood frequency of approximately 100 years as determined from an analysis of floods on a particular stream and other streams in the same general region.
  2. **Regulatory Flood Plain:** The area of the flood plain identified on the official flood plain map that also shows the water-surface profile.
  3. **Regulatory Flood Protection Elevation:** The elevation of the regulatory flood plus one foot of freeboard to provide a safety factor.

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4. **Set-back Build Line** A specific distance your house or any structure built on your property must be from the City's Right of Way, easements or homes/structures adjacent to your property. Set-back build lines may change over time. (Ordinance No. 2015-03, 03-31-15)
5. **Shall, Should and May:** The word "shall" is always mandatory. The word "should" is advisory. The word "may" is permissible.
6. **Street:** A public right-of-way however designated, which provides vehicular access to adjacent land.
7. **Subdivider:** Any person or agent thereof, dividing or proposing to divide land so as to construct a subdivision, as that term is defined herein.
8. **Subdivision:** The term subdivision means the division of any lot, tract or parcel of land, into two or more parts, lots or sites, for the purpose, wherever immediate or future, of the sale or division of ownership.
9. **Surveyor:** A licensed state land surveyor or a registered public surveyor, as authorized by Texas State Statute to practice the profession of surveying.
10. **Utility Easement:** Any interest in land granted the City to the Public, generally, and/or a private utility corporation, for installing or maintaining utilities, across, over or under private land together with the right to enter thereon, with machinery and vehicles necessary for the maintenance of said utilities.
11. **City:** The term City, as used in these regulations, shall mean City of Bayou Vista.

### Sec. 3.06.03. References

- A. The following references were used by the City of Bayou Vista in the preparation of this building code for foundations. They form a part of the Code by reference and should be used for design and construction of all buildings in the City. If a conflict occurs between this code and the listed references, the most stringent requirement is to be used unless the Building Inspector rules otherwise.
  1. International Residential Building Code, 2003 Edition
  2. Design and construction Manual for Residential Buildings in Coastal High Hazard Areas, January 1981, U.S. Department of Housing and Urban Development, Office of Policy Development and Research
  3. American Concrete Institute's Manual of Concrete Practice, Parts 1, 2 and 3, American Concrete Institute.
  4. American Society for Testing and Materials Standards American Society for Testing Materials (ASTM)
  5. Equivalent Strength Design for Residential and Light Commercial Post-tensioned Slabs-on-ground, Post-Tensioning Institute.
  6. Tax Catastrophe.
  7. National Flood Insurance. (Ord. No. 01-05, 03-01-05)

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### **Sec. 3.06.04. Set-Back Build Lines**

- A. Front: Thirty feet from the center of the road to the closest living wall.
- B. Back: Twenty feet from the bulkhead to the closest living wall.
- C. Side: Five feet on either side of the property line.
  - 1. The set-back build lines will exclude:
    - a. air-conditioner stands
    - b. eaves 24” or less
- D. Stairs are exempt from front and back set-back build lines, but are included in the side set back build lines. (Ordinance 08-11, 11-29-11)
- E. Fire place chimneys, porches, and decks are not considered a part of the living area. (Ordinance 11-09 – 10-06-09, Ordinance 2015-03, 03-31-15)

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## ARTICLE 3.07.00. STANDARD BUILDING CODES

### TEXAS WINDSTORM RESISTANCE CODE AND FEDERAL EMERGENCY MANAGEMENT AGENCY COASTAL CONSTRUCTION MANUAL ADOPTED

#### Sec. 3.07.01. Statutory Authorization

- A. There is hereby adopted by the City of Bayou Vista, Texas, for the purpose of establishing rules and regulations for the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area, and maintenance of buildings or structures, the certain building codes recommended by the International Code Council, Inc., being particularly the following codes and including any future editions, upon publication and without further action by the City Council:
1. the 2009 International Residential Code;
  2. the 2009 International Fire Code;
  3. the 2009 International Plumbing Code;
  4. the 2009 International Fuel Gas Code;
  5. the 2009 International Mechanical Code;
  6. the 2009 International Electrical Code;
  7. the 2009 International Plumbing Code;
  8. the Texas Windstorm Resistance Code as it applies to seaward of the Inter-coastal Canal, or Inland I;
  9. the Federal Emergency Management Agency Coastal Construction Manual;
  10. and the 2009 International Property Maintenance Code.
- B. One (1) copy of said codes is on file in the Office of the Building Inspector, and the same is hereby adopted and incorporated as fully as if set out at length herein, and the same shall be controlling in the construction of all buildings and other structures within the city limits of the City of Bayou Vista, Texas.
- C. The 2003 International Residential Code for One and Two Family Dwellings, Chapter 1, Administration, Paragraph R101.1, Title, Scope and Purpose, is revised by inserting “The City of Bayou Vista, Texas.”
- D. The 2003 International Residential Code for One and Two Family Dwellings, Chapter 3, Building Planning, is amended by the insertion of the following criteria into Table R301.2 (1):

Ground Snow Load	Wind	Seismic Design Category	Subject Damage From				Winter Design Temp.	Flood Hazards
			Weathering	Frost Line Depth	Termite	Decay		
Zero	130	A	Moderate To Severe	None	Very Heavy	Moderate To Severe	32°	See Firm Map and Ordinance Regulation
Inland I Zero	120	✓	✓	✓	✓	✓	✓	✓

(Ord. No. 01-05, 03-01-05)

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- E. The International Residential code for One and Two Family Dwellings, Chapter 3, Building Planning, is amended by the deletion of Section R327, Flood Resistant Construction, in its entirety. Flood Hazard Area Regulations of buildings and structures shall be controlled by provisions of the City code of Ordinances establishing Flood Hazard Area Regulations.
- F. The provisions of the International Energy Conservation Code shall not be mandatory and binding on the construction of buildings and structures within the City of Bayou Vista, Texas, as provided therein, except on a voluntary basis, until June 1, 2002. Upon that date, the provisions of the International Energy code shall be enabled and the extent of compliance shall be determined by the Building Inspection Department. Commencing September 1, 2002, and thereafter, the provisions of the International Energy Conservation code shall be fully enabled and binding.
- G. The International Energy Conservation Code, Chapter 1 Administration, Paragraph R101.1, Design, is revised by insertion of the “The City of Bayou Vista, Texas.” (Ord. No. 02-02, 1-28-02)
- H. The International Property Maintenance Code, 2009 is hereby revised by adopting the following [local](#) amendments thereto:
1. *Subsection 101.1* is hereby amended to provide as follows:
    - a. *101.1 Title.* These regulations shall be known as *the Property Maintenance Code of the City of Bayou Vista, Texas*, hereinafter referred to as "this code."
  2. *Sections 103.2 - 103.5, 104.2, and 111.2 - 111.5, 112.4* are hereby deleted.
  3. *A new Subsection 111.2* is hereby adopted to provide as follows:
    - a. Subsection 111.2 Membership of Board. The Board of Aldermen of the City of Bayou Vista, Texas, shall serve as the Board of appeals.
  4. *A new Subsection 112.4* is hereby adopted to provide as follows:
    - a. 112.4 Failure to comply. It shall be unlawful for any person to intentionally or knowingly continue any work after having been served with a stop work order, except for such work as that person is directed to perform to remove a violation or unsafe condition.
  5. *Subsection 302.4* is hereby deleted.
  6. *A new Subsection 302.4* is adopted to provide as follows:
    - a. 302.4 Weeds. All *premises* and *exterior property* shall be maintained free from weeds or plant growth in excess of twelve (12) inches). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.
    - b. Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction.

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- c. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the *owner* or agent responsible for the property.
- I. The codes adopted in this article shall not be construed to relieve or lessen the responsibility of any person owning, operating or controlling any building or structure for any damages to persons or property caused by defects nor shall the city council, the city or its agents or representatives assume any such liability by reason of these regulations or the inspections authorized by such code or any permits or certificates issued under such code.

### **Sec. 3.07.02. Conflict**

- A. In the event of a conflict between the provisions of the building code adopted by reference in subsection A above and any provision of the City Ordinances, or amendments herewith, the ordinance or amendment shall apply.

### **Sec. 3.07.03. Enforcement**

- A. The Building Inspector shall enforce the building codes and restrictions of the City of Bayou Vista. (Ordinance No. 2015-03, 03-31-15)

### **Sec. 3.07.04. Appeals**

- A. Any person aggrieved by an interpretation of the codes adopted by reference herein or by any decision or ruling by the City designated inspector, shall have the right to make an appeal to the Board of Aldermen. Such appeal shall be perfected by written notice to the City Secretary and addressed to the Mayor and Board of Aldermen asking for a hearing by the Board, and the action of the Board of Aldermen shall be final.

### **Sec. 3.07.05. Variance Prerequisite**

- A. Prerequisites for granting variances:
  - 1. Variances shall only be issued upon a determination that the variance is the minimum necessary.
  - 2. Variances shall only be issued upon:
    - a. showing a good and sufficient cause,
    - b. a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
    - c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public.

### **Sec. 3.07.06. Variance Request Procedure**

- A. The homeowner must request the need for the variance, in writing, to the City Building Inspector. The City Building Inspector will request the variance to be placed on the Agenda for the next Regular Meeting of the City Council. The City Building Inspector will make the necessary recommendation to the City Council for approval or disapproval. The City Council's decision is final. (Ord. 05-05 § 1,2, 6-7-05)

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### Sec. 3.07.07. Penalty

- A. Any person violating any provision of this code shall, unless otherwise stated herein, upon conviction be fined not less than five dollars (\$5.00) nor more than five hundred dollars (\$500.00), for each offense, and in the case of willful and continuous violation of this code by any person, firm, or corporation, the Board of Aldermen, after notice and hearing, shall have the power to revoke and repeal any license under which said person may be acting, and to revoke and repeal all permits, privileges, and franchises granted to said person, firm, or corporation.

### Sec. 3.07.08. Permits, Fees, Bonds, Bond Funds Usage and Refunds

- A. Fees for construction in the City of Bayou Vista, Texas, are to be paid prior to the issuance of a permit. In the event that a permit is required after work has commenced, the fees shall double. Provided however, with respect to a permit required for Plumbing, HVAC or Electrical only, the fees shall not double only if the work commenced was started on an emergency basis while the offices for the City of Bayou Vista were closed. (Ord. No. 2018-02, 01-23-18)

#### Schedule of Fees:

1. New Construction  
\$1.00 per 1 sq. ft. of living area, plus \$15.00 per 100 sq. ft. of decks, porches, garages, and any other non-living area.  
(Ord. No. 08-03, § 1,9-2-2003, Ord. No. 09-09 § (b) 09-01-09, Ord. No. 2016-03, 01-26-13)
2. Addition of living space \$1.00 per square foot. (Minimum \$250)
3. Complete Rebuild (Above Columns) per square ft. \$ .75  
(Ord. No. 2016-03, 01-26-13)
4. Remodeling Existing Structures \$100.00
  - Siding and Windows  
(Must Include Windstorm Engineer) \$ 75.00
  - New deck, stairs, dock, carport, dumb-waiter,  
Palapas \$ 75.00
  - Boathouse \$150.00
  - Plumbing \$ 75.00
  - HVAC \$ 75.00
  - Electrical Minimum 150 Amp \$ 75.00
  - Roof  
(Must Include Windstorm Engineer) \$ 75.00
  - Fence \$ 50.00
  - Concrete \$ 75.00

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Bulkhead Replacement/Repairs per lineal foot      \$ 1.50  
(Ord. No. 08-03, § 1,9-02-03, Ord. No. 09-09, § (b) 09-01-09, Ord. No. 2016-03,01-26-16)

4. Permits Requiring Bonds
  - A cash bond will be required for each permit issued or transferred for:
    - a. New residential structures and new structures constructed on commercial and/or unrestricted property.
    - b. Major repairs or additions to residential structures, structures built on unrestricted property and/or commercial structures requiring heavy equipment or cement trucks at the discretion of the Building Inspector. (Ordinance No. 2015-03, 03-31-15)
    - c. Swimming Pool Construction.
    - d. Concrete delivered by truck. (Ordinance No. 2015-03, 03-31-15)
5. Bond Costs:

The amount of each bond will be one thousand five hundred dollars (\$1,500.00).
6. Interest Payments:

The bonds will accrue no interest.
7. Payment:

The bonds will be paid at the time the permit is issued.
8. Payment Responsibility:

Bonds will be paid by check, bearing the name of the person or company to whom the permit is issued.
9. Bond Fund Usage:

The bond fund or any part thereof, at the discretion of the Building Inspector, may be used for:

  - a. Repair of any streets or easements or adjoining property damaged by anyone performing any service connected with the construction for which the permit was issued.
  - b. Cleanup of any residue left on any street or easements at or around the building site, or adjoining property.
10. Bond Refund

The bond fee, less any amount used to comply with 9 a. and b. will be refunded to the person or company to whom the permit was issued, when any of the following occurs:

  - a. The permit has been transferred to another person or company and a new bond has been posted, or
  - b. The construction has been completed and received a final inspection and/or Certificate Of Occupancy, or
  - c. The permit has been voided due to noncompliance permit, or
  - d. The City Board of Aldermen has voted and approved the refund. (Ord. No. 93-02, §§ 2A--F, 7-27-1993; Ord. No. 93-02A, § 1, 11-9-1993; Ord. No. 01-06, §§ 1--3, 3-27-2001 – Ord. No. 01-05, 03-01-05, Ordinance 2015-03,03-31-15)

### **Sec. 3.07.09. Requirements**

- A. Require two (2) sets of plans, two (2) sets of specifications, and two (2) copies of a survey and ground elevation by a registered surveyor. These items must be engineered for the specific property on which the building is to be constructed. Prior to occupancy of the building, the owner of said building or the builder or contractor must provide an elevation certificate indicating the base floor level of the completed building.

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- B. International Gas Code, International Technical Code, International Electric Code, and City of Bayou Vista requirements (See Article 3.900 - Sec. 3.906.1 through 3.906.6) (Ord. No. 01-05, 03-01-05)
  
- C. Buildings must conform to National Flood Insurance requirements for the
  - 1. V-19 or V-20 zone elevation must be 14' as measured to the bottom of the lowest structured member;
  - 2. A-14 (13) zone elevation must be 13' as measured to the base flood elevation.
  - 3. A-14 (12) zone elevation must be 12' as measured to the base flood elevation.
  - 4. A-14 (12) Structures built on unrestricted property and/or commercial structures.
  - 5. Add 3' to height on items c-1 through 4 in order to secure minimum rate flood insurance.
  - 6. Any request to construct a structure not in accordance with this designation must be submitted through the designated Bayou Vista Building Inspector to the Board of Aldermen. (Ordinance No. 01-02, 01-28-02, Ordinance No. 2015-03, 03-31-15)

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### ARTICLE 3.08.00 RESIDENTIAL HOME CONSTRUCTION

#### Sec. 3.08.01. Requirements (Ordinance No. 2015.03, 03-31-15)

- A. All construction shall meet or exceed all Building Codes as specified in Article 3.07.00 of this Chapter. (Ordinance No. 2015-03, 03-31-15)
- B. The building erected on the Lot for use and occupancy as a dwelling shall contain not less than one thousand (1000) square feet of interior living area floor space, provided that in any dwelling house of high-raised construction, none of the area on the ground level, even if enclosed, shall be considered as constituting “interior living area floor space” . (Ordinance No. 2015-03, 03-31-15)
- C. All buildings erected on a Lot shall be finished on the outside with an accepted wood, composition, vinyl, and/or masonry residential exterior building material, and no corrugated metal, felt, paper or wood shingles shall be used as exterior siding or roofing. (Ordinance No. 2015-03, 03-31-15)
- D. No residential structure shall exceed two (2) stories above the base flood elevation. (Ordinance No. 2015-03, 03-31-15)
- E. No modular or pre-fab homes will be allowed within the City limits of Bayou Vista. (Ordinance No. 2015-03, 03-31-15)

#### Sec. 3.08.02. Materials

##### A. Wood

Wood may be used for piles or piling materials for porches, decks, and other unenclosed areas of the building. All such wood members shall be treated with a Copper-Chromated Arsenic (CCA) at the rate of .25 to 2.5 pounds per cubic foot of member. The standards of the pressure treatment shall conform to Table 1, Wood Preservatives. The minimum size of wooden piles, if the pile is square, is 4 x 4 inches and a diameter of 4 inches if a round pile is used. (See Table 1).

##### 1. References

- a. All exposed stringers, piling, outside stairways, porches, and deck materials are to be minimum .04 treatment or better.
- b. All lumber shall be #2 construction or better.
- c. All nails, screws, and bolting shall be galvanized. Nails shall be hot-dipped galvanized or equivalent. If a nail gun is used, nails must be approved in writing by the Building Inspector prior to construction.
- d. No wooden shingles or shakes are to be used in any construction.

##### B. Wood Preservatives

- 1. Standards for wood preservatives and methods of pressure treatment required within the scope of this code shall conform to those contained in the Manual of Recommended Practice of the American Wood Preservers' Association (AWPA).

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- C. Accepted Preservatives include the following:
- |    |   |                   |
|----|---|-------------------|
| 1. | Creosote                                      | AWPA Standard P1  |
| 2. | Creosote-Coal Tar Solutions                   | AWPA Standard P2  |
| 3. | Creosote-Petroleum Solutions                  | AWPA Standard P3  |
| 4. | Creosote-Pentachlorophenol Solution.          | AWPA Standard P11 |
| 5. | Oil-Borne Preservatives (Hydrocarbon Solvents | AWPA Standard P8  |
| 6. | Oil-Borne Preservatives                       | AWPA Standard P9  |
| 7. | Water-Borne Preservatives                     | AWPA Standard P5  |
- D. Standards for methods of treatment, by commodity, include the following:
1. General requirements, all wood products, pressure treatment, AWPA Standard C1.
  2. Lumber and Timbers, Pressure treatment, AWPA Standard C2
  3. Piles, pressure treated, AWPA Standard C3.
  4. Poles, Pressure treated, AWPA Standard C4.
  5. Plywood, pressure treated, AWPA Standard C9.
  6. Piles and Timber, pressure treated, marine construction, AWPA Standard C18.
  7. Pole Building construction, pressure treatment, AWPA Standard C23.
  8. Glued laminated wood, pressure treatment, AWPA Standard C28.
  9. Quality Control Standards published by the American Wood Preservers Bureau for methods of treatment, by commodity include the following:
    - a. Softwood Lumber, Timber and plywood pressure Treated with Water-Borne preservatives for Above Ground use-AWPB Standard LP-2.
    - b. Softwood Lumber, Timber and plywood Pressure Treated with Water Preservatives for Ground Contact AWPB Standard LP-22.
    - c. Softwood Lumber, Timber and Plywood Pressure treated with Light Petroleum Solvent-Penta Solution for Above Ground Use-AWPB Standard LP-3.
    - d. Softwood Lumber, Timber and Plywood Pressure Treated with Light Petroleum Solvent (LGP)Penta Solution for Ground Contact-AWPB Standard LP-33.
    - e. Softwood Lumber, Timber and Plywood Pressure treated with Volatile Petroleum Solvent (LPG)-Penta Solution for Ground Contact AWPB Standard LP-4.
    - f. Softwood Lumber, Timber and Plywood Pressure Treated with Volatile Petroleum Solvent (LPG)-Penta Solution for Ground Contact AWPB Standard LP-44.
    - g. Softwood Lumber, Timber and Plywood Pressure treated with Creosote or creosote coal tar solutions for above ground contact use AWPB Standard LP-5.
    - h. Softwood Lumber, Timber and Plywood pressure treated with Creosote or Creosote coal tar solutions for above ground contact use AWPB Standard LP-55.
    - i. Softwood Lumber, Timber and Plywood Pressure treated with Heavy Petroleum Solvent Penta Solution for Above Ground Use-AWPB LP-7.
    - j. Softwood lumber, Timber and Plywood Pressure Treated with Heavy Petroleum Solvent Penta Solution for Use in Ground Contact AWPB Standard LP-77.

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- k. Softwood Lumber, Timber and Plywood Pressure treated with Water-Borne Preservatives for Ground Contact Use in Residential and Light Commercial Foundations AWPB Standard FND.

### E. Concrete

All concrete materials shall conform with and structures be constructed in accordance with the American Concrete Institute's requirements. The ultimate compressive strength of concrete shall in no case be less than 2,800 pounds per square inch at 28 days of age. The allowable stress shall not exceed thirty-three (33) percent using the ultimate strength design criteria. Special care shall be taken in the concrete construction to prevent and reduce the number of voids in the surfaces and between the joints of the concrete. Additionally, all reinforcing steel must be sufficiently covered, a minimum of three (3) inches, to prevent salt water from reaching the steel. The minimum longitudinal steel reinforcement in concrete section with at least four (4) reinforcing bars.

### F. Steel

Exposed structural steel is extremely susceptible to corrosion in coastal environments. The use of such members is discouraged. However, if their use is desired, hot-dip galvanized members may be used, upon the approval of the Building Inspector. They shall be coated after fabrication and painted with a protective coating after installation on all surfaces that have been cut, or have had the protective coating damaged. All anchoring devices to include nails, spikes, bolts, and lag screws shall also be hot-dip galvanized.

### G. Concrete Masonry Units

Hollow or solid concrete masonry units (CMU's) shall be used for columns to support the building structure and placed on a properly engineered and constructed concrete foundation. The CMU's shall conform to the requirements of the American Society for Testing and Materials (ASTM) Standard C90, Specifications for Hollow Load-Bearing Concrete Masonry Units of ASTM Standard C145, Specifications for Solid Load-Bearing Concrete Masonry Units. The beams shall have at least two (2) number 5 or three (3) number 4 steel reinforcing bars (two each on top and the bottom). The size of the piers, the reinforcement required and the required amount of dowels are shown in Table 5, Concrete Masonry Unit Piers Steel Reinforcing for Each Face. See Exhibit "G".

### **Sec. 3.08.03. Framing**

- A. Floor joists shall be a minimum of 2" x 8" except for porches which shall be a minimum of 2" x 6".
- B. Ceiling joists and rafters shall be a minimum of 2' x 6".
- C. Wall Studs shall be spaced on not more than 16" centers.
- D. Roof shall be Seal Tab Composition, Pitch and Gravel or approved equivalent shall be used for flat areas. All composition roofs must have 6 nails per shingle. Roof decking shall be a minimum of 5/8". No wooden shingles or shakes shall be used.
- E. All siding shall be solid wood or plywood minimum 5/8" on living area of structure. Siding application in all other areas of structure subject to approval of Building Inspector. 1/2" plywood base shall be applied under cement board such as Hardy or wood subject to approval by Building Inspector. ( Ordinance No. 2015-03, 03-31-15)
- F. All floors shall have sub-flooring minimum of 3/4" Sturdi-Floor or equivalent.

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- G. Floor joists and ceiling joists shall be spaced on not more than 16' centers. Rafters not more than 20" centers with approval of tie down on every other joist and rafter. Each floor joist shall be approved tie down to stringers as per Texas Catastrophic Property Association Windstorms Resistant Construction Code.
- H. Completed framing of structure to be inspected and approved by Building Inspector prior to proceeding to next stage of construction.

### **Sec. 3.08.04. Wiring**

- A. All wiring is to be copper. This includes the service drop line connecting with the power transformer secondary line with National Electric Code approved connectors. Service drop line to meter from power company transformer secondary line must be in non-corrosive conduit.
- B. All new construction which requires a transformer secondary line to cross a street must have a power mast on the AC power supply to attach the transformer secondary line in order to obtain a nineteen (19) foot clearance across the street.
  - 1. Minimum service requirements conductors must be minimum of No. 3 copper/150 amps.
  - 2. Service must be properly grounded as per International Electric Code Requirements. (Ord. No. 01-05, 03-01-05)
- C. All exterior air conditioning equipment shall be installed on solid and secure platform at or above base floor level.
- D. Gas heating equipment shall meet the International Mechanical Code specifications for material and installation. An air condition technician currently licensed by the State of Texas shall inspect and approve the vent termination as the International Mechanical Code in a new structure and/or a replacement of heating unit. (Ord. No. 01-05, 03-01-05)

### **Sec. 3.08.05. Plumbing License Code**

- A. All plumbing to meet the International Plumbing Code specifications for material and installation.
- B. All Plumbers must have a Journeyman or Master license to perform plumbing work except for plumbing work performed by a property owner in a building owned or occupied by him as his homestead.
- C. A current license from any municipality issued in the State of Texas is acceptable.
- D. All plumbing must be inspected and approved by the Building Inspector. (Ord. No. 01-05, 03-01-05)

### **Sec. 3.08.06. Electrical License Code**

- A. All electrical to meet the International Electrical Code specifications for material and installation.
- B. All electricians must have a Journeyman or Master license to perform electrical work except for electrical work performed by a property owner in a building owned or occupied by him as his homestead.

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- C. A current license from any municipality issued in the State of Texas is acceptable.
- D. All electrical must be inspected and approved by the Building Inspector.  
(Ord. No. 01-05, 03-01-05)

### **Sec. 3.08.07. Concrete General**

- A. All concrete slabs and steps shall be 2500 psf concrete in 28 days and shall be a minimum 4" thick with 6" x 6" x 6" reinforcing wire mesh and shall have polyethylene moisture barrier of at least 4 mil thickness. (See Exhibit G.)
  - 1. No concrete slab, including driveways, shall be poured over any main water or sewer line without first having signed knowledge of encroachment agreement with the Galveston County Municipal Utilities District No. 12 if water and sewer lines are located in the dedicated utility easement.
  - 2. One axle load limit- 10,000 lbs., fill dirt 3 cubic yards, sand and gravel 3 cubic yards, ready mix 2 yards.
  - 3. Two axle load limit- 20,000 lbs., fill dirt 7 cubic yards, sand and gravel 6 cubic yards, ready mix 5-1/4 cubic yards.
- B. Any drainage ditch or driveway torn up, rutted and/or damaged in any way during construction must be restored to original condition.
- C. Builder/owner shall not allow cleaning of cement trucks on any property.  
(Ordinance No. 2015-03, 03-31-15)

### **Sec. 3.08.08. Construction Debris**

- A. Builder/owner shall be responsible for maintaining a clean and tidy construction site and shall have a trash container on all job sites to collect all beverage cans, bottles, and other small pieces of litter to prevent littering streets and other property. Builders/owner shall haul away all other trash as it accumulates. No trash shall be burned inside the limits of the City of Bayou Vista.
- B. Builder/Owner shall provide construction debris removal equipment which is designed, maintained, and utilized so that all debris and trash associated with the construction or renovation is prevented from littering the job sight and surrounding property, i.e., construction trash trailer, large dumpster or other trash containment holder, as agreed to by the Building Inspector for new home construction and addition or remodeling jobs involving 900 square feet or more. Flat-bed trailers without fixed side enclosures sufficient to prevent littering are prohibited.
  - 1. Construction debris removal equipment shall be placed on the job site of new home construction immediately after the slab and the CMU columns are completed. Any delay caused by adverse weather conditions will be considered on a daily basis and solely at the discretion of the city Building Inspector. Any other delays not caused by adverse weather conditions, will result in the job site being "red-tagged" until the proper construction removal equipment is delivered to the building site.
  - 2. Construction debris removal equipment shall be placed on the job site of an addition or remodeling job involving 900 square feet or more, three (3) days after the permit has been issued. Any delay exceeding 72 consecutive hours will

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mandate the property site be “red tagged” until the proper construction removal equipment is delivered to the building site.

3. All debris removal equipment shall be situated on the site as to not interfere with delivery trucks dropping off materials on the job site. Construction debris and/or materials shall not be placed on adjoining property at any time.
4. Job sites will be inspected weekly, but may be inspected at any time and as often as necessary at the discretion of the Building Inspector. Failure to comply with jobsite cleanup will result in a “red tag” and all work will cease until the job site is properly cleaned. (Ord. No. 06-04, 7-6-04, Ord. No. § 1, 02-07, 3-06-07)
5. Builder/owner shall not allow material delivery vehicles and/or other vehicles to cross lot lines other than the building site during construction without written approval from other property owner, being on file in the City of Bayou Vista office, unless in an emergency. The property is to be restored to original condition. Trucks shall observe speed limits and load limits. Load limits are:
6. Builder/owner shall be responsible for furnishing and maintaining a port-a-can on the building site throughout construction from time of forms being set until time of release by Building Inspector.
7. All exterior construction shall be inspected and completed within 120 days of building permit issuance.
8. No permanent electrical power or water and sewer shall be connected until final inspection and issuance of certification of same by Master or Journeyman Licensed Plumber, and approved by Building Inspector and with a certificate of occupancy issued by Building Inspector. (Ordinance No. 2015-03, 03-31-15)
9. Electric panels and air air-conditioning condensers shall not be installed below base floor level. (Ord. No. 96-02, 4-2-1996, Ordinance No. 2015-03, 03-31-15) (Ordinance No. 2021-05 – 08-31-21)

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### ARTICLE 3.09.00 – BOAT HOUSES – PIERS/DOCKS – DECKS AND WALKWAYS

#### Sec. 3.09.01. Boat House Requirements

- A. Location
1. No boathouse shall be constructed on any lot not having a residence thereon. (Ordinance No. 2015-03, 03-31-15)
  2. Ingress and egress shall be from the subject property only.
- B. Maximum Width
1. No structure including walkways or other projections may extend more than twelve feet (12') from the waterside of the bulkhead into the canal except as herein provided. (Ordinance No. 2015-03, 03-31-15)
  2. Maximum width shall not include roof overhang providing it does not extend more than two (2) feet out from the outermost side of the outside pilings.
- C. Maximum Length
1. The length of a boathouse must not extend past five (5) foot set-back build lines on the closed side and twelve (12) foot from set-back build line on ingress/egress side. (Ordinance No. 2015-03, 03-31-15)
- D. Maximum Height
1. Shall be in relationship to the BFE of the residence. Allowances for height difference between the residence BFE and the boathouse deck shall be considered with approval from the Building Inspector. (Ordinance No. 2015-03, 03-31-15)
- E. Roof, Sides, and Ends
1. Closed sides or ends are prohibited.
  2. Granulated roll roofing, hot mop, or cold mop types may be used on the top of flat roofs providing it does not visibly extend below the top.
  3. Mansard type roofs may be used providing they meet or exceed the International Building Code and the Texas Windstorm Resistance Code, and do not extend down more than four feet (48 inches). (Ord. No. 01-05, 03-01-05)

#### Sec. 3.09.02. Overhead Walkways Requirements

- A. Acceptable Design Requirements
1. If overhead connecting walkways are securely attached to existing house or deck it shall be designed and approved by a registered engineer. (Ordinance No. 2015-03, 03-31-15)
  2. If overhead connecting walkway is securely attached to the boathouse, it will be constructed with break- a-way capabilities at the existing house or deck and will not require engineer design or approval.(Ordinance No. 2015-03, 03-31-15)

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3. Railings used shall be of open design with a maximum of four and  $\frac{3}{4}$  inches (4  $\frac{3}{4}$  inches) on center spacing and not to extend more than four feet (48 inches) above the top of the boatlift. (Ordinance No. 2015-03, 03-31-15)

### **Sec. 3.09.03. Pier/ Dock Requirements**

#### A. Length of Pier or Dock

1. The pier or dock may extend no more than 12' from waterside of bulkhead into canal and must not exceed past the five (5) foot set back building line on either side of the property. (Ordinance No. 01-02, 01-28-02, Ord. No. 01-05, 03-01-05, Ord. No. 03-05, 5-3-05, Ordinance No. 2015-03,03-31-15)
2. Lumber Grade and Type
  - a. Lumber used which is above normal high tide level, shall be at minimum Grade No. 2, press and treated to 40 P.S.I.
  - b. All piling shall be 8' x 8' and a minimum of 24' in length driven to a point of refusal.
  - c. Lumber used which will be below normal high tide level shall be of 2.5 treated type (CCA Type C. Saltwater Treatment).

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### **ARTICLE 3.10.00 UNRESTRICTED OR COMMERCIAL PROPERTY**

#### **Sec. 3.10.01. General**

- A. A structure constructed on unrestricted or commercial property shall not exceed two (2) stories in height. Set-back build\_lines shall be minimum of twenty (20) feet on property front, minimum of twenty (20) feet on property back, and minimum of five (5) feet on property side. Structure to meet all state, county and local fire code requirements. Plans and specifications to be approved by the Building Inspector prior to construction. Fire Marshall and Building Inspector to approve completed structure prior to occupancy. (Ordinance No. 01-02, 01-28-02, Ordinance No. 13-06, § 1, 11-14-06)
- B. Unrestricted property and/or commercial property shall provide a minimum of three (3) parking spaces per five hundred (500) square foot of structure. (Ordinance No. 01-02, 01-28-02)
- C. No mobile homes, mobile home parks or temporary buildings are permitted on unrestricted and/or commercial property. (Ordinance No. 2015-03,03-31-15)

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### ARTICLE 3.11.00 CARPORT STANDARDS FOR BAYOU VISTA

#### Sec 3.11.01. General

- A. Carports should blend with adjacent house and be as inconspicuous as possible.
- B. The distance from the edge of the carport roof to the edge of the street shall be not less than seven feet and the distance between supporting columns and edge of street shall not be less than 10 feet unless specifically approved by the Building Inspector or through the variance process. ( Ordinance No. 2015-3, 03-31-15)
- C. The maximum overhang measured from main beams or columns shall generally not exceed 3 feet without approval. All overhangs shall be designed to preclude deflection or sag.
- D. The roof shall be designed to support a superimposed uniform live load of 5 lbs. per sq. ft. (PSF) with a maximum deflection of 1/180times the span. Furthermore, the roof shall be designed to resist a negative wind pressure or uplift of 36 PSF. This negative pressure applies to the roof covering as well as the anchorage of all structural members, columns, footings, etc.
- E. All carport roofs shall have a fascia along the perimeter designed to conceal the edge of the roof and enhance its general appearance. (An exception to this rule is allowed for roofs with slopes greater than 3 on 12.) The vertical dimension of the fascia should be held to a minimum consistent with its purpose so as to minimize lateral wind resistance. The fascia should be mounted to allow the roof to drain off without spilling over the top of the fascia, by either having an open space of at least 1-1/2" between it and the roof or by means of scupper drains or down spouts. The slope of all roofs shall be not less than 1 in 24. The fascia should be sufficiently rigid to prevent sag and maintain a straight alignment.
- F. The carport structure shall be designed to withstand a horizontal wind load acting from any direction equal to 4 times the vertical dimension of the fascia in inches, which will determine the value of the wind load in lbs. per lineal foot (PLF). For example, an 8" fascia must resist a horizontal force of 32 PLF (4X8=32). The supporting structure must be designed to transfer all horizontal forces to the ground. If the carport is supported solely on vertical columns. The columns must be capable of withstanding the vertical uplift as well as lateral loads.
- G. All plans for carport structures shall be submitted for approval prior to commencing construction.

#### Sec. 3.11.02. Specific Types

- A. *Corrugated Fiberglass Panels.*

These are usually available in stock widths of 26" and lengths of 8', 10', and 12', and in weights of 4, 6, and 8 oz per sq. ft. The corrugations are 1/2" deep with a pitch of 2 1/2" between crowns. Although the manufacturers permit maximum spans between supports of 32" to 48" for normal roof loads, wind uplift forces limit spans to 36" unless special fasteners are used. Acceptable method of fastening are: Aluminum weather sealing nails long enough to provided 1 1/2" of penetration into the supporting members, self-tapping screw fasteners, or bolts with metal-backed neoprene washers. All fasteners shall be on 8" centers along outer edges or eaves of roof. End laps shall be a minimum of 6" and side laps 1/2corrugation.

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Nailing strips shall be spaced not more than 36" on centers and shall not be less than 2x2 No. 2 Southern Yellow Pine. Joists supporting the nailing strips shall be spaced not more than 30" on centers for 2x2s and 48" for 2x4s laid flat. For these spacings metal framing anchors or inverted joist hangers are mandatory to connect the nailing strips to the joists. The following joist sizes and maximum spans are acceptable:

TABLE 1

Nailing Strips		Joists: (No. 2 SYP)	
Size	Spacing	Spacing	Size    Max. Span. Ft.
2X2	36"	30 "	2X6    10 2X8    14 2X10   17
2X4(flat)	48"	48" " "	2X6    8* 2X8    10* 2X10   14*

\*Requires 2 framing anchors per connection.

Beams supporting the above joists must be designed to resist the uplift force which is the most critical load. Column and footing designs must consider the effects of uplift and lateral wind loads.

**B.    *Conventional Light-Height Construction.***

This includes flat roofs (slopes less than 1 on 12) consisting of post and beam construction with conventional joists and wood deck of plywood or shiplap and built-up roofing. Gravel covered roofing is not recommended because of the possible damage caused by flying gravel during high winds. Since this type structure has more dead weight than the type described in subparagraph B-1 above, the uplift forces are not as critical; nevertheless, they should be considered. The average weight of the roof will be about 10 PSF; total design load should be not less than 15 PSF with a net uplift load of 26 PSF (If the dead weight is more or less than 10 PSF, these design loads must be adjusted). Design shall cover horizontal wind loads as indicated in subparagraph A-6 above.

**C.    *Composition Shingle Roofs.***

Minimum pitch for this type roof is 3 on 12. Conventional framing may be used based on live loads of 14 PSF and uplift loads of 31 PSF. No separate fascia is required provided the eaves are neatly trimmed. For freestanding gable roofs, use a horizontal wind load equal to 3 PSF of roof area.

**D.    *Metal Roofs.***

Corrugated or ribbed metal panel roofs shall be designed in the same manner as corrugated fiberglass roofs described in subparagraph B-1 above, taking into consideration the difference in weight. Galvanized corrugated metal sheets will weigh approximately 1.0 PSF as compared to fiberglass which will average 6 oz. (0.38 lb.) PSF. Structural framing and loads will be approximately on the same spacing as for the fiberglass panels.

**E.    *Manufactured Prefabricated Carports.***

Typical carports consist of galvanized metal columns, beams, and ribbed roof panels, prefabricated and field-bolted at the site. Manufacturers usually provide the required

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concrete footings and complete erection. Commercially manufactured carports must meet the following requirements. Furnish a certificate from a registered professional engineer that the structure as erected will support the following loads.

1. Roof live load of 5 PSF with a maximum deflection coefficient of  $1/180$  for panels and beams.
2. Uplift load of 36 PSF normal to roof panels without exceeding deflection coefficient of  $1/180$ .
3. Horizontal wind load of 48 PSF applied to vertical surfaces of the windward face. Lateral deflection at roofline shall not exceed  $1/90$  times the height above grade.

F. Other requirements are:

Minimum roof slope shall be 1 in 24. Roof overhang measured from beams of columns shall not exceed 3 feet without approval. Eaves shall be provided with a decorative trim or fascia which must be approved.

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### **ARTICLE 3.12.00 BUILDING CODE FOR COMMERCIAL AND RESIDENTIAL BULKHEADS**

#### **Sec. 3.12.01. General**

- A. In order to promote an orderly and consistent development of the City of Bayou Vista, the City hereby adopts the following Rules, Regulations and Requirements for the land lying within the corporate limits of the City.
- B. Before any repair or replacement of a bulkhead or similar structure in the, City are used or construction is begun, they shall first be approved by or the Building Inspector.
- C. These Rules, Regulations and Requirements and any further additions thereto or changes thereof will be binding on all land within the jurisdiction of the City, and must be complied with before approval or acceptance of any new buildings or construction within the jurisdiction of the City.
- D. All design and construction work for and within the City shall be in accordance with currently accepted engineering and construction practices.
- E. All bulkheads installed in the City of Bayou Vista must be inspected for compliance with all rules, regulations and requirements by the City Building Inspector during installation of sheet piling, filter cloth, tie rod and anchor (deadman), and back-filling. Should the Contractor fail to notify the Building Inspector to complete the aforementioned inspections, the Building Inspector will require the work to be uncovered at the Contractor's expense so that these inspections can be made. Should the Contractor refuse to uncover any work and/or comply with all rules, regulations and requirements of the City of Bayou Vista, the work will be red-tagged and the Contractor will be fined One Hundred Dollars (\$100) per day until said work is corrected.
- F. Should the Contractor continue to produce non-compliance work, all permits for that construction project will be revoked without return of fees and the Contractor barred from performing any further work within the jurisdiction of the City of Bayou Vista until all requirements are met.
- G. All bulkhead construction shall be inspected and completed within 60 days from the date of permit approval.
- H. Each tie-back rod shall be attached to a separate reaction anchor pile or to a horizontally aligned treated timber deadman. Such reaction pile or deadman shall be located behind a minimum distance of one and one-half (1-1/2) times the sheet pile length.
- I. A reaction pile shall be minimum 6" x 6" square or 7" diameter treated timber pile equal in length to the sheet piling and shall be driven a minimum distance of 70% of its length into undisturbed soil.  
  
A treated timber deadman shall be a minimum 8" x 8" x 10'. The tops of the deadman or reaction pile shall be a minimum of 3 feet below finished grade.
- J. All debris and materials, old and new, be removed from property prior to project completion (Ord. No. 36-86, 1-7-1986; Ord. No. 37-86, 2-4-1986; Ord. No. 39-86, 3-4-1986; Ord. No. 36-86A, 4-30-1991, Ordinance No. 2015-03, 03-31-15)

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### Sec. 3.12.02. Minimal Design Standards

- A. All commercial and residential development in the City of Bayou Vista adjacent to the water, excluding for marshland property located on the east side of Blue Heron Road, must install suitable bulkhead along the banks the entire length of the property shoreline. The bulkheads shall be designed and installed in such manner as to ensure proper soil and land retention and the effective reduction of storm damage and erosion.
- B. In the design of bulkheading for the City of Bayou Vista, the foundation and backfill conditions, the exposure to wave action and scour, regulatory floods and the type of materials shall all be taken into consideration. The plans shall be submitted to the City for approval prior to the construction of any bulkheads.
- C. Proper construction procedures shall be followed at all times in the driving and placing of bulkheading in the jurisdiction of the City of Bayou Vista. Furthermore, care should be taken to insure that damage does not occur to or result from the driving procedures of the piles or the sheet piling used in the bulkhead. Any piling so damaged will be removed and replaced.
- D. All bulkhead sheet piling shall be driven at least thirty (30) percent of its length below the mud line. (Ordinance No. 2015-03, 03-31-15)
- F. A suitable waterproof sheeting called filter cloth shall also be placed the entire length and height of all wooden bulkhead prior to backfilling. (Ordinance No. 2015-03, 03-31-15)
- G. All bulkheads shall be constructed with tie-back anchor rods. Such rods shall be minimum 3/4" inch diameter galvanized steel spaced on maximum six (6) feet centers. Rods shall be continuous without lap welds, couplings or turnbuckles.
- H. Each tie-back rod shall be attached to a separate reaction anchor pile or concrete deadman. Such anchor pile or deadman shall be located behind the bulkhead a minimum distance of one and one-half (1.5) times the sheet pile length.
- I. A reaction pile shall be minimum 6" x 6" square or 7-inch diameter treated timber pile equal in length to the sheet piling, driven a minimum of 70 percent of its length into undisturbed soil. A concrete deadman shall be a minimum of three (3) feet deep by two (2) feet, long by one (1) foot thick reinforced concrete with one (1) mat of #4 bars on 8" centers horizontally and vertically. The tops of the reactions pile or concrete deadman shall be a minimum of three (3') below finished grade. (Ordinance No. 2015-03, 03-31-15)
- J. The use of house pilings, concrete foundations, driveways, or other structures for anchorage points in lieu of anchor piles or deadman will not be permitted unless design of such is submitted and sealed by a Registered Professional Engineer, and approved by the City of Bayou Vista.
- K. The following criteria shall apply to timber bulkheads:
  - 1. All timber used shall be 2.53 treated or equivalent.
  - 2. The sheet piling shall be driven at least 30 percent of its length below the mud line. (Ordinance No. 2015-03, 03-31-15)

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3. The out board piling at the face of the bulkhead will be driven a minimum of 50 percent below the mud line on maximum six (6) feet spacing. (Ordinance No. 2015, 03-15-15)
4. Wood Sheet piling shall be a minimum two (2) inch thick, tongue and groove sheeting.
5. Outboard piles shall be a minimum six (6) inch square or seven (7) inch diameter treated timber piles.
6. Wales shall be a minimum 3 inch x 8 inch treated timber. Timber wales on wooden bulkheads are to be placed outside of sheet piling at a minimum of two locations; One at the top of sheeting and the other 2/3rds of the distance from the top to the mud line. Wales are to be placed behind water piles as shown in detail A.

Three wales will be required when exposure of wood exceeds six (6) feet.

7. All nails, screws and bolting used in the construction of the bulkhead shall be galvanized.
- M. The following criteria shall apply to concrete bulkheads:
1. The sheet piling shall be driven at least 50 percent of its length below the mud line.
  2. The sheet piles shall be minimum of six (6) inches thick and maximum of six (6) feet wide precast tongue and groove sheets.
  3. The concrete and structural design of the sheets and cap shall conform to Section IV Part B of this Ordinance.
  4. Filter cloth is recommended for full width installation behind the wall. An acceptable alternate method of sealing joints is to place a thick layer (12-inches wide by 4-inch minimum thickness) of high strength concrete grout behind each joint from bottom of cap to mud line.
- N. New or repaired bulkhead shall not extend into the canal past the original bulkhead line. When new bulkheads are built, the old bulkhead shall be removed in its entirety before new piling are driven. (Ord. No. 36-86, 1-7-1986; Ord. No. 37-86, 2-4-1986; Ord. No. 69-89, 9-5-1989; Ord. No. 99-02, 2-2-1999)

### **Sec. 3.12.03. Materials**

#### A. *Wood*

Wood may be used for bulkheads, either as a reaction or anchor pile for the tie backs, a sheet pile, or any other use not excluded by this or other ordinance or code. All such wood members shall be pressure treated CCA at a minimum rate of .6 pounds per C.F. or creosote-coal tar solution at a minimum rate of 16 pounds per cubic foot of member. The standards of the pressure treatment shall conform to TABLE I-Wood Preservatives. The piling should be treated by the full cell process until all the oil, the piling can be made to hold is forced into the member without causing deleterious effects or damage to the wood. All cut ends of the members shall be coated with a wood preservative. This includes the ends that will be covered during and after construction as well as those ends that are left exposed to the elements. All wood material will bear the appropriate pressure treated certification. A certificate of invoice may be required for verification.

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### B. *Connectors*

Timber bulkheads often fail because of corrosion, abrasion, or fatigue of metal connections, or because of abrasion of the wood by loose connectors and not as a result of deterioration of the wood members. For marine exposure, all hardware should be Galvanized and the following minimum sizes used:

In or Below Splash Zone		
Bolts		1 inch diameter
Plates		0.5 inch thickness
Washers		Ogee (standard size to fit bolt)
Above Splash Zone		
Bolts		0.75 inch diameter
Plates		0.375 inch thickness
Washers		0.25 inch plate (ogee optional)

In general, the exposure of bolts to the atmosphere should be reduced to a minimum by using only one washer or plate per unit. Adjacent timbers should be in contact with the bolt to prevent exposure. Bolt holes should not exceed the diameter of the bolt by more than 0.002-inch. Drift bolts or spiral bolts should have a driving fit. Washers should bear evenly and fully on the timber, and where the axis of the bolt is not perpendicular to the face of the timber, beveled plates or washers used.

### C. *Concrete*

All concrete material shall conform with and the structures shall be constructed in accordance with the American Concrete Institute's requirements. The ultimate compressive strength of concrete shall in no case be less than 3,000 pounds per square inch at twenty-eight (28) days of age. The allowable stress shall not exceed thirty-three (33) percent using the ultimate strength design criteria. Special care shall be taken in the concrete construction to prevent and reduce the number of voids in the surfaces and between the joints of the concrete. Additionally, all reinforcing steel must be sufficiently covered a minimum of two (2) inches to prevent salt water reaching the steel. The minimum steel reinforcement in concrete panels shall be shown in Table II.

TABLE 1

<i>Height Above Mud Line (Exposure) Feet</i>	<i>Minimum Length of Panel</i>	<i>Horizontal and Vertical Reinforcing</i>
Greater Than 7 Feet	Provide Engineering Design and Certification	
7' or less	Height x 2	#5 bars @ 6" Centers
6' or less	Height x 2	#4 bars @ 6" Centers
5' or less	Height x 2	#4 bars @ 7 1/2" Centers
4' or less	Height x 2	#4 bars @ 7 1/2" Centers

### D. *Steel*

The use of steel bulkheading is not allowed in the City of Bayou Vista. Structural steel is extremely susceptible to corrosion in coastal environments and its use is therefore limited. All steel materials shall be coated after fabrication on all surfaces that have been cut or have had their protective coating damaged. All anchoring devices, including nails, spikes and bolts shall also be hot dipped galvanized or suitably protected against corrosion.

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E. *Aluminum bulkheads*

May be used in the City of Bayou Vista. However, a suitable structural marine alloy content in the base metal or application of preservative coating resistant to seawater and a wide range of hydrogen such as 5052 aluminum shall be used. As with the other bulkheads, care must be taken in driving aluminum piling to insure damage does not occur or the structural integrity is compromised. The driving of piles by vibration may be used if approved by the City Building Inspector. However, the piles must be driven by a conventional driving hammer to the final depth where the required resistance is obtained. As in the case of the other pile materials, a suitable structural top cap must be added to the aluminum sheet pile structure after completion. Also a rigid structural connection of the panels, to prevent displacement, must be utilized.

F. *PVC Plastic Sheeting Piling*

The use of PVC plastic sheeting piling may be used in the City of Bayou Vista. Installation shall be by jackhammer, pile driver, backhoe or water jet. Installation by a vibratory compactor may be used if approved by the City Building Inspector. A suitable structural top cap must be added to the PVC plastic sheet pile structure after completion. A rigid structural connection of the panels, to prevent displacement, must be utilized. The PVC plastic must be either deep-V or box-ribbed configuration meeting the minimum specifications listed in Table III below:

TABLE 2

PHYSICAL PROPERTIES	UNIT	BOX-RIBBED	DEEP-V
Material		Vinyl	Vinyl
Weight	lb/ft	1.8	1.8
Thickness	in	0.2	0.2
Linear Coverage/Sheet	in	10.5	12.0
Depth of Cross Section	in	6.0	3.0
MECHANICAL PROPERTIES	UNIT	BOX-RIBBED	DEEP-V
Tensile Strength	lb/in <sup>2</sup>	6,300	6,300
Flexural Strength	lb/in <sup>2</sup>	13,000	13,000
Flexural Modulus	lb/in <sup>2</sup>	380,000	
			380,000
Section Modulus	in <sup>3</sup> /ft	6.1	1.5
Moment of Inertia	in <sup>4</sup> /ft	19.3	2.2
Maximum Moment	lb/ft	3,600	900
Allowable Moment	lb/ft	1,200	300

(Ord. No. 93-01, 4-6-1993)

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TABLE 3  
BULKHEAD SPECIFICATION  
BAYOU VISTA CANALS

*PILING*

Treatment	no less than	CCA 2.5	
Size	" " "	6"x6"x12'	or 8" Butts x 12'
Penetration	" " "	60%	
Spacing	5' on center		

*STRINGERS – Outside*

Treatment	no less than	CCA 2.5	
Size	" " "	3"x8" rough	3"x8" rough
Placement	1. no more than 2' space between top stringers & Center 2. shelf level for bottom stringers		

*STRINGERS - Inside*

Treatment	no less than	CCA 2.5	
Size	" " "	2"x8"	2"x8"

*CENTERMATCH*

Treatment	no less than	CCA 2.5	
Size	" " "	2"x10"x10'	2"x10"x10'
Penetration	" " "	35%	35%

**DEADMAN OR TIEBACK SPECIFICATIONS**

Size	no less than	8"x8"x10'
Depth	" " " 3'	
Length	" " " 16'	(no less than eight feet [8'])

All Deadman should be put in horizontally no less than 15' back preferably 20'

RODS	" " "	3/4" material galvanized
SUCKER RODS	" " "	1"x20' w/10" augers galvanized

(Ord. No. 37-86A, 5-2-1990)

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### ARTICLE 3.13.00. FENCE REGULATIONS

#### Sec. 3.13.01. General Requirements and Minimal Design Standards

- A. All commercial and residential fences constructed in the City of Bayou Vista must be constructed in a proper manner and such that a neat and attractive appearance is conveyed and maintained.
- B. Metal or chain link fences shall be of hot-dipped galvanized steel. All steel must be coated after fabrication and painted with a protective coating after installation on all surfaces that have been cut or have had the protective coating damaged. All anchoring devices to include nails, spikes, bolts, screws, fasteners, hangers and similar items used in the construction of the fences shall also be hot-dipped galvanized.
- C. All fence posts, corner posts, and/or supporting structures shall be properly anchored. It is recommended that all supporting posts be properly anchored in concrete or driven to a suitable depth.
- E. A non-see-through fence may be constructed between the sidewalls of the house and the adjacent property line if constructed otherwise in accordance with this article. This includes lots and swimming pools. (Ordinance 07-11, 11-29-11)
- F. No fence may exceed seven (7) feet in height. (Ordinance 07-11,11-29-11)
- G. Plans and specifications shall be submitted to the Building Inspector for approval of the construction of new fences, additions to existing fences, or reconstruction of existing fences. A permit shall be required for such construction of new fences, additions to existing fences, or reconstruction of existing fences. The standard fee for such permit shall be as provided for in the fee schedule found in Sec. 3.906. Permits and Fees. (Ord. 02-05, § 1, 6-07-05)

#### Sec. 3.13.02. Certain Fences Prohibited

- A. It shall be unlawful for any person to construct or replace or cause to be constructed or replaced, any fence beyond the property lines of any lot.
- B. It shall be unlawful for any person to construct or replace, or cause to be constructed or replaced, any fence except a see-through type fence, in that area of a lot which is within twenty (20) feet of the bulkhead.
  - 1. Definition: *See Through Type Fence*. Having the property of transmitting light throughout no less than fifty percent (50%) of the area of fencing material erected without appreciable scattering so that objects lying beyond the fence are entirely visible viewed at a perpendicular angle from the street or property line.  
Example: 6” board, then 6” space.
- C. It shall be unlawful for any person to construct or replace, or cause to be constructed or replaced, any fence beyond street-side set-back build line. (Ordinance No. 2015, 03-31-15; Ord. 2016-14, 05-17-16)
- D. It shall be unlawful for any person to construct or replace, or cause to be constructed or replaced, any fence within a utility easement. (Ord. 02-05, § 2, 6-07-05)

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### **Sec. 3.13.03. Existing Fences Grandfathered**

- A. The provisions of this article relating to fences shall not apply to fences which are substantially constructed prior to the effective date of this article. However, if any fence is more than 50 percent damaged or destroyed for any reason, it must be replaced in accordance with the provisions of Section 3.13.02 of this article. If 50 percent or less of the fence is damaged or destroyed, the fence shall be repaired to meet the requirement of Section 3.13.01. (Ord. 02-05, § 3, 6-07-05, Ord. 2016-14, 05-17-16)

### **Sec. 3.13.04. Enclosure of Residential Pools and Spas**

- A. Owners of property upon which pools greater than 24 inches in depth are constructed shall comply with this section regarding the enclosure of their pools.
- B. An outdoor swimming pool, including an in-ground, above-ground or on-ground pool, hot tub or spa shall be provided with a barrier which shall comply with the requirements of Appendix G of the International Residential Code concerning barrier requirements for swimming pools, spas and hot tubs. (Ordinance 10-09, 10-06-09)

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### **ARTICLE 3.14.00. STANDARDS FOR OPEN AIR PAVILION CONSTRUCTION**

#### **Sec.. Definition**

- A. *Palapa* ( a Spanish word of Mayan origin, meaning “pulpous leaf”). An open-sided structure in the style of a dwelling with a permanent thatched, composition , or metal roof.

#### **Sec. 3.14.02. General**

- A. In order to promote orderly and consistent development of the City of Bayou Vista, Texas, the City adopts the following rules, regulations and requirements for the construction of palapas.
1. Prior to the construction of a palapa, a survey or plot plan of the property showing the location of the proposed structure must be presented to the Building Inspector.
  2. Dimensioned construction drawings for the palapa construction, including any paving and electrical, must be presented to the Building Inspector.
  3. Measurements of a palapa must be shown as the outside perimeter of the circumference of the underneath support with leaf overhang of no more than two (2) feet.
  4. Upon request of the Building Inspector, information on the concerning, material, including manufacturer’s specifications for material fire treatment and netting to provide stability in high winds must be furnished.
  5. A \$50.00 permit must be obtained prior to construction.

#### **Sec. 3.14.03. Setback, Separation, and Size Requirements**

- A. Palapa structures may not be located closer than five (5) feet to any side property line.
- B. Palapas may not be located within street-side utility easement.
- C. Palapas may only be located on the ground floor (street level).
- D. A palapa may not exceed 240 square feet (measured as stated in Sec. 3.14.02 – 3.)

#### **Sec. 3.14.04. Inspections**

- A. At a minimum, inspections by the Building Inspector shall be required for the foundation, electrical (if any) and final inspection.

(Ordinance 2013-03, 02-26-13; Ordinance 2016-13 allowing Palapas to be built on boat decks, and upper decks of home, 04-26-16; Ordinance 2016-15 repealed Ordinance 2016-13, and prohibited palapas from being built on decks and returned to original ordinance language allowing construction of palapas at ground-level only, 06-28-16)

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### **ARTICLE 3.15.00. MOVING MODULAR OR PRE-FAB COMMERCIAL BUILDINGS INTO CITY**

#### **Sec. 3.15.01. Applicability and definitions.**

- A. Should any provisions contained in this article conflict with any other provision of the building code adopted by reference herein or with any other provisions contained in this Code of Ordinances, the most stringent requirements shall prevail.
- B. Definitions.
  - 1. *Modular building.* As used in this article shall mean any building not erected on site used for activities normally associated with commercial occupancy. (Ordinance No. 2015-03, 03-31-15)
  - 2. *Modular.* As used in this article shall mean any building or structure of a module designation or units of standardized size designed to be arranged or fitted together in a variety of ways.
  - 3. *Shed.* As used in this article shall mean any small structure for storage.
  - 4. *Structure.* As used in this article shall mean anything constructed or erected, which requires location on the ground or attached to something having location on the ground.
  - 5. *Building.* As used in this article shall mean any structure having a roof supported by columns or walls, and designed or intended for commercial occupancy. (Ord. No. 94-02, § 1, 11-1-1994, Ordinance 2015-03, 03-31-15)

#### **Sec. 3.15.02. Permit Required**

- A. It shall be unlawful for any person, firm or corporation to move into, or in any manner to bring into, the corporate limits of the City of Bayou Vista, any building, or any assembled portion of, or any modular building, whether new or used, from outside of the corporate limits of the City of Bayou Vista for the purpose of placing the building, upon any lot or tract of ground for any commercial use without first obtaining approval from the Board of Aldermen of the City of Bayou Vista. (Ordinance No. 2015-03,03-31-15)
- B. It shall be unlawful for any person, firm, or corporation to move or relocate any, building, or structure, or any assembled portion of such building or structure, or any modular building, whether new or used, from one location in the City of Bayou Vista to another location, lot, or tract of land in the City of Bayou Vista, without first obtaining approval from the Board of Aldermen. (Ord. No. 94-02, § 2, 11-1-1994 – Ordinance No. 2015, 03-31-15)

#### **Sec. 3.15.03. Permit fee and application.**

- A. Any person, firm, or corporation desiring to move into the corporate limits of the City of Bayou Vista any building, or structure, or any assembled portion of such building, or structure from one location in the City to another location, lot, or tract of land in the City shall file an application with the City Secretary requesting that he be permitted to move into the corporate limits or relocate a particular building, or structure from one location to another location, lot, or tract of land in the City of Bayou Vista. (Ordinance No. 2015-03, 03-31-15)

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- B. Upon the filing of the application, the applicant shall pay the Building Inspector the required fee as established by resolution of the Board of Aldermen of the City of Bayou Vista, Texas, to help pay the cost of processing the application for the Board of Aldermen and the cost of mailing notices required by this subsection. Such permit shall be in addition to all other permits required for construction within the City. (Ordinance No. 2015-03, 03-31-15)
1. The application shall contain the following information:
    - a. Name, address, and telephone number of applicant.
    - b. Description and size of the building, or structure to be moved, together with a picture thereof. (Ordinance No. 2015-03, 03-31-15)
    - c. Legal description of the lot and the local address, upon which the building, or structure is to be moved or relocated on if a permit is approved by the Board of Aldermen. (Ordinance No. 2015-03, 03-31-15)
    - d. A drawing or plot plan showing the dimensions of the lot or tract of land upon which the building, or structure is to be moved or relocated and the location of existing buildings or structures upon the lot, if any, together with the location of existing buildings or structures upon adjoining lots. (Ordinance No. 2015-03, 03-31-15)
    - e. A wood-destroying insect inspection report issued by a structure pest control business licensee indicating whether or not there is visible evidence of active wood-destroying insect damage to the building, or structure and whether treatment or repairs are necessary. (Ordinance No. 2015-03, 03-31-15)
- C. Upon the filing of the application, the Building Inspector shall investigate the application by inspecting the building, or structure to be moved or relocated upon the lot or tract of land and the lot or tract of land upon which the building, or structure is to be located. He shall then advise the Board of Aldermen as to whether the building, or structure meets the requirements of the building code, and other applicable ordinances of the City of Bayou Vista, and whether or not the lot and building, or structure, if allowed to be moved onto the designated lot or tract of land, would meet all of the requirements of the building code and other applicable regulations of the City. In addition, the Building Inspector shall issue a written report to applicant stating requirements necessary to meet compliance with the Building Code and other applicable ordinances of the City of Bayou Vista. (Ordinance No. 2015-03, 03-31-15)
- D. After receipt of the written report from the Building Inspector, the applicant shall furnish written plans, specifications, and cost estimates from properly licensed building, electrical, plumbing, mechanical, or other contractors, as necessary, for any work which is required to bring the structure into compliance as described in the Building Inspector's report. Such plans, specifications, and cost estimates are a required part of the application and must be provided, even if the work is to be performed by the applicant. (Ordinance No. 2015-03, 03-31-15)
- E. After receipt of the complete application, including the documentation required under paragraph (d) above, the board of aldermen shall place the application for the action by the board of aldermen on the agenda of a regular or special alderman meeting. Permittee shall have ninety (90) days from date of issuance of the permit to complete all repairs as required to meet compliance with the Building Code and other applicable ordinances of the City. Notice of the board of aldermen meeting shall be sent

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to owners of real property lying within three hundred (300) feet of the lot or tract of land upon which the house, building, or structure is to be located, such notice to be given not less than three (3) days before the date set for the board of aldermen meeting to all such owners who have rendered their property for county taxes as the ownership appears on the last approved county tax rolls. (Ordinance No. 2015-03, 03-31-15)

- F. The board of aldermen shall either grant or deny the request taking into consideration the location and size of the lot upon which the building or structure is to be located, the size and construction of the building or structure to be moved, the population density in the area, the location and use of buildings, structures, and land in the area; provided, that no request shall be granted if the board of aldermen shall find that: (Ordinance No. 2015-03, 03-31-15)
1. The building, or structure to be moved does not meet all of the requirements of all applicable ordinances of the City of Bayou Vista. (Ordinance No. 2015-03, 03-31-15)
  2. The lot or tract of land with the building, or structure thereon would not meet all of the requirements of the applicable ordinances of the City of Bayou Vista.
  3. The building, or structure to be moved has deteriorated more than fifty (50) percent of its original value by virtue of fire or by virtue of age or normal wear and tear or other elements.
  4. The moving of such building or structure upon the lot or tract of land would cause injury to persons or property or damage to the streets or other public improvements.
  5. The applicant cannot ensure that he has the financial resources to bring the building up to City standards within ninety (90) days after completion of the move.
- G. If the Board of Aldermen shall grant the request to move such building or structure, the Board of Aldermen, by resolution, shall cause a special permit to be issued authorizing the moving of such building or structure upon the lot or tract of land under such conditions, requirements, or restrictions as the Board of Aldermen shall determine. (Ordinance No. 2015-03, 03-31-15)
- H. The Building Inspector of the City of Bayou Vista shall not issue a certificate of occupancy and compliance for the use of such building or structure until it complies with all requirements of all required wood-destroying insect treatment and related repairs are completed. (Ord. No. 94-02, § 3, 11-1-1994, Ordinance No. 2015-03, 03-31-15)

### **Sec. 3.15.04. Safety requirements.**

- A. No person, firm, or corporation shall move any building or structure over, across, or along any public street in the City of Bayou Vista, except in accordance with the regulations as prescribed by the Building Inspector. (Ordinance No. 2015-03, 03-31-15)
- B. No building or other structure shall be moved over, across, or along any public street after dark. (Ordinance No. 2015-03,03-31-15)
- C. No building or other structures shall be parked or left standing for any period of time upon any public street in the City of Bayou Vista, except when in continuous travel upon said public street. (Ordinance No. 2015-03, 03-31-15)

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### **Sec. 3.15.05. Penalty.**

- A. Any person violating any provision of this article shall, unless otherwise stated herein, upon conviction, be fined in accordance with the general penalty provision found in section 1.106 of this Code, for each offense, and in the case of willful and continuous violation of this article by any person, firm, or corporation, the Board of Aldermen, after notice and hearing, shall have the power to revoke and repeal any license under which said person may be acting, and to revoke and repeal all permits, privileges, and franchises granted to said person, firm, or corporation. (Ord. No. 94-02, § 6, 11-1-1994)

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### **ARTICLE 3.16.00. STREET AND ROAD CUTTING**

#### **Sec. 3.16.01. Definitions**

- A. *Person.* Any person, firm, partnership, association, corporation, or organization of any kind.

*Street or road.* Any public street, road, or City owned property within the City of Bayou Vista, Texas. (Ord. No. 91-10, § 1, 7-30-1991)

#### **Sec. 3.16.02. Permit required.**

- A. It shall be unlawful for any person to cut, breach, penetrate, bore under or excavate any street or road without first having obtained a permit therefore as conditioned below. (Ord. No. 91-10, § 2, 7-30-1991)

#### **Sec. 3.16.03. Permit requirements.**

- A. *Emergency.* There shall not be a permit required of a person who must cut, breach, penetrate, bore under or excavate any street or road for repair of a water leak, cable cut, etc. in an emergency, however, notice of such emergency shall be submitted to the office of the City of Bayou Vista office within one (1) working day after completion of the emergency repair for inspection. The surface of any street or road disturbed by such repair shall be restored within five (5) days' time to as good a condition as before the disturbance of the surface. Restoration of the street or road affected by such emergency repair shall conform to the specifications contained in Exhibit "A" to Ordinance 91-10 as maintained on file in the office of the City Secretary. (Ordinance No. 2015-03, 03-31-15)
- B. *Non-emergency.* Except as provided in subsection (a), before any person makes a cut, breach, penetrates, bores under, or excavates any street or road, notice shall be submitted to the City of Bayou Vista office in the form of Exhibit "B" to Ordinance 91-10 as maintained on file in the office of the City Secretary. If such person elects to cut, breach, penetrate, bore under, or excavate any street or road, then such person or their permittee shall present a cash or surety bond in the amount of fifteen thousand dollars (\$15,000.00), established by the City of Bayou Vista which bond shall be for the benefit of the City and conditioned that the permittee will comply with the terms and conditions of this article. Upon compliance with this subsection, a permit will be issued. (Ord. No. 91-10, § 3, 7-30-1991) (Ordinance No. 2015-03, 03-31-15)

#### **Sec. 3.16.04. Streets to be restored to good condition.**

- A. The surface of any street or road within the City disturbed by the permittee shall be restored within five (5) days to as good a condition as before the disturbance of the surface. Restoration of the surface shall be in accordance with specifications contained in Exhibit "A" Ordinance 91-10 as maintained on file in the office of the City Secretary. (Ord. No. 91-10, § 4, 7-30-1991)

#### **Sec. 3.16.05. Barricades, warning lights, and signs, etc.**

- A. Prior to beginning work on the project, the permittee shall furnish, erect, and maintain, at no expense to the City, suitable barricades, warning signs, flares, and red flags as specified in the plans or as approved by the engineer. All lights shall be kept burning from sunset to sunrise. Unless otherwise set forth in these specifications, the permittee shall receive no direct compensation for furnishing, erecting and maintaining the

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necessary barricades, lights, flares, signs, or for any other incidentals necessary for the good and proper safety, convenience and direction of traffic during the period prior to final inspection and acceptance by the City of Bayou Vista. (Ord. No. 91-10, § 5, 7-30-1991)

### **Sec. 3.16.06. Excavation.**

- A. All excavated material not used for refill or repair shall become the property of the permittee and shall be removed from the City by him within five (5) days of completion of job. (Ord. No. 91-10, § 6, 7-30-1991)

### **Sec. 3.16.07. Water.**

- A. Water necessary for construction or testing shall be furnished by the permittee. Only water suitable for the intended use shall be utilized. Under no circumstances will salt water be used for construction purposes. If water is to be used, it shall be hauled in or purchased through Galveston County M.U.D. #12, or obtained from other services as the permittee may desire. Other utilities necessary for completion of the project shall be furnished or paid by permittee; arrangements shall be made by the permittee. Permittee shall also furnish or pay for utilities at his offices and storage site. (Ord. No. 91-10, § 7, 7-30-1991)

### **Sec. 3.16.08. Provision for vehicle access.**

- A. Permittee shall be required to perform his work on any road in a phased manner so as to keep at least one (1) lane of traffic on the road being worked on open at all times. Any additional cost for this item shall be incidental to the various bid items. (Ord. No. 91-10, § 8, 7-30-1991)

### **Sec. 3.16.09. No work on weekends.**

- A. Permittee shall perform all work on weekdays only. No work will be allowed on Saturday or Sunday, except as authorized by the City of Bayou Vista except in an emergency situation. (Ord. No. 91-10, § 9, 7-30-1991)

### **Sec. 3.16.10. Penalty.**

- A. Any person violating any provision of this article shall, upon conviction be deemed guilty of a misdemeanor and fined in accordance with the general penalty provision found in section 1.106 of this Code, plus cost of repaving street or road. (Ord. No. 91-10, § 10, 7-30-1991)

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## ARTICLE 3.17.00. SIGN REGULATIONS

### Sec. 3.17.01. Authorized Signs

- A. The following signs are permitted within the boundaries of the City of Bayou Vista and must adhere to the specifications as stated in this Article. (Ord. No. 2016-09, 03-29-16)
1. Business signs
  2. Construction signs
  3. Political Signs
  4. Portable promotional signs
  5. Real Estate signs placed by Real Estate Company
  6. Real Estate signs placed by owner of property
  7. Miscellaneous Residential signs
  8. Signs on business vehicles

### Sec. 3.17.02. Definitions, Requirements and Restrictions

1. Business sign. Any outdoor advertising sign which directs attention to a business, commodity, service, entertainment, industry or other activity which is sold, offered or conducted, other than incidentally, upon the premises upon which such sign is located, or to which it is affixed.
2. Construction sign. A sign stating one or more of the following: the name of the construction company, a brief description of the project under construction, the name of the engineers and the name of the architects, which may only be on display during the actual construction work.
3. Political signs. A sign that contains primarily a political message in written form designed to be seen from a road, excluding a bumper sticker. No political sign may be placed on any City of Bayou Vista real property easement or right-of-way.

For sign that contains primarily a political message and that is located on private real property with the consent of the property owner, the City of Bayou Vista may not:

- a. prohibit the sign from being placed;
- b. require a permit or approval of the municipality or impose a fee for the sign to be placed;
- c. restrict the size of the sign; or
- d. provide for a charge for the removal of a political sign that is greater than the charge for removal of other signs regulated by ordinance;

Nothing herein shall apply to the sign, including a billboard, that contains primarily a political message on a temporary basis and that is generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political. Nothing herein shall apply to a sign that (1) has an effective area greater than 36 feet, (2) is more than eight feet high, (3) is illuminated, or (4) has any moving elements.

4. Portable promotional sign. A display sign, banner or other advertising device constructed of cloth, canvas, fabric or other light temporary material, with or without a structural frame, including trailer signs and trailer mounted signs announcing an upcoming event for the community for City sponsored or

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supported events for civic organizations and festivals for the benefit of the Community. Such signs are intended for a limited period of display. These signs are intended to be easily removable or are intended to be erected at successive locations, having regard to usual and customary practice.

5. Real estate sign placed by Real Estate Agency. Any arrangement of letters, figures, symbols, or other devices used for advertising to inform the public that such property is for sale, lease or rent may be displayed from the first day of the listing until closing on residential or commercial property. The signage shall not exceed fifteen (15) square feet in size.
6. Real Estate sign placed by owner. Any arrangement of letters, figures, symbols, or other devices used for advertising to inform the public that such property is for sale, lease or rent may be displayed from the first day of the listing until closing. The signage shall not exceed five (5) square feet in size.
7. Miscellaneous Residential signs. Any sign erected on a residential site by the owner of that property for the purpose of announcing, advertising, or calling attention to an event, action, such as a private party, a garage sale or yard sale. The miscellaneous residential signs shall not exceed five (5) square feet in size.
8. Signs on business vehicles that are driven to and from work regularly are permitted. ( Ord.2021-03, 01-26-21)

### **Sec. 3.17.03. City's Right-of-Way**

A. Signs announcing garage sales, yard sales, or signage announcing an upcoming event for the community and portable promotional sign for City sponsored or supported event for civic organizations or festivals for the benefit of the community, may be displayed in the City's right of way along Neptune Drive. Signs may be displayed no more than ten (10) days prior to the event with removal to occur the day after the event. (Ord. No. 2016-09, 03-29-16)

### **Sec. 3.17.04. Existing signs.**

- A. Any outdoor signs, business signs, and business directory signs, lawfully existing and maintained at the effective date of this article shall be considered as legal and continued existence is hereby permitted, provided that the signs remain in a good and workmanlike manner. This provision specifically includes but is not limited to both Vista Realty signs; the first one is the 10'x 5' sign located on the 20' x 20' easement at the entrance of the City and the second one is located on the city right of way, subject to the conditions of easement of the "Vista Realty Tract.
- B. Every outdoor advertising sign, which constitutes an immediate danger or threat to human life or property by reason of unsafe structural design or construction or by reason of being a fire hazard, shall be given notice to the owner, agent or person in control of such sign by certified mail, return receipt requested, stating the defects thereof. A copy of such notice shall be posted on the premises. This notice shall require the owner within ten (10) days to put such sign in a good and workmanlike manner. The owner, agent or person in control of such sign shall have the right of appeal to the Board of Aldermen at the next regular board meeting or at a special meeting to be held for the purpose of hearing such appeal. Should the Board of Aldermen determine at said hearing that said outdoor advertising sign constitutes an immediate danger to human life or property by reason of unsafe structural design or construction or by

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reason of being a fire hazard, the board shall allow said owner, agent, or person in control of said sign a reasonable time, not to exceed three (3) days, to put such sign in a good and workmanlike manner. Should such owner, agent or person in control of such sign fail to act within the time allotted by the Board of Aldermen, the Board of Aldermen shall order the Building Inspector to commence an action or actions, in a court of competent jurisdiction, for the abatement and removal of enjoinder of such signs or portions thereof.

- C. Every outdoor advertising sign constructed after the effective date of this article, which violates the provisions of this article or any other article of the City and every outdoor advertising sign which constitutes an immediate danger or threat to human life or property by reason of unsafe structural design or construction or by reason of being a fire hazard is declared to be unlawful and a public nuisance and shall be repaired, rehabilitated or demolished in accordance with the above described procedures. Provided, however, that no nonconforming business signs, business directory signs, outdoor advertising signs, billboards, or spectacular signs shall be altered or reconstructed unless the same shall be made to conform with all of the requirements of this article.

The terms "altered" or alteration" and "reconstruction" or "reconstructed" shall mean a replacement of all or any part of the supporting structure for any reason whatsoever, but does not include changing any of the ornamental features, electric wiring or devices, and the advertising policy display. When any outdoor advertising sign, billboard, spectacular sign business sign or business directory sign which would be unlawful or nonconforming hereunder but for the fact that such sign was lawfully in existence on the date of passage of this article, or any substantial parts thereof is blown down or destroyed, or taken down or removed for any purpose other than routine maintenance operations or for changing the lettering, symbols or other matter on such signs, it shall not be re-erected, reconstructed, rebuilt or relocated except in conformity with the provisions of this article (Ord. No. 91-7, § 5, 3-19-1991) (Ord. No. 2016-09, 03-29-16)

### **Sec. 3.17.05. Penalty.**

- A. The violation of any of the provisions of this article by any person is hereby declared to be a misdemeanor which shall be punishable by a fine in accordance with the general penalty provision found in section 01.01.06 of this Code. Each day a violation of any of the terms of this article continues shall be deemed to be a separate offense. (Ord. No. 91-7, § 7, 3-19-1991) (Ord. No. 2016-09, 03-29-16)