

ORDINANCE NO. 0-1222

AN ORDINANCE OF THE CITY OF FATE, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE BY THE REZONING OF AN APPROXIMATE 105.6 ACRE TRACT OF LAND FROM AGRICULTURAL (A) TO PLANNED UNIT DEVELOPMENT (PUD); PROVIDING FOR THE AMENDMENT TO THE CITY'S OFFICIAL ZONING MAP; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE

WHEREAS, the City of Fate (the "City") has previously adopted its Comprehensive Zoning Ordinance (the "Zoning Ordinance") pursuant to all the requirements of state law and local ordinances; and

WHEREAS, the owner of the Property shown in Exhibit "1" (the "Property") has applied to have the zoning on the Property changed to Planned Unit Development; and

WHEREAS, notice of a public hearing before the Planning and Zoning Commission and City Council was sent to real property owners within 200 feet of the Property in accordance with state law and local ordinances; and

WHEREAS, notice of the public hearing before the Planning and Zoning Commission and City Council was published in a newspaper of general circulation in the City in accordance with state law and local ordinances; and

WHEREAS, public hearings on this Ordinance were conducted by the Planning and Zoning Commission and the City Council in accordance with state law and local ordinances; and

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

Section 1. That the above findings are hereby found to be true and correct and are incorporated herein in their entirety.

Section 2. That the Zoning Ordinance of the City is hereby amended to reflect that the Property, as further and more specifically described by Exhibit "1" attached hereto and incorporated herein, is hereby rezoned to Planned Unit Development, as further and more specifically described in Exhibit "2" which is incorporated herein by reference.

Section 3. That all terms and conditions of the Zoning Ordinance shall apply to the Property and shall remain in full force and effect.

Section 4. That upon adoption of this Ordinance, the City Secretary shall promptly show the Property as being zoned Planned Unit Development on the City's Official Zoning Map.

Section 5. That any person, firm, partnership, corporation or other entity violating any of the provisions of this Ordinance, shall be guilty of a crime and upon final conviction therefore shall be fined in an amount not to exceed Two Thousand Dollars (\$2,000.00) for the violation. Each and every day such violation continues shall constitute a separate offense.

Section 6. That if any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or its application to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance; and the City Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

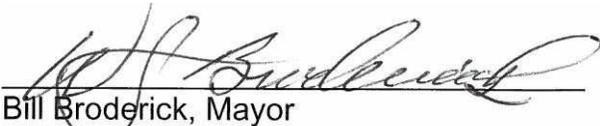
Section 7. That this Ordinance shall be in full force and effect from and after the date of its passage.

AND IT IS SO ORDAINED.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FATE,
TEXAS ON this 18th day of February, 2013.**



APPROVED:


Bill Broderick, Mayor

ATTEST:


Jean Dwinell, TRMC, City Secretary

APPROVED AS TO FORM:


Andy Messer, City Attorney

Exhibit 1

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Exhibit A to the Zoning Ordinance.

**Chamberlain Crossing Subdivision Development
Regulations**

I. Purpose.

The purpose of this Planned Development Zoning District is to establish minimum requirements of the residential PD established herein. The intent is to provide quality subdivision and thoroughfare development with residential uses in an orderly fashion. Following approval of this ordinance, the developer shall prepare, in a phased manner where applicable, construction plans, preliminary plat and a final plat for each area to be developed and conforming to the criteria established herein.

II. Base Zoning Districts; Maximum Units and Acreage.

A unit shall be defined as a separately inhabitable sellable or leasable space intended to be occupied by a single individual or family. The following zoning districts are hereby created to apply to the property within the Planned Development District. The property within the Planned Development District may be developed only in accordance with the maximum unit and acreage limits set forth as follows:

Zoning District	Lot Description	# of Units
SF-5.5	Single Family Residential: minimum 5,500 sf	235 (max)
SF-6.0	Single Family Residential: minimum 6,000 sf	157
SF-7.0	Single Family Residential: minimum 7,000 sf	30 (min)

Each of the residential zoning classifications shall be cumulative, thereby allowing an increase in the maximum number of units in a lower density classification for each unit that is reduced in a higher density classification. Notwithstanding this cumulative effect, the maximum number of units for all residential development will not exceed 422 units or a gross density exceeding 4.0 units per acre based on a gross acreage of 105.6. **Exhibit B** contains a legal description of the Chamberlain Crossing development district.

III. Zoning Regulations.

A. *Lot Measurement.* Lot width shall be measured at the front building line. Measurement of dwelling lot coverage or building lot coverage shall include only the footprint(s) of the primary structure and any detached garage.

8. Open Space Calculations. Open space calculations shall include all privately owned common areas, Recreation Areas and areas dedicated to the City, including Common Open Space, floodplain, detention areas, parkland and right-of-way dedication for Greenbriar and FM 551. Unit per Gross Acre calculations shall be provided on each Preliminary Plat. This planned Development shall have a minimum of fifteen percent (15 %) Recreation Areas and Common Open Space. The open space requirements will contemplate the Planned Development in its entirety. (e.g. the existence of excessive open space in a previously approved Preliminary Plat may have the effect of reducing the requirement in a subsequent Preliminary Plat so long as the overall Planned Development minimums are met.)

C. Accessory Buildings. Accessory Buildings must be located completely within the rear yard and shall not occupy in excess of 50 percent of the minimum required rear yard in the case of a one-story building, or 40 percent of the minimum required rear yard in the case of a two-story building. Accessory Buildings may not be located closer than 5 feet to any side yard property line or closer than six feet to the rear property line. No accessory building shall be used for commercial purposes (the term "commercial purposes" shall include part-time business). Accessory buildings shall be a maximum of 14 feet in height. The height of the structure shall be measured from the top of the slab or from its bottom floor.

Subpart 8 - LAND DEVELOPMENT REGULATIONS
 Chapter 40 - ZONING
 ZONING APPENDIX C. - CHAMBERLAIN CROSSING PLANNED DEVELOPMENT DISTRICT

D. Off-street Parking. On any lot used for single-family residential purposes, there shall be provided two (2) vehicle parking spaces of not less than 180 square feet per vehicle. Driveway approach shall be a maximum of 24' in width. No truck with tonnage in excess of three-quarter (3/4) ton; camper; motor home; trailer; vehicle of any type (whether or not operable); or boat (whether powered, sail or otherwise), other than a conventional automobile, may be parked, kept or stored on any Lot (except in a garage) or on any street. for more than twenty-four (24) continuous hours.

E. Architectural Standards.

Roof Pitch:	SF 5.5 & SF 6.0: Minimum 6:12 SF 7.0: Minimum 8:12
Roof Material:	30 year dimensional 3 tab 30lb. Felt, minimum
Porch/Patio:	SF 5.5 & SF 6.0: Rear patio is optional; 20% of homes shall have a covered front porch. SF 7.0 -All homes shall have a covered rear patio; 25% of homes shall have a covered front porch.
Front Swing Garage:	SF 5.5 & SF 6.0: None required SF 7.0: Required for 33% of the homes
Fence Posts:	Metal or iron
Garage Door:	Carriage style with accessories (hinges and handles). Optional cedar trim to be offered on all homes.
Lighting:	Total of three lantern lights on front elevation. Two lights shall be located at the at the front door and one on the outside section of the garage door.
Front Door Material:	Mahogany door with glass inset.
Front Doors:	All front doors shall be set back a minimum of 3' from front facade of home.
Gutters:	Full gutters required (front, rear & sides of home).
Cedar Block:	Optional cedar blocks to be offered as trim and facade accessories.
Address Block:	Upgraded cast stone number block to be inset on front of all houses.

F. Development Plan

Exhibit C contains the Chamberlain Crossing Development Plan. No more than 2 lots shall be adjacent to a side or rear lot line of an existing lot in Melody Ranch.

The plan is considered conceptual and the lot layout, number of lots, roadway and utility alignments may need to be changed depending upon the review of the construction plans. The City and developer reserve the right to require modifications to the Development Plan after the preliminary plat is approved.

G. Applicability of All City Ordinances.

Except as stated in this Planned Development Ordinance to the contrary, all City Ordinances. rules and regulations are applicable and in full force and effect.

Subpart B - LAND DEVELOPMENT REGULATIONS
 Chapter 40 - ZONING
 ZONING APPENDIX C. - CHAMBERLAIN CROSSING PLANNED DEVELOPMENT DISTRICT

IV. Zoning Categories.

A. SF-7.0.

Permitted Uses: Single-family detached dwellings in accordance with the following limits:

Development Minimums:

Lot Area:	7,000 square feet min.
Lot Width:	65 feet, 40 feet for lots fronting cul-de-sac or inside curve
Lot Depth:	105 feet
Front Yard:	20 feet
Side Yard:	5 feet; 15 feet on corner lot adjacent to street
Rear Yard:	15 feet
Dwelling Unit Size:	1,450 square feet

Development Maximums:

Height	35 Feet
Dwelling Coverage	55% of lot (includes primary structure & garage)

B. SF-6.0.

Permitted Uses: Single-family detached dwellings in accordance with the following limits: Development Minimums

Lot Area:	6,000 square feet min
Lot Width:	55 feet, 40 feet for lots fronting cul-de-sac or inside curve
Lot Depth:	105 feet
Front Yard:	20 feet
Side Yard:	5 feet; 15 feet on corner lot adjacent to street
Rear Yard:	15 feet
Dwelling Unit Size:	1,450 square feet

Development Maximums:

Height	35 Feet
Dwelling Coverage	55% of lot (includes primary structure & garage)

C. SF-5.5.

Permitted Uses: Single-family detached dwellings in accordance with the following limits:

Development Minimums:

Subpart B - LAND DEVELOPMENT REGULATIONS
 Chapter 40 - ZONING
 ZONING APPENDIX C. - CHAMBERLAIN CROSSING PLANNED DEVELOPMENT DISTRICT

Lot Area:	5,500 square feet min.; average lot size shall be 5,800 square
Lot Width:	50 feet, 30 feet for lots fronting cul-de-sac or inside curve
Lot Depth:	90 feet
Front Yard:	20 feet
Side Yard:	5 feet; 15 feet on corner lot adjacent to street
Rear Yard:	15 feet
Dwelling Unit Size:	1,450 square feet

Development Maximums:

Height	35 Feet
Dwelling Coverage	55% of lot (includes primary structure & garage)

V. Masonry Requirements.

A. Residential structures shall be of exterior fire-resistant construction having 100 percent of the total exterior first floor constructed of brick or stone (excluding doors, windows, window seats to be included on more than 50% of all houses, areas above roof lines not in plane with first floor walls, or distinct architectural features such as dormers and push back gables). Seventy-five percent of second story structure must be constructed of brick or stone, with the remaining 25% to be constructed of fiber reinforced cementitious board (e.g. Hardie), or other masonry or material of equal characteristics in accordance with the city's building code and fire prevention code.

B. Neighborhood amenities structures shall be of exterior fire-resistant construction having 90 percent of the total exterior wall, excluding doors and windows, constructed of brick or stone. Remaining 10% must be constructed of brick, stone, fiber reinforced cementitious board (e.g. Hardie), or other masonry or material of equal characteristics in accordance with the city's building code and fire prevention code.

C. Existing buildings or structures in the PUD that do not meet the standards established by this Ordinance will be considered legal non-conforming uses. Applications for expanding existing legal non-conforming where the expansion is less than 5,000 sq. ft. are exempt from the masonry requirements.

D. Governmental Use structures shall be of exterior fire resistant construction having 100 percent of the total exterior walls excluding doors and windows, constructed of brick, stone, fiber reinforced cementitious board, or other masonry or material of equal characteristics in accordance with the city's building code and fire prevention code. Temporary buildings or structures used as classrooms for public schools may be exempted from this requirement subject to approval of the City Council.

VI. Screening.

A. Purpose. To encourage the most appropriate use of land and conserve and protect the privacy and value of adjacent permitted uses, regulations are prescribed herein for location and type of various screening devices to be used when required in the various zoning districts or in this section in accordance with the following standards.

B. Location of required screening.

1. *Multifamily* or non-residential from Single-family. Where the side, rear, or service side of a multifamily or non-residential use is adjacent to a single-family residential district, a solid screening fence shall be erected by the multifamily or non-residential developer that consists of concrete, masonry, and/or iron to a minimum height of six (6) feet and a maximum height of eight (8) feet measured from the average grade of either the nearest property line or the nearest building setback line, whichever has the higher elevation, except that a wall may be shorter where necessary to

Subpart B - LAND DEVELOPMENT REGULATIONS
Chapter 40 - ZONING
ZONING APPENDIX C. - CHAMBERLAIN CROSSING PLANNED DEVELOPMENT DISTRICT

comply with sight distance for traffic safety. Where appropriate to protect the *view* beyond the fence, landscaping shall be provided behind any open ironwork. The color of the wall shall be limited to earth-tone colors, (i.e. brown, dark green, black, red, tan, grey, etc.). Masonry columns shall be expressed at a minimum of ten (10) feet and a maximum of thirty (30) feet on center and should typically be taller than the remainder of the wall. Landscaping or undulations in the screening wall shall be used to break up long continuous lengths of a wall.

2. *Residential* screening adjacent to undeveloped areas. The planning and zoning commission may recommend and the city council may require screening, fencing and landscaping requirements on any residential zoning case where the zone case is adjacent to undeveloped property to insure adequate fencing and screening from future development. **Exhibit D**, Chamberlain Crossing Screening and Fencing Plan, illustrates screening concepts including elevation, color and materials that may be used for perimeter fencing.
3. *Non-residential* refuse storage areas. For all uses other than single-family, refuse storage areas not adjacent to an alley shall be visually screened by a solid fence or wall one foot above the refuse dumpster, not to exceed eight feet in height on all sides except the side used for garbage pickup service; such side shall not be required to be screened unless the service side of the refuse storage area is visible from a residentially zoned district.

C. *Maintenance*. All required screening materials shall be maintained in a neat and orderly manner at all times by the HOA. This shall include, but not be limited to pruning, fertilizing, watering, mowing, weeding, and other such activities common to the maintenance of landscaping. Appropriate facilities for watering any plant material shall be installed at time of planting. Screening areas shall be kept free of trash, litter, weeds, and other such materials or plants not a part of the screening or landscaping. All plant material shall be maintained in a healthy and growing condition as is appropriate for the season of the year. All plant material that dies shall be replaced with plant material of similar variety and size.

VII. Landscape Regulations.

A. *Non Residential*. It is the purpose of this section to establish certain regulations pertaining to landscaping within Planned Development. These regulations provide standards and criteria for new landscaping which are intended to promote the value of property, enhance the welfare, and improve the physical appearance of the city. The standards and criteria contained within this section are deemed to be minimum standards and shall apply to all non-residential construction occurring within the city.

1. *Enforcement*. The provisions of this section shall be administered and enforced by the City Manager or his designee.
2. *Noncompliance*. If, at any time after the issuance of a certificate of occupancy, the approved landscaping is found to be in nonconformance to the standards and criteria of this section, the City Manager or his designee shall issue notice to the owner, citing the violation and describing what action is required to comply with this section. The owner, tenant, or agent shall have 10 days from date of said notice to restore the landscaping as required. If the landscaping is not restored within the allotted time, such person shall be in violation of this ordinance.
3. *Permits*. No permits shall be issued for building, paving, grading or construction until a landscape plan is submitted and approved by the City Manager or his designee. In the event that the proposed development requires an approved subdivision plat, site plan, or master development plan, no such final approval shall be granted unless a landscape plan is submitted and approved.
4. *Exception*. In any case in which an occupancy certificate is sought at a season of the year in which the City Manager or his designee determines that it would be impractical to plant trees, shrubs or grass, or to lay turf, an occupancy certificate may be issued notwithstanding the fact that the landscaping required by the landscape plan has not been completed provided the applicant posts a letter of credit or deposits cash in

Subpart B - LAND DEVELOPMENT REGULATIONS
Chapter 40 - ZONING
ZONING APPENDIX C. - CHAMBERLAIN CROSSING PLANNED DEVELOPMENT DISTRICT

an escrow account in the amount of the estimated cost of such landscaping. Such letter of credit or escrow deposit shall be conditioned upon the installation of all landscaping required by the landscaping plan within six months of the date of the application and shall *give* the city the right to draw upon the letter of credit or escrow deposit to complete the said landscaping if the applicant fails to do so.

5. *Landscape plans.* Prior to the issuance of a building, paving, grading or construction permit for any use other than single-family dwellings, a landscape plan shall be submitted to the City Manager or his designee. The City Manager or his designee, shall review *such* plans and shall approve same if the plans are in accordance with the criteria of these regulations. If the plans are not in accord, they shall be disapproved and shall be accompanied by a written statement setting forth the changes necessary for compliance.

a. Landscaping plans shall be prepared by a landscape architect, landscape contractor, landscape designer, knowledgeable in plants, materials and landscape design. Landscape plans shall contain the following information:

- i. Minimum scale of one inch equals 50 feet;
 - ii. Location of all trees to be preserved;
- b. Location of all plant and landscaping material to be used including plants, paving benches, screens, fountains, statues, or other landscape features;
- c. Species of all plant material to be used;
- d. Size of all plant material to be used;
- e. Spacing of plant material where appropriate;
- f. Layout and description of irrigations, sprinkler or water systems including placement of water sources;
- g. Description of maintenance provisions for the landscape plan;
- h. Person(s) responsible for the preparation of landscape plan.

6. *Maintenance.* The owner, tenant and their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include mowing, edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds and other such material or plants not a part of the landscaping. All plant materials shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Plant material that dies, shall be replaced with plant material of similar variety and size.

7. *General standards.* The following criteria and standards shall apply to landscape materials and installation.

a. *Quality.* Plant materials used in conformance with the provisions of this ordinance shall conform to the standards of the American Standard For Nursery Stock, or equal thereto. Grass seed, sod and other material shall be clean and reasonably free of weeds and noxious pests and insects.

b. *Trees.* Trees referred to in this section shall be of a species common to this area of Texas and shall have an average spread of crown of greater than 15 feet at maturity. Trees having a lesser average mature crown of 15 feet may be substituted by grouping the same so as to create the equivalent of a 15 feet crown of spread. Trees shall be of a minimum of three caliper inches when measured six inches above ground, and shall be selected from the list of approved trees, maintained

Subpart B - LAND DEVELOPMENT REGULATIONS
Chapter 40 - ZONING
ZONING APPENDIX C. - CHAMBERLAIN CROSSING PLANNED DEVELOPMENT DISTRICT

by the City Manager or his designee as approved by the planning and zoning commission.

c. *Shrubs and hedges.* Shrubs shall be a minimum of two feet in height when measured immediately after planting. Hedges, where installed, shall be planted and maintained so as to form a continuous unbroken, solid, visual screen that will be three feet high within one year after time of planting.

d. *Vines.* Vines shall be a minimum of two feet in height immediately after planting and may be used in conjunction with fences, screens, or walls to meet screening requirements as specified.

e. *Ground cover.* Ground covers used in lieu of grass in whole and in part shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within one year of planting.

f. *Lawn grass.* Grass areas may be sodded, plugged, sprigged or seeded except that solid sod shall be used in swales, berms or other areas subject to erosion.

g. *Credit for existing trees.* Any trees preserved on a site meeting the herein specifications shall be credited toward meeting the tree requirement of any landscape of any landscaping provision of this section. Existing exceptional quality trees of a minimum eight (8) caliper inches measured six (6) inches above the ground, may, at the discretion of the City Manager or his designee, be credited as two trees for the herein minimum requirements.

8. *Minimum requirements for off-street parking and vehicular use areas.* Parking lots, vehicular use areas and parked vehicles are to be effectively screened from the public view and adjacent property. Both the interior and perimeter of such areas shall be landscaped in accordance to the following criteria. Areas used for parking or vehicular storage that are under, on, or within buildings are exempt from these standards.

a. *Interior landscaping.* A minimum of ten percent of the gross parking areas shall be devoted to living landscaping which includes grass, ground cover, plants, shrubs and trees. Gross parking area is to be measured from the edge of the parking and/or driveway paving and sidewalks. The following additional criteria shall apply to the interior of parking lots:

i. Interior landscape areas shall be protected from vehicular encroachment of overhang through appropriate wheel stops or curbs.

ii. There shall be a minimum of one tree planted for each 400 square feet or fraction thereof of required interior landscape area.

iii. Interior areas of parking lots shall contain planting islands located so as to best relieve the expense of paving. Planter islands must be located no further apart than every 12 parking spaces and at the terminus of all rows of parking. Such islands shall contain at least one tree. Planter islands shall not be required for gross parking areas containing less than 35,000 square feet. The remainder shall be landscaped with shrubs, lawn, ground cover and other appropriate material not to exceed three feet in height. Interior planting islands shall have a minimum size of nine by 18 feet.

b. *Perimeter landscaping.*

i. All parking lots and vehicular use areas shall be screened from all abutting properties and/or public rights-of-way with a wall, fence, hedge, berm or other durable landscape barrier. Any living barrier shall be established in a two foot minimum width planting strip. Plants and materials used in living barriers shall be at least 30 inches high at the time of planting and shall be of a type and species that will attain a minimum height of three feet one year after planting.

Subpart B - LAND DEVELOPMENT REGULATIONS
 Chapter 40 - ZONING
 ZONING APPENDIX C. - CHAMBERLAIN CROSSING PLANNED DEVELOPMENT DISTRICT

- ii. Any landscape barrier not containing live plants or trees shall be a minimum of three feet high at the time of installation. Perimeter landscaping shall be designed to screen off-street parking lots and other vehicular use areas from public rights-of-way and adjacent properties.
- iii. Whenever an off-street parking or vehicular use area abuts a public right-of-way, except a public alley, a perimeter landscape area of at least 15 feet in depth shall be maintained between the abutting right-of-way and the off-street parking or vehicular use area. An appropriate landscape screen or barrier shall be installed in this area and the remaining area shall be landscaped with at least grass or other ground cover. Necessary accessways from the public right-of-way shall be permitted through all such landscaping. The maximum width for accessways shall be: 50 feet for nonresidential two-way movements; 30 feet for residential two-way movements; 20 feet for nonresidential one-way movements.
- iv. Whenever an off-street parking or vehicular use area abuts an adjacent property line, a perimeter landscape area of at least ten feet in width shall be maintained between the edge of the parking area and the adjacent property line.
- v. Accessways between lots may be permitted through all perimeter landscape areas. Maximum width for accessways shall be 25 feet. Landscaping shall be designed to visually screen the parking area.
- vi. Perimeter landscape areas shall contain at least one tree for each 50 lineal feet or fraction thereof of perimeter area.

9. *Minimum landscape requirements for non-vehicular open space.* In addition to the landscaping of off-street parking and vehicular use areas, all remaining open spaces on any developed lot or parcel shall conform to the following minimum requirements:

- a. Grass, ground cover, shrubs and other landscape materials shall be used to cover all open ground within 20 feet of any building or paving or other use such as storage.
- b. All structures shall be treated with landscaping so as to enhance the appearance of the structure and to screen any detractive or unsightly appearance.
- c. Landscaping shall be provided on each developed lot in accordance with the following standards:
- d. In all residential zoning districts (except those where minimum lots are 7,000 sq. ft and larger, a minimum of 15 percent of the landscaping shall be located in the required front yard.
- e. In all nonresidential zoning districts, a minimum of 15 percent of the total site area shall be devoted to feature landscaping with not less than 50 percent of the landscaping being located in the required front yard.
- f. Trees shall be planted in non-vehicular open space to meet the following requirements. Existing trees that are preserved on a developed site may be credited to the following requirements:

Percentage of Site

in Nonvehicular Open Space	Tree Ratio per Nonvehicular Open Space
Less than 30	1 tree/2,500 sq. ft.
30-49	1 tree/3,000 sq. ft.
Over 50	1 tree/4,000 sq. ft.

Subpart B - LAND DEVELOPMENT REGULATIONS
Chapter 40 - ZONING
ZONING APPENDIX C. - CHAMBERLAIN CROSSINGPLANNED DEVELOPMENT DISTRICT

g. Landscaping in excess of the required; 1 minimum open space that is located in the rear yard of the site shall not be used to meet the minimum open space requirements for the site.

10. Sight distance and visibility. Rigid compliance with these landscaping requirements shall not be such as to cause visibility obstructions and/or blind corners at intersections. Whenever an accessway intersects a public right-of-way or when the subject property abuts the intersection of two or more public rights-of-way, a triangular visibility area, as described below, shall be created. Landscaping within the triangular visibility area shall be designed to provide unobstructed cross-visibility at a level between three and six feet. Trees may be permitted in this area provided they are trimmed in such a manner that no limbs or foliage extend into the cross-visibility area. The triangular areas are:

a. The areas of property on both sides of the intersection of an accessway and a public right-of-way shall have a triangular visibility area with two sides of each triangle being ten feet in length from the point of the intersection and the third side being a line connecting the ends of the other two sides.

b. The areas of property located at a corner formed by the intersection of two or more public rights-of-way shall have a triangular visibility area with two sides of each triangle being 20 feet in length from the point of the intersection and the third side being a line connecting the ends of the other two sides.

c. Landscaping, except required grass and low ground cover, shall not be located closer than three feet from the edge of any accessway pavement.

d. In the event other visibility obstructions are apparent in the proposed landscape plan, as determined by the City Manager or his designee, the requirements set forth herein may be reduced to the extent to remove the conflict.

8. *Landscaping-Residential.*

1. *Lot Landscaping.* All residential lots shall be landscaped within sixty (60) days following completion of construction of a home thereon.

a. Trees. On each lot, at least two (2) trees shall be retained or planted in the front yard. The required trees shall have a minimum size of three (3") caliper inches measured six (6.0") inches above the ground and be one of the following species: Pecan, Cedar Elm, Live Oak, Texas Red Oak, Shumard Red Oak and Bur Oak.

b. Shrubs. In the front yard of each lot, at least eighteen (18) shrubs shall be planted with a minimum of 2-10 gallon, 6-5 gallon and 10-1 gallon container sizes.

c. Sod. Sod required for front, side and rear yards of each lot.

d. Irrigation. Irrigation system required for the entire lot, front, side and rear yards, inspected with building permit.

e. Only landscaping consisting of sod, shrubs and trees that are generally found in quality residential neighborhoods shall be permitted. Garden and agricultural crops and plants, such as but not limited to corn, wheat, beans, onions, tomatoes and okra, are only permitted in back yards and then only if screened from view from adjacent properties and streets by permanent landscape screening or fencing as permitted herein of sufficient height to screen the highest variety of such crops

VIII. Monotony Rule.

The same house plan cannot be duplicated within 4 lots on the same side of street. or within 2 lots on the opposite side of street: The same elevation on house plan cannot be duplicated within 6 lots on the same side of street or within 3 lots on the opposite side of street. Similar or same brick work, to include brick or stone color,

cannot be duplicated within 4 lots on the same side of street, or within 2 lots on the opposite side of street.

IX. Curb and Gutter Exception Authorized.

All interior residential streets shall be allowed to have a mountable curb and gutter design.

X. Street Width, Sidewalks and Non City Utility Placement.

Residential streets will be measured from back of curbs where curbs are required. The residential streets that serve as the ingress/egress from the subdivision shall be 30 feet in width. All other residential streets shall be 29 feet. A 4-foot sidewalk must be placed within the Right of Way, one foot from the property line except where there is an 8' roadside trail. Sidewalks are required on all residentially zoned lots of less than 20,000 sq. Feet and shall be constructed by the builder. Water meters must be set between the sidewalk and the back of curb unless otherwise approved by Council. Non-city utilities will be located within a ten-foot (10') utility easement for all interior residential areas as designated on the Final Plat. Non-city utilities in other areas shall be located between the sidewalk and curb unless otherwise approved by Council.

The entry road between Memorial Drive and the subdivision shall be a divided roadway with a 90' right-of-way, with two 25' BB sections for approximately 620 feet and then taper to a 30' undivided road. The Developer shall be responsible for construction of the full width at the Memorial Drive entry, the south half of the divided section and the undivided section. The road will be designed based upon a 30 mph design speed.

XI. Drainage.

Lot-to-lot drainage is not permitted unless otherwise approved by the City or Engineer.

XII. Common Areas and Open Space.

A Improvements.

1. Open Space 1 - Amenity Center
 - a. The Amenity Center shall contain a pool, shade structure, and air conditioned building as shown in Exhibit E.
 - b. Irrigation of landscaped areas containing trees and shrubs as shown in Exhibit E.
 - c. Owned and maintained by the HOA
2. Open Spaces 2 & 3 - Active Open Space
 - a. The active open spaces shall contain practice fields, shade structure, playground equipment, benches and general open space building as shown in Exhibit E.
 - b. Irrigation of playing fields, playground areas and landscaped areas containing trees and shrubs as shown in Exhibit E. General open space will be planted with native grasses / native plantings.
 - c. Owned and maintained by the HOA
3. Open Spaces 4 & 5 - Passive Open Space
 - a. The passive open space shall contain a trail but generally will be left in a native condition.
 - b. Irrigation only at select trail heads.
 - c. HOA to actively maintain a 10' area directly behind any lots.

Subpart B - LAND DEVELOPMENT REGULATIONS
Chapter 40 - ZONING
ZONING APPENDIX C. - CHAMBERLAIN CROSSING PLANNED DEVELOPMENT DISTRICT

- d. Owned and maintained by the HOA.
- 4. Open Space 6 - Detention Area
 - a. Area used exclusively for detention purposes.
 - b. No irrigation system.
 - c. Owned and maintained by the City.
- 5. Linear Open Space - Landscape Buffer
 - a. Other areas dedicated as open space for the purpose of creating a landscape buffer along the perimeter, roadside trail and additional landscape areas throughout the community.
 - b. May contain landscaping or signage.
 - c. Areas landscaped with trees and shrubs will be irrigated.
 - d. Owned and maintained by the HOA.
- 6. Customized Subdivision Entrance
 - a. Parkway and median improvements at the Memorial Drive entrance to include landscape, hardscape, monument signage and accent lighting.
 - b. Full irrigation of non-impervious areas.
 - c. Located in public right-of-way and maintained by the HOA.
- 7. Decorative Street Lighting
 - a. Installation of decorative street lighting throughout the subdivision that compliments the overall subdivision design and in cooperation with the electric provider.
 - b. Dedicated to the public and maintained by the City and/or electric provider.

B. Maintenance

The following shall be maintained by a homeowners association or similar entity created for each subdivision:

- 1. All common areas or parks owned by the homeowners association;
- 2. all landscape, buffer and trail systems located within or immediately adjacent to the subdivision; and
- 3. all other areas designated on the final plat as areas to be maintained by the homeowners association.

Except as provided herein, parkland, drainage easements, detention ponds or other areas that are dedicated to the City shall be maintained by the City.

The open space plan and improvement exhibits are included in **Exhibit E**, Chamberlain Crossing Amenity Plan.

XIII. Hike and Bike Trail System.

Developers shall provide, where feasible, interconnectivity of the sidewalks or hike and bike trail system between subdivisions and developments using the standards set forth in the City of Fate Parks Master Plan, adopted February 2006. This interconnectivity shall provide adequate access through the development to trails, parks and

Subpart B - LAND DEVELOPMENT REGULATIONS
Chapter 40 - ZONING
ZONING APPENDIX C. - CHAMBERLAIN CROSSING PLANNED DEVELOPMENT DISTRICT

public schools, and be planned in such a way as to provide ultimate access to Commercial uses south of 1-30. Public hike and bike trails shall be construed as Common Open Space. Residential sidewalks shall not be construed as open space. The trail system is shown in Exhibit **E**, Chamberlain Crossing Amenity Plan.

XIV. Exceptions Authorized.

The City Council shall have authority to authorize reasonable exceptions to a property's strict conformity with these regulations upon request of a property owner, when it is shown the requested exceptions (1) are not contrary to public interest or the spirit of the Planned Development, (2) do not cause injury to other properties in the area, and (3) allow for the development in a manner contemplated by the Planned Development.

Subpart B - LANO DEVELOPMENT REGULATIONS
Chapter 40 - ZONING
ZONING APPENDIX C. - CHAMBERLAIN CROSSING PLANNED DEVELOPMENT DISTRICT

Subpart B - LANO DEVELOPMENT REGULATIONS
Chapter 40 - ZONING
ZONING APPENDIX C. - CHAMBERLAIN CROSSING PLANNED DEVELOPMENT DISTRICT