



### ZPC Meeting Agenda

**Notice** is hereby given of a **regular meeting of the Zoning and Planning Commission**, members of the Building and Standards Commission and City Council of West University Place to be held on **Thursday, April 11, 2019 at 6:15 pm** in the **Municipal Building**, 3800 University Boulevard, West University Place, Texas, for the purpose of considering the following agenda items:

*Note: The Commission reserves the right to convene in a closed session for any agenda item if the need arises pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code*

#### Call to Order

1. **Notices, Rules, Etc.** Matters relating to notices, introductions, rules, meeting procedures and updates.
2. **Public Comments.**  
*This is an opportunity for citizens to speak relating to agenda and items. The speaker can either speak at this time or defer his/her comments until such time the item is discussed. Speakers are advised that comments cannot be received on matters which are the subject of a public hearing. Public comments must be kept relevant to the subject before the Board. The presiding officer shall rule on the relevance of comments. Persons making irrelevant, personal, impertinent, or slanderous remarks may be barred by the presiding officer from further comment before the Board during the meeting. Speakers must limit their presentations to three minutes each.*
3. **Structure Heights, Front Porches/Balconies and Fence-like Hedges.** Matters related to previously issued preliminary reports regarding these subjects including possible changes in the final reports if necessary.
4. **Property Maintenance Regulations.** Matters related to high grass and weeds, rubbish, intrusive plant species, etc.
5. **Noise Regulations.** Matters related to the general noise regulations regarding equipment, loudspeakers, construction activities, quiet hours, etc.
6. **Outdoor Lighting.** Matters related to outdoor lighting provisions on a building site.
7. **Minutes.** Matters regarding approval of minutes from March 14, 2019.

#### ADJOURN

*In compliance with the Americans with Disabilities Act, if you plan to attend this public meeting and you have a disability that requires special arrangements, please contact the person that signs this below at least 24 hours prior to the meeting so that reasonable accommodations can be made to assist in your participation in the meeting. The Municipal Building is wheel chair accessible from the west entrance and specially marked parking spaces are available in the southwest parking area. Special seating will be provided in the Meeting Chambers.*

I certify that the attached notice and agenda of items to be considered by the West University Place Zoning Planning Commission on April 11, 2019 was posted on the Municipal Building bulletin board on or before April 8, 2019 at 6:00 o'clock pm.

*D Scarcella*

Debbie Scarcella, City Planner, [dscarcella@westutx.gov](mailto:dscarcella@westutx.gov), 713-662-5893



# Agenda Item #3

**Amend Section 7-4b, Buildings, as follows:**

<b>Table 7-4b: Buildings</b>		<i>General Rule:</i> Every structure must conform to the applicable regulations shown, by District, in this table. ("N/A" means the rule does not apply.) <i>Exceptions/Special Rules:</i> (1) See special rules noted in table. (2) See Article 9 regarding Planned Development Districts.							
Item	Regulation	SF-1	SF-2	SF-3	TH	GR-1	GR-2	C	TCC
Dwelling units	Maximum number per building site	One, plus one accessory quarters (AQ)			17.5 per acre. <i>See Note 9</i>	Two	24 per acre.	<i>See Uses table and Art. 9</i>	N/A
Framed area, all buildings on a building site	Maximum area as a percentage of building site area	80%			100% <i>See Note 4.</i>			N/A	
Length or width, any building	Maximum horizontal dimension	N/A			130 feet. <i>See Note 3.</i>			N/A	
Exterior materials, any building.	Type	N/A			Must be of equal grade and quality, all sides. <i>See Section 8-104.</i>				
Separation of DUs	Fire-rated wall	N/A			A four-hour fire wall, or its equivalent, must separate adjoining dwelling units. <i>See Notes 3 and 5.</i>				N/A
SF privacy protection	<i>See Note 8.</i>	N/A			Applies.			N/A	
Accessory buildings <i>See Article 10 regarding</i>	Maximum number per building site	Three			N/A				

<i>garage space.</i>	Height, maximum	25 ft.			35 ft. See Note 2.	35 ft. See Notes 12 and 13.
Principal buildings <i>See Article 10 regarding garage space.</i>	Stories, maximum	Two and one-half.	Three.	See Note 6.	N/A	Two
	Height, maximum	35 feet; 25 feet in rear yard. See Note 1 and Note 14.			35 ft. See Note 2.	35 ft. See Notes 12 and 13.
	Minimum gross floor area	1,400 square feet, if used for residential purposes	1,200 sq. ft., each DU.	750 sq. ft, each DU	1,400 sq. ft.	
	Width, minimum	N/A	16 ft., each DU.	N/A But see QMDS Schedule.	N/A	
Height and screening of rooftop mechanical equipment	See Note 11	N/A			Applies -	

*Note 1. Antennas and Chimneys.* Roof-mounted radio or television antennas on a principal building in a residential district may project up to four feet above the roof. The maximum height of chimneys attached to a principal building is the greater of 35 feet or four feet above the roof.

*Note 2. Height In C District.* In the C District, no part of any structure (except a fence) may be higher than the horizontal distance from that part to the nearest part of an SF District.

*Note 3. Building Detail, TH, PDD-TH and GR Districts.* To separate buildings, there must be open area at least five feet wide maintained so that firefighters with hoses could pass through.

*Note 4. Framed Area In QMDS.* Allowed square footage for a given building site is calculated by multiplying the allowable percentage by (a) the building site's area plus (b) an allocated part of any common use areas in the same QMDS (e.g., access easements, private streets, alleys, reserves, etc. that are not part of a building site). The allocated part is proportional to the building site's area divided by the area of all building sites in the same QMDS.

*Note 5. Building Code.* Separation requirements are in addition to other requirements of building codes and other ordinances. See Code of Ordinances.

<b>Table 7-4b, cont.</b>		<i>General Rule:</i> Every structure must conform to the applicable regulations shown, by District, in this table. ("N/A" means the rule does not apply.) <i>Exceptions/Special Rules:</i> (1) See special rules noted in table. (2) See Article 9 regarding Planned Development Districts.							
Item	Regulation	PDD-SF1	PDD-SF2	PDD-TH1	PDD-TH2	PDD-TH4	PDD-TH5	PDD-TH7	PDD-C1
Dwelling units	Maximum number per building site	One, plus one AQ		17.5 per acre. <i>See Note 9.</i>					One plus one AQ
Framed area, all buildings on a building site	Maximum area as a percentage of building site area	80%		100%. <i>See Note 4.</i>	100% for all dwelling types other than TH; 125% for TH. <i>See Note 4.</i>	100%. <i>See Note 4.</i>			N/A
Length or width, any building	Maximum horizontal dimension	N/A		130 feet. <i>See Note 3.</i>					N/A
Exterior materials, any building.	Type	N/A		Must be of equal grade and quality, all sides. <i>See Section 8-104.</i>					
Separation of DU's	Fire-rated wall	N/A		A four-hour firewall, or its equivalent, must separate adjoining dwelling units. <i>See Notes 3 and 5. See also Note 10 (PDD-TH7 only)</i>					
SF privacy protection	<i>See Note 8.</i>	N/A		Applies. <i>See Note 8. See also Note 10 (PDD-TH7 only)</i>					N/A
Accessory buildings <i>See Article 10 regarding garage space.</i>	Maximum number per building site	N/A		3					N/A
	Height,	25 ft.					35 ft. <i>See Note</i>		

	maximum				2.
Principal buildings	Stories, maximum	2 and one-half	3		N/A
	Height, maximum, in feet .	35, 25 in rear yard. See Note 1 and 14.	35. See Notes 1, 7 and 14.		35
	Minimum gross floor area, square feet	1,400 each DU	1,200 each DU	1,600 each DU	1,300
	Width, feet (min.), outside to outside	N/A	16, each DU		N/A
Height and screening of rooftop mechanical equipment	See Note 11.	N/A			Applies

*Note 6. Height in GR-1, GR-2.* Principal buildings in GR-1 or GR-2 Districts may be three stories high, but subject to the lower height limits prescribed for projecting spaces. See Table 7-2, Note 7.

*Note 7. Certain Projecting Buildings .* Special height rules apply to buildings projecting into yards. See Tables 7-2 and 7-6.

*Note 8. SF privacy protection .* On a building site where this applies, there may not be a direct sight line from any "third-floor viewpoint" to any point in an "SF privacy zone." A "third-floor viewpoint" is any viewpoint on a "third-floor area" at eye level (six feet) or lower. A "third-floor area" is any floored area (indoors or outdoors) where the floor is 18 feet or higher. The "SF privacy zone" includes every point: (i) within 100 feet of the third floor viewpoint in question, (ii) on a building site in an SF District, and (iii) below 20 feet in height. See Figure SFP.

*Note 9. Calculation of DU's Per Acre .* In a QMDS only, the total number of DU's is divided by the total acreage of the QMDS to calculate the number of DU's per acre.

*Note 10. Spacing of Dwelling Units in PDD-TH7 .* Except where dwelling units are separated by common walls, the minimum distance between dwelling units shall be as follows: (i) No part of

any dwelling unit may be closer than five feet to another dwelling unit. (ii) No window may be closer than 50 feet to a facing window to living space in another dwelling unit. (iii) Neither eaves nor balconies may be closer than 40 feet to a facing window to living space in another dwelling unit. (iv) Neither windows to living space nor balconies may be closer than 20 feet to any facing wall of another dwelling unit.

*Note 11. Rooftop Mechanical Equipment.* In the C, TCC and PDD-C1 districts, any rooftop mechanical equipment, whether new or replacement equipment, shall be accommodated within the maximum building height limit and shall be fully screened from off-site and street area views through design and materials consistent with the overall design and colors of the principal building. This may include use of sloped roofs, a low parapet wall or other architectural elements that conceal flat roof areas where mechanical equipment is mounted, provided that all such building features comply with and do not project above the maximum building height limit.

*Note 12. Building Placement and Maximum Height in TCC.* In TCC, the following height restriction shall apply: (i) Principal buildings shall be located in the front 60 feet of the building site and shall be limited to 2 stories and 35 feet in height, including any rooftop mechanical equipment. (ii) Accessory structures shall be located in the rear 70 feet of the building site and shall be limited to 35 feet in height, including any rooftop mechanical equipment. (iii) Any rooftop mechanical equipment, whether new or replacement, shall be fully screened from off-site and street area views through design and materials consistent with the overall design and colors of the principal building. This may include use of sloped roofs, a low parapet wall or other architectural elements that conceal flat roof areas where mechanical equipment is mounted, provided that all such building features comply with and do not project above the maximum building height limit.

*Note 13. Street Level Orientation in TCC.* In TCC, the first floor of all buildings shall be at grade level. Elevated structures with open areas or parking below the second floor are not permitted.

*Note 14. Height of Flood Loss Structures.* The roof height of existing flood loss structures that are being raised to meet floodplain regulations may exceed the existing roof height by an amount equal to the distance the structure is elevated. In no case may the maximum roof height exceed 39'.

*Amend Section 2, Certain Terms, by adding the following definitions:*

porch is a roofed structure, usually open at the sides, projecting from the face of a building and used to protect the entrance of the structure.

balcony is a platform enclosed by a wall or balustrade on the outside of a building, with access from an upper-floor window or door.

**Amend Section 7, Table 7-1, Note 1.2 by adding:**

*Note 1.2. Porch In Front Yard.* On a building site in a residential district with a front yard depth of 20 feet or more, a porch may project up to 120 inches into the front yard if it meets all of the following criteria:

- (i) It is neither designed nor usable for motor vehicles;
- (ii) The volume of the projecting part of the porch does not exceed 50 cubic feet per foot of front street line (Example: the maximum projecting volume on a 52½-foot wide site would be 50 cubic feet x 52.5, or 2,625 cubic feet).
- (iii) The porch's outside perimeter is open and unobstructed, except for the following features: (a) Ordinary window screens. (b) A solid or partially open safety rail not higher than 3.5 feet above the porch floor, **and a partially open decorative railing or balustrade not higher than 3.5 feet above the porch roof/ceiling. Solid half-walls are prohibited above the roof/ceiling of the porch.** (c) Supporting vertical columns, if the total width of the outer faces of the columns does not exceed ~~either 25~~**50%** of the outside perimeter of the porch, ~~or 25% of the theoretical outside perimeter of a maximum sized porch.~~ The width of a column is measured at its thickest point above 3.5 feet above the porch floor. **The "maximum sized porch" is 120 inches deep and extends from one side yard line to the other, but it is limited by the open area requirement for the front yard.** The "outside perimeter" of a porch is the portion of the perimeter out in the front yard; it does not include the portion of the perimeter adjacent to a building or lying along the front setback line.
- (iv) At no point in the front yard does the porch have a height greater than the depth of the front yard (Example: if the depth of the front yard is 20 feet, the maximum height in the front yard is also 20 feet).
- (v) No projecting balcony or other habitable space shall be constructed or placed above the ceiling of a projecting porch.**



**Amend Fence-like Hedges – Section 7, Table 7-6, Notes 8.1, 8.2, and 8.3.as follows:**

*Note 8.1 Fences.* Fences may project into front and side yards to the extent expressly required or authorized by city ordinance (e.g., provisions in Chapter 18 of the Code of Ordinances; provisions in PDD schedules for front fences). Also in the Code of Ordinances, there are: (i) requirements for emergency portals in fences (Chapter 18) and (ii) restrictions on fences, certain "fence-like hedges" and other things in visibility areas (Chapter 82). In a QMDS low fences (3.5 feet or lower) may be located anywhere, if made of ornamental metal or pickets.

*Note 8.2. Fence-like hedges.* Fence-like hedges within the front yard (setback) of a building site **containing no principal building** are prohibited. This provision applies to all adjacent side yard building sites and rear through building sites. Visibility triangles and visibility areas, as defined by this ordinance, are subject to further restrictions as contained in Chapter 82 of the Code of Ordinances. **Exception: Along major thoroughfares, a fence-like hedge may be placed to screen and buffer light and noise from adjoining residential properties.**

*Add to Section 12-103, Losing PNC Status through passage of time.*

Section 12-103. - Losing PNC Status.

- (i) *Passage of Time* . The following PNC items lose PNC status upon the expiration of the time periods indicated:

PNC Item	Time Period	Special Conditions
Use of a building site in an SF District for business activities	Ten years from the 1987 effective date	
Presence of more dwelling units than allowed in an SF District.	Ten years from the 1987 effective date	PNC status for space which qualifies as conforming accessory quarters is not necessarily lost.
Use of a building site by more than one family in violation of SF District use regulations	Ten years from the 1987 effective date	
Outdoor lighting in violation of Article 8	Time period ending on August 31, 2004	

Lack of special screens in violation of Article 8 (waste storage or loading)	160 months following the 1987 effective date	
Non-compliance with pervious area requirement in the C District.	Ten years following the 1987 effective date	
Non-conformance with building regulations by a canopy or similar object designed or used to shelter a motor vehicle, a boat or similarly-sized items.	Time period ending on October 1, 2008	
Use of a building site, or any portion thereof, as a school without a special exception as granted by the ZBA.	Time period ending on May 31, 2022	
Non-conformance with regulations for fence-like hedges on building sites .	Time period ending on October 1, 2021	

# **Agenda Item #4**

Exhibit "A"

Amend Chapter 42, Article III. Condition of Private Property by replacing Sections 42-46 through 42-51 in their entirety and replacing with the proposal below:

**ARTICLE III. – CONDITION OF PRIVATE PROPERTY**

**Sec. 42-46. - Purpose.**

The regulations of this Article are necessary to ensure that private property is maintained at all level that will not create a public nuisance which may include but is not limited to brush, garbage, weeds, refuse, rubbish, weeds, or any unsanitary condition likely to attract rodents and/or disease.

**Sec. 42-47. - Applicability.**

All parcels of property within the municipal limits of the City shall adhere to the regulations of this Article which are consistent with Chapter 342, *Local Regulation of Sanitation*, and Chapter 343, *Abatement of Public Nuisances*, of the State of Texas Health and Safety Code.

**Sec. 42-48. - Regulations.**

(a) **Public Nuisances to be Abated.** The following circumstances are deemed to be a public nuisance and shall be fully abated by the owner of the property:

(1) The existence of any plant determined to be a weed;

~~(2) Any plant, not defined as a weed that is determined to be a non-native and invasive species by the Harris County Texas A&M Extension Office.~~

~~(3)~~(2) Any brush, garbage, or rubbish, on the premises that:

(i) Is not located fully within a receptacle;

(ii) Makes the premises uncultivated; or

(iii) Makes the premises unwholesome.

~~(4)~~(3) Any stagnant water or unfilled holes on the premise which can retain water and allow it to become stagnant or produce any unwholesome condition on the property for more than four days;

~~(5)~~(4) The accumulation or storage of any goods or inventory that can be viewed from the public right-of-way and used in connection with any commercial activity;

~~(6)~~(5) Any discarded personal property; or

~~(7)~~(6) Any item that is spoiled, corroded, broken, or inoperable and allowed to remain in one place longer than seven days.

~~(8)~~(7) Any spillage of oil or grease from a grease trap or grease or oil containment area.

(b) **Owner Responsibility.** The owner of the property at issue has a responsibility to fully abate the public nuisance through the owner's privately funded means.

**Sec. 42-49. – Enforcement.**

(a) **Right of Entry.** The Public Works Director or his designee is authorized to inspect any property within the municipal boundaries of the City at any reasonable time provided that the inspection is

from the public right-of-way or the inspection is consistent with the requirements of Section 18-23, *Right of Entry*, of the City's Code of Ordinances.

(b) **Violations.**

(1) *Issuance of Citations.* The Public Works Director or his designee is authorized to issue citations for violations of the terms and provisions of this Section to the owner or occupant of the property upon which condition exists.

(2) *Procedures and Penalties.* Any violation of this Section, and any associated penalties that result from it, shall be dealt with consistent with the requirements of Section 1-7, *General penalties for violations; alternative enforcement*, of the City's Code of Ordinances.

(c) **Municipal Abatement.** Whenever there are conditions in violation of this Article, the Public Works Director or his designee is authorized to abate those conditions by doing work or making improvements upon the property provided that the process of conducting the work is pursuant to Section 342.006, *Work Improvements by Municipality; Notice*, of the State of Texas Health and Safety Code.

(d) **Municipal Lien.** Pursuant to Section 342.007, *Assessment of Expenses; Lien*, of the State of Texas Health and Safety Code, the City has the right to obtain a lien on the property at issue to recover any costs associated with municipal abatement process as described above in subsection (b).

(e) **Separate Offenses.** Each single violation of any regulation of this Section 42-48, *Regulations*, shall be considered a separate and distinct offense.

(f) **Separate Remedies.** The remedies prescribed by this Section are separate, and the City may avail itself of one or more without precluding any of the others. Under no circumstances will a prosecution for a violation affect the right of the City to pursue abatement, liens, or both.

**Sec. 42-50. - Definitions.**

(a) **Abate** means to eliminate or remedy by removal, repair, or rehabilitation.

(b) **Brush** means all uncultivated shrubs, bushes, and small trees.

(c) **Discarded** means any item of personal property that is allowed to remain in one place outside and exposed to the elements, with no apparent use being made of it, for seven consecutive days or more. The term "discarded" may include, but is not limited to, motor vehicles or parts of motor vehicles, trailers or parts of trailers, furniture, fixtures, carpets, or debris from any construction, remodeling, or demolition activity.

(d) **Garbage** means decayable waste from a public or private establishment or restaurant. The term includes vegetable, animal, and fish offal and animal and fish carcasses, but does not include sewage, body waste, or an industrial by-product.

(e) **Premises** means all privately owned property including vacant land.

(f) **Receptacle** means a container that is composed of durable material and designed to prevent the discharge of its contents and to make its contents inaccessible to animals, vermin, or other pests.

(g) **Rubbish** means nondecayable waste from a public or private establishment or residence.

(h) ~~Uncultivated means in a primitive state that is not domesticated or cultivated and is produced by nature.~~

- | (h) **Unwholesome** means all stagnant water, filth, carrion, impure matter and any condition liable to produce disease.
- | (i) **Weed** means all rank ~~and uncultivated~~ or invasive vegetable growth or matter which is liable to create an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests, regardless of the height of the plant at issue. The term “weed” may include, but is not limited to grasses that have grown to a height of ten inches or more above the ground or grasses that are harmful to humans by touch such as poison ivy, poison oak, and poison sumac.

# **Agenda Item #5**

ARTICLE II. - NOISE

Sec. 54-39. - Unreasonable noise prohibited.

Causing unreasonable loud and disturbing noise in the city is hereby prohibited and shall constitute an offense. Noises of such character, intensity and duration as are reasonably calculated to be detrimental to the life or health of any ordinary reasonable person are hereby prohibited. This article applies to noise heard within the city, regardless of the point of origin.

~~(Code 2003, § 15.031)~~

Sec. 54-40. - Enumeration of specific noises.

The following noises, among others, are declared to be loud, disturbing noises in violation of this article (this enumeration is neither exhaustive nor exclusive of other noises):

- (1) The noise of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control; the same noise made while in motion, except as a danger signal after, or as, brakes are being applied and deceleration of the vehicle is intended; any unreasonably loud or harsh sound created by means of any such signal device; and the sound of such device made for any unreasonable period of time.
- (2) The sound of:
  - a. Any vehicular or portable radio, phonograph, disc player, tape player or any musical instrument that is plainly audible outdoors from a distance of 100 feet or more (or 50 feet or more during residential quiet hours); or
  - b. Any loudspeaker or amplifier operated outdoors during residential quiet hours that is plainly audible from a distance of 50 feet or more.

"Plainly audible" means any sound that can be detected by a person using his or her unaided hearing faculties. Example: If the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound.

- (3) The sound of any automobile, motorcycle or other vehicle so out of repair, so loaded or operated in such manner that it creates loud noises such as spinning or squealing tires, grating, grinding, rattling or other noise.
- (4) The sound of any mechanical equipment installed at a fixed location (Examples: fans, compressors, condensers, pumps, generators, etc.), if:
  - a. — When the equipment is operating, noise from the equipment is discernable at a point outside the boundaries of the site where it is installed, and noise at that point is measured at a level of ~~70dB~~65dB(A) or higher; and
  - b. — Immediately before or after operation of the equipment, noise at the same point is measured at a level of ~~65dB~~60dB(A) or lower.

All sound level measurements shall be made as provided in this article.

- (5) The sound of a discharge into the open air of the exhaust of any internal combustion motor or engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (6) The sound of any mechanical device operated by compressed air, except pneumatic drills, unless the noise thereby created is effectively muffled and reduced.
- (7) Loud and excessive noise resulting from the erection (including excavation), demolition, alteration or repair of any structure during residential quiet hours, unless the noise is made in case of urgent necessity in the interest of public safety, and then only with a permit from the



building official, which permit may only be renewed for a period of three days or fewer while the emergency continues.

- (8) Any excessive noise made on any street adjacent to any school, institution of learning or court while the same is in session, or adjacent to any hospital at any time, which noise unreasonably interferes with the working of any such institution, provided conspicuous signs are displayed in such street indicating that the same is a school, hospital or court street.
- (9) Any loud and excessive noise resulting from the loading or unloading of any vehicle or container, or the opening or destruction of bales, boxes, crates or containers.
- (10) The sound of any bell, gong, whistle, siren, or other alarm or signaling device installed at a fixed location which is reasonably calculated to disturb a person of ordinary disposition if such person were in the vicinity thereof. Exceptions: This does not apply to:
  - a. An emergency alarm operated by the fire department or other governmental agency; or
  - b. An alarm system permitted and operated in compliance with applicable regulations, including automatic shutoff rules; see, e.g. chapter 26.

~~(11) Shouts or cries of peddlers or vendors which disturbs the quiet and peace of the neighborhood.~~

~~(12c. Any gong used in the observance of a religious observance or prayer.~~

- (11) The sound of any drum, loudspeaker or other instrument or device used to attract attention to any performance, show or sale of merchandise.
- ~~(12)~~ The sound made by loudspeakers or amplifiers on trucks or other vehicles.
- ~~(13)~~ The sound made by leafblowers, lawnmowers and other lawn maintenance equipment, if:
  - a. The equipment is powered by internal combustion; and
  - b. The equipment is operated within 200 feet of an occupied residential building during residential quiet hours.

~~(Code 2003, § 15.032)~~

Sec. 54-41. - Affirmative defenses.

- (a) *Request to cease* . It shall be an affirmative defense in any prosecution under this article that a request to cease causing the noise in question was given neither to the person charged nor to any officer, agent, employee or representative of the person charged. All peace officers and other city enforcement personnel are hereby authorized to request that persons cease causing noises that are apparently in violation of this article. Nothing herein limits the right of others to make such requests.
- (b) *Urgent public projects* . It shall be an affirmative defense, in any prosecution under this article, that the offending noise was:
  - (1) Necessary for a public project for which the public works director has certified, in writing, that expedited completion is urgently needed and in the public interest; and
  - (2) Made after 7:00 a.m. and before 9:00 p.m.
- (c) *Measured noise levels* . It shall be an affirmative defense, in any prosecution under this article, that a measured noise level was actually produced by some person or thing other than that alleged to have caused the noise.
- (d) *Registered outdoor events* . It shall be an affirmative defense, in any prosecution under this article, that the offending noise resulted from an outdoor concert or similar event that:
  - (1) Was registered at least 48 hours in advance with the chief of police;

- (2) Did not last more than four hours, of which no more than two hours were during residential quiet hours; and
  - (3) Was otherwise conducted to avoid disturbance of persons within nearby dwellings.
- (e) *Speech or expression* . The affirmative defenses for speech or expression enumerated in V.T.C.A., Penal Code § 42.04 (prior order to move, disperse or remedy) shall also be available in any prosecutions for violations of this article.

~~(Code 2003, § 15.033)~~

Sec. 54-42. - Injunction as additional remedy.

As an additional remedy, the noise made by any activity, device, instrument, vehicle or machinery in violation of any provision hereof and which causes discomfort or annoyance to reasonable persons of normal sensitivity, or which endangers the comfort, repose, health or peace of residents in the area, shall be deemed, and is declared to be, a public nuisance and may be subject to abatement by a restraining order or injunction issued by a court of competent jurisdiction.

~~(Code 2003, § 15.034)~~

Sec. 54-43. - Sound level measurements.

Sound level measurements under this article shall be made in accordance with the following criteria:

- (1) Measurements must be made with a type 1 or type 2 calibrated sound level meter using the A-weighting scale and the slow meter response as specified by the American National Standards Institute (ANSI S1.4-1984/85A).
- (2) Noise levels shall be measured in decibels and A-weighted. The unit of measurement shall be designated a "dB(A)."
- (3) Meters shall be maintained in calibration and good working order.
- (4) Calibrations shall be employed which meet ANSI S1.40-1984 prior to and immediately after every sampling of sound.
- (5) Measurements recorded shall be taken so as to provide a proper representation of the sound being measured.
- (6) The microphone of the meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone shall be used.

~~(Code 2003, § 15.035)~~

~~Secs. 54-44—54-74. —Reserved.~~

# Agenda Item #6

Amend Appendix A of the City Code of Ordinances by replacing Section 8-107 with the following:

4-11-19

**Section 8-107. Outdoor Lighting**

- (a) **Purpose.** The purpose of this Section is to enhance the visual environment of the City while also promoting the safety and continued well-being of the community by:
- (1) Preventing the trespass of artificial light onto rights-of-way, residential properties, and nonresidential properties in ways that constitute a hazard to public safety or interference with the use, value, and enjoyment of the property;
  - (2) Conserving energy and resources consistent with the goals of the State Energy Conservation Office;
  - (3) Helping to minimize the City's carbon footprint.
- (b) **In general.** Any lighting device installed outdoors (or on the exterior of a structure) must be designed, constructed and operated so that the bulb or light source (diffused or not) is not visible from within a door or window of an occupied building on another building site used for residential purposes. The use of full fixture cut-offs or shields are required.
- (c) **Applicability.** The standards of this Section apply to all outdoor lighting except as provided in Subsections (d) and (j) below. This includes, but is not limited to, new lighting, replacement lighting, or any other lighting whether attached to structures, poles, the earth, or any other location, including lighting installed by any third party.
- (d) **Certain defenses.** It is an affirmative defense to prosecution under this section that the device in question is:
- (1) a streetlight approved by the City;
  - (2) an official traffic light or signal;
  - (3) an emergency light used temporarily (not longer than the emergency conditions involved);
  - (4) a decorative holiday light used temporarily (not more than 45 days out of any 365-day period);
  - (5) a security light requested or consented to by the current owner of (or person in control of) the building (on another building site) that is illuminated;
  - (6) a light located in a front, side or rear yard (or on a building facing such a yard), if: (i) all the lights in—or facing—that yard emit, in the aggregate, no more than 4,000 lumens, and (ii) no individual bulb in—or facing—that yard emits more than 1,000 lumens; or
  - (7) a device illuminating a sports field.
- (e) **Light Fixture Type.** Light fixtures shall be:
- a. "Full Cut-off" fixtures that limit lighting that is visible or measurable at the property line;
  - b. Of constant intensity;
  - c. Reflected or shielded so as not to:
    - i. Be of excessive brightness;
    - ii. Cause glare hazardous to pedestrians or drivers;
    - iii. Create any public or private nuisance; or

- iv. Unreasonably interfere with an abutting property owner's right to enjoy their property.
- d. "No cut-off" fixtures, used only for decorative purposes, provided:
  - (i) They have light fixtures that produce no more than 1,000 lumens (approximately equal to a 75-watt incandescent bulb);
  - (ii) They have a maximum height of 12 feet.
- (f) **Maximum Fixture Height.**
  - (1) Freestanding Fixtures. No residential freestanding light fixture shall be greater than 8 feet in height.
  - (2) Fixtures Mounted on Residential Buildings and Accessory Structures. Fixtures that are mounted on residential buildings or accessory structures shall not be located higher than the lowest point of the roof eave.
  - (3) *Fixtures Mounted on Nonresidential Buildings.*
    - (1) Mounted light fixtures shall not be located above the highest point of the roofline of any building.
    - (2) Full cut-off fixtures shall have a maximum height of 25 feet.
    - (3) No cut-off fixtures:
      - (4) Shall have a maximum height of 20 feet; and
      - (5) Are not permitted on any side of a building that faces or abuts a residential property line.
- (g) **Nonconforming Outdoor Lighting.** All existing nonconforming light fixtures and light fixture heights as of the effective date of this Section shall be removed or altered to comply with the standards established in this Section by or before December 31, 2023.

Amend Article 2. Definitions and Interpretations by adding the following terms to section 2-102. Certain terms.

**Definitions.**

- (1) *Abutting* means two or more lots sharing the same or common property lines. This term does not include lots separated by a street or alley.
- (2) *Full Cut-Off* means a shielded light fixture that emits no light above a horizontal plane touching the lowest part of the fixture.
- (3) *Glare* means visual discomfort or impairment caused by a bright source of light in a direction near one's line of sight.
- (4) *Lumen* means the unit of luminous flux, the total amount of light falling uniformly on or passing through an area of one square foot, each point of which is one foot from a one-candela source.

# **Agenda Item #7**



## Zoning & Planning Commission

Municipal Building 3800 University Blvd

### Meeting Minutes

March 14, 2019

MEMBERS PRESENT: Richard Wilson, John Cutrer, Michael McEnany, Pete Johnston and Mimi Tsai

MEMBERS ABSENT: Mac Jensen and Brian Brantley

STAFF PRESENT: Alan Petrov, City Attorney, Gerardo Barrera, Assistant Public Works Director, Debbie Scarcella, City Planner, Clay Chew, Building Official and Josie M. Hayes, Public Works Administrative Coordinator

GUEST: David Cole and Steve Brown

1. **Notices, Rules, Etc.** Richard Wilson; Presiding Officer, called the meeting to order at 6:17 pm, and asked commission members and staff to introduce themselves. Richard Wilson asked staff to confirm that appropriate notices were given. Josie Hayes stated notices were posted per state and local laws.
2. **Rules of Procedure.** Debbie Scarcella stated City Council asked the ZPC to review the Rules of Procedure and establish a requirement for voluntary withdrawals of applications. The ZPC had some concerns about penalizing an applicant who withdraws an application early in the process in order to come up with a better plan, but saw some merit in limiting an applicant once a public hearing had been conducted. The time frame agreed upon was a year to be consistent with the subdivision ordinance. ZPC had some other suggested changes and asked staff to present a revised draft at the next meeting.
3. **Property Maintenance Regulations.** The ZPC reviewed proposed amendments regarding the definition of weeds, stagnant water and provisions regarding the upkeep of yards and general premises. ZPC felt the proposals were a good start, but were too broad and inexact in a number of respects, including with regard to weeds, non-native and invasive species, and standing water. Staff was asked to work on the language and present a revised draft at the next meeting.
4. **Noise Regulations.** There was general discussion regarding the proposed new noise regulations. The chapter had been reviewed and reorganized by a planning consultant. The general consensus was that in reorganizing the regulations, the consultant had failed to incorporate many useful parts of the old regulations. There were also concerns about a number of activities that should be permissible, but would appear to be barred by the





The City of West University Place  
*A Neighborhood City*

proposed regulations. Staff was instructed to work on the language and present a revised draft at the next meeting.

- 5. **Outdoor Lighting.** There was continued discussion regarding outdoor lighting, and a new proposed outdoor lighting ordinance. At the last discussion of this issue, ZPC instructed staff to solicit public input, which was done December 2018 – March 2019. Staff received approximately 14 responses. ZPC reviewed the responses and the proposed ordinance revisions, which had been drafted by the planning consultant. There was general discussion regarding height limits, fixture types, residential versus non-residential and low intensity lighting. ZPC instructed staff to work on the language and to present a revised draft at the next meeting.
- 6. **Minutes.** The commission reviewed the minutes of the meetings held on December 13, 2018, January 14, 2019 and January 17, 2019. Richard Wilson made a motion to approve the minutes with a minor change to the January 14, 2019 minutes. Second by John Cutrer. **AYES:** Richard Wilson, John Cutrer, Michael McEnany, Pete Johnston and Mimi Tsai. **NOES:** None. **Motion carried.**

[Adjournment]

Mimi Tsai made a motion to adjourn. Second by John Cutrer. **Motion carried.** Meeting adjourned at 8:22 p.m.

PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
Presiding Officer

ATTEST: \_\_\_\_\_  
Ms. Josie M. Hayes, Public Works Administrative Coordinator

