

EXHIBIT A

FINAL DRAFT OF PROPOSED AMENDMENTS (February 12, 2015)

APPENDIX A ZONING ORDINANCE*

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***Editor's note**—Printed herein is the zoning ordinance of West University Place, Texas, as adopted on December 19, 1994, and as amended through July 31, 2003. Amendments adopted prior to July 31, 2003, as indicated in the preliminary matter of the zoning ordinance provided to the codifier, are shown below. Subsequent amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original zoning ordinance as amended through July 31, 2003.

Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catch lines have been made uniform and the same system of capitalization, citation to state statutes and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

Derivation (source ordinances):

1994 base ordinance: Ord. No. 1493, adopted 12-19-1994

Amended by: Ord. No. 1506, adopted 5-22-1995 (amended [§ 12-102](#) re: side-yard PNC's)

Ord. No. 1542, adopted 11-25-1996 (amended table 7-6 re: porches)

Ord. No. 1543, adopted 11-25-1996 (amended tables 7-4, 7-6 and PDD's re: townhouses)

Ord. No. 1548, adopted 1-13-1997 (amended [article 2](#) and table 7-4 re: framed area)

Ord. No. 1556, adopted 4-14-1997 (amended [§ 12-102](#) re: enlarged building site PNC's)

Ord. No. 1578, adopted 1-26-1998 (amended schedule PDD-TH1 re: "garden style" use) Ord. No. 1586, adopted 2-23-1998 (amended schedule PDD-TH1 re: "garden style" use)

Ord. No. 1599, adopted 10-12-1998 (amended schedule PDD-TH3 re: Browning Townhouse PDD)

Ord. No. 1560, adopted 10-12-1998 (amended Schedule PDD-TH4, Wesleyan Townhouse PDD "garden style" use)

Ord. No. 1604, adopted 1-25-1999 (townhouse/residential amendments; GR-1. GR-2 and PDD's; QMDS schedule)

Ord. No. 1620, adopted [6-28-](#) 1999 (amended schedule PDD-TH6, Ruskin Street PDD)

Ord. No. 1637, adopted 2-28-2000 (added § 12.102(e) relating to PNC status for yard encroachments)

Ord. No. 1644, adopted 4-10-2000 (amendments regarding personal wireless service facilities; new PWSF schedule)

Ord. No. 1643, adopted 5-8-2000 (amendments for "peripheral areas," commercial district, etc., with new tables, etc.)

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2001 base ordinance: Ord. No. 1672, adopted 3-12-2001

Amended by: Ord. No. 1691, adopted 8-27-2001 (amendments regarding noise of mechanical equipment, including A/C)

Ord. No. 1692, adopted 8-27-2001 (amendments regarding vineyards, gardens and private green space)

Ord. No. 1702, adopted 11-12-2001 (amendment regarding front street line)

Ord. No. 1707, adopted 3-25-2002 (amending Ord. No. 1672 to include previously adopted note 4, table 7-5b)

Ord. No. 1716, adopted 8-12-2002 (amendment regarding outdoor lighting, formerly high-output lighting)

Ord. No. 1734, adopted 4-14-2003 (amendments to table 7-5a, etc., regarding driveways, maneuvering areas, curb cuts, etc.)

Ord. No. 1735, adopted 5-19-2003 (amended "3/7" exception regarding yards or setbacks in table 7-2, note 2)

Federal law reference—Preservation of local zoning authority concerning wireless telecommunications facilities, 47 USC 322(c)(7); limited Federal preemption of state and local zoning laws affecting amateur radio facilities, *Memorandum Opinion and Order*, PRB-1, 101 FCC 2d 952 (1985) and 47 CFR 97.15(b); Religious Land Use and Institutionalized Persons Act, [42](#) USC 2000cc et seq.

State law reference—Municipal zoning authority, V.T.C.A., Local Government Code § 211.001 et seq.; zoning commission, V.T.C.A., Local Government Code § 211.007; comprehensive plan, V.T.C.A., Local Government Code § 213.002; board of adjustment, V.T.C.A., Local Government Code §§ 211.008—211.013; zoning districts, V.T.C.A., Local Government Code § 211.005; regulation of signs by home-rule municipality, V.T.C.A., Local Government Code § 216.901; regulation of political signs by municipality, V.T.C.A., Local Government Code § 216.903; municipality may regulate parking on private property, V.T.C.A., Local Government Code § 431.001.

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ARTICLE 1. SHORT TITLE AND PURPOSE

ARTICLE 1. SHORT TITLE AND PURPOSE

[Section 1-100. Short title.](#)

[Section 1-101. Purpose.](#)

Section 1-100. Short title.

This ordinance as amended ("Ordinance") shall be known as and referred to as the "Zoning Ordinance of the City of West University Place, Texas."

Section 1-101. Purpose.

The regulations and districts as herein established have been made in accordance with the City's comprehensive plan for the purpose of promoting the health, safety, morals and general welfare of the City. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, for the character of each district, and its peculiar suitability for the particular uses specified, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City consistent with the comprehensive plan.

ARTICLE 2. DEFINITIONS AND INTERPRETATIONS

ARTICLE 2. DEFINITIONS AND INTERPRETATIONS

[Section 2-100. Rules of Construction.](#)

[Section 2-101. Intent and effect of law.](#)

[Section 2-102. Certain terms.](#)

Section 2-100. Rules of Construction.

In this ordinance:

- (1) Words used in the present tense include the future; words in the singular number include the plural number; and words in the plural number include the singular number.
- (2) The word "shall" is mandatory and not directory.
- (3) Words not specially defined in this ordinance are used in their common ordinary senses, except that special terms used in the context of criminal violations (such as "affirmative defense" and "presumption") are intended to have the same meanings as in the Texas Penal Code.
- (4) Unless otherwise indicated, all lines and boundaries shall be applied as if they were planes vertical to the surface of the earth and extending both above and below the surface at each point along the line or boundary indicated.

Section 2-101. Intent and effect of law.

The intent of this ordinance and of the use of particular undefined words is to be determined from the whole ordinance and not from a narrow reading of a particular sentence or phrase. This ordinance shall be interpreted and applied in accordance with the constitutions and laws of the State of Texas and the federal government of the United States of America as well as the Charter of the City.

Section 2-102. Certain terms.

Certain terms in this ordinance, whether capitalized or not, are defined as follows for purposes of this ordinance:

Accessory. A building, structure or use is "accessory" if it is: (i) subordinate and incidental to a lawful principal building and use on the same building site, and (ii) is necessary or convenient for a lawful principal use of such building. An accessory building, structure or use can include, but is not limited to, a garage, guest quarters, pool cabana, game room or other similar use. *But see*, Table 7-1, Note 2.

Accessory quarters (or "AQ"). A dwelling unit meeting all of the following criteria: (i) it is located on the same building site as a principal building containing a dwelling used for single-family (detached) use; and (ii) it includes no more than six hundred square feet of gross floor area.

Adjacent side yard building site or lot means a building site that abuts another through a shared side property line.

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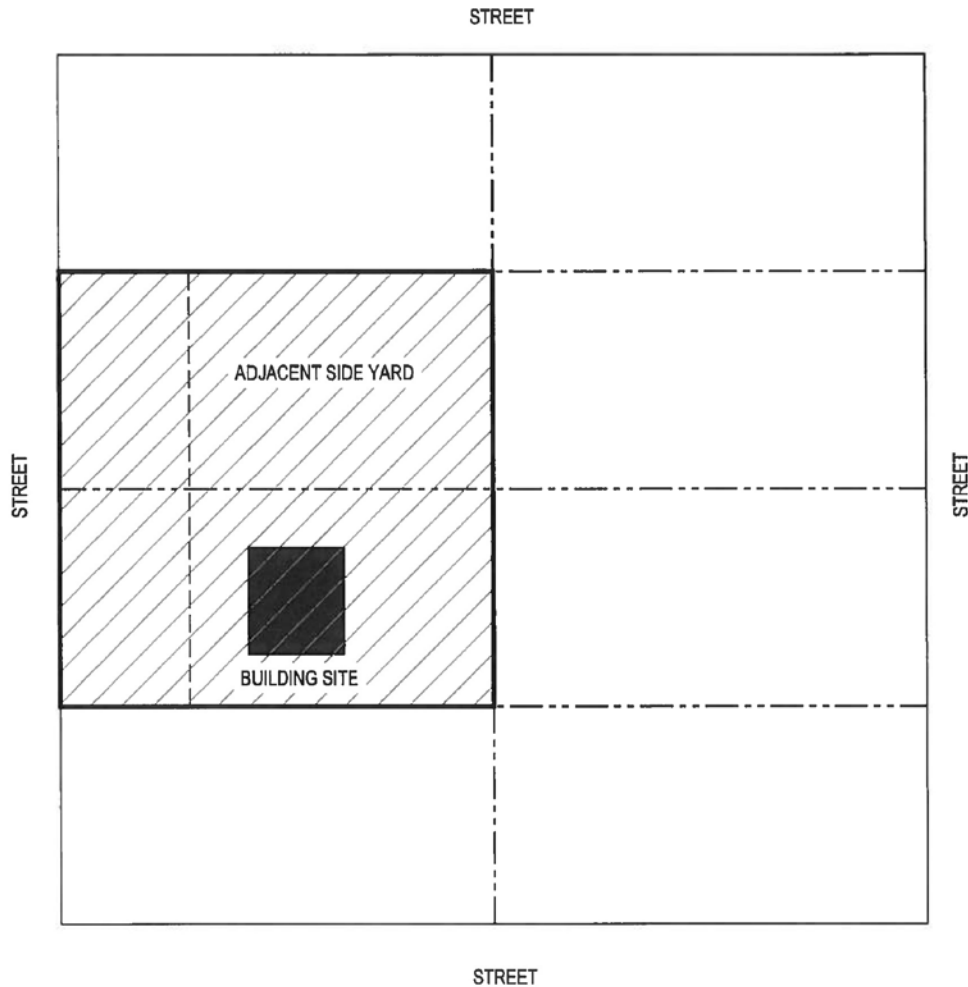


Illustration 2-102b

ADJACENT SIDE YARD

Administrative official. The person designated as such by the city manager.

Attic. Unfinished space immediately beneath a roof and above any story below. In this definition, "unfinished" means that the space has none of the following: (i) air conditioning or heating for the space,

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(ii) wiring or cabling in excess of the minimum needed for maintenance of the structure or mechanical equipment, or (iii) sheetrock, paneling or similar wall or ceiling materials.

Auto-intensive use. Any land use where goods or services are provided to or for motor vehicles or to persons who may remain within their motor vehicles to receive such goods or services. Examples, which do not limit this definition, are gasoline fueling facilities, automobiles sales or repair facilities and "drive-through" or "drive-in" establishments.

Bar. Any commercial unit within which either: (i) 50 percent or more of the gross floor area is devoted primarily to the preparation or sale of alcoholic beverages for consumption on the premises; or (ii) the sale of alcoholic beverages for consumption on the premises accounts for 50 percent or more of the gross sales with such commercial unit in any month out of the three preceding months.

Block. An area bounded by street areas and occupied by or intended for occupancy by buildings.

Block face. A continuous row of parcels of land all on one block and all touching a given street.

Bufferyard, SF. A yard in a non-SF District buffering an SF District. It is measured from the nearest part of an SF District. See the "Yards" table in [Article 7](#).

Building. Any structure built for the support, shelter or enclosure of persons, animals, chattels or moveable property of any kind. Two attached buildings are considered a single building unless they are separated by a firewall unbroken by interior passageways or openings. See definition of "detached."

Building official. The person designated as such under the City's building code.

Building site. See [Article 5](#). An "old" building site was established with its present boundaries before October 24, 1987. A "new" building site is any other building site.

C District. The Commercial District.

Certified sound emission level. This level is measured in bells according to the Air Conditioning and Refrigeration Institute's reference test method ARI270-84 ("Standard for Sound Rating of Outdoor Unitary Equipment"), or equivalent method approved by the Administrative official. See Table 7-6.

City. The City of West University Place, Texas.

City Council. The governing body of the City of West University Place, Texas.

Commercial (C) District. Includes all C and all portions of a planned development district (PDD) designated primarily for commercial uses.

Commercial unit. A building or part of a building occupied or capable of being occupied as a separate business or commercial establishment.

Commercial uses, light. Any commercial district use except an auto-intensive use or one of the other medium commercial uses. Examples include, but are not limited to: light office uses for ordinary business or professional activities ~~use~~, stores for the sale at retail of goods or services use (including grocery stores, convenience stores, and shopping centers), restaurant use, bank and financial services use.

Commercial uses, medium. Any commercial district use composed of one or more of the following uses: auto-intensive use, night assembly use, theater use, bar use, club use, physical fitness facilities or health care facilities use. Any use which is partially a light commercial use and partially a medium commercial use shall be deemed to be a medium commercial use for all purposes.

Common-use area. This term includes areas within street areas, easements (other than local-service easements) and other similar common-use areas. A "local-service easement" is an easement which: (i) is designed or intended to provide utility service, secondary access (but not primary access), maintenance or similar supporting service to the parcel where it lies or to an adjacent parcel; and (ii) as a practical matter, allows the fee-simple owner of the parcel to enjoy substantial use of the easement area. A flood control easement is a common-use area, not a local-service easement.

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Comprehensive plan. The document adopted by the City Council by Ordinance No. 1641, passed finally on May 8, 2000, as the document is amended, from time to time.

Consanguinity or affinity. These terms are interpreted in accordance with State anti-nepotism laws.

Corner building site or lot means a building site abutting two streets intersecting at an angle of not more than 135 degrees. If the angle of intersection is more than 135 degrees, the building site is an "interior lot".

Curb cut means a break in a curb intended to provide driveway access to a roadway. If there is no curb, the joint or line separating the roadway from the driveway is deemed to be a "curb cut".

Depth. With respect to the depth of an area, the average horizontal distance between the front and the rear. For irregularly-shaped building sites, the depth is deemed to be equal to the average distance from the front street line to the rear or side of the site when the distance is measured perpendicularly from points along the front street line. For purposes of determining compliance with the minimum dimensions of a building site (only), the building official may accept the nominal dimensions of a building site as shown on the current recorded plat in lieu of the actual measured dimensions, when: (i) both dimensions are obviously intended to describe the same site, and they do not differ by more than six inches, or (ii) the ZBA has issued a special exception, based upon a finding that both dimensions are intended to describe the same site and are approximately the same.

Detached. Two structures are detached if there is no physical connection between them above the ground. Exception: an accessory building attached to another building only by a covered walkway or "breezeway" open to the outdoors on the sides is deemed to be detached.

Disability is determined in accordance with the Fair Housing Act, [42](#) USC §3601 et. seq.

Driveway. A driveway is an outdoor area designated or improved to provide a path or route for motor vehicles.

Dwelling unit (or "DU"). A building, a single room or a group of rooms capable of being occupied and which have all of the following: (i) direct access from outside of the building or through a common hall; (ii) a kitchen area including a sink, a refrigerator and cooking equipment; and (iii) a full bathroom including a sink, a commode and either a bathtub or a shower.

Enclosed. Enclosed, when referring to porch space or building space, means that 51% or more of the perimeter of the space is enclosed by wall surfaces that are less than 75% open to outside air and light. For this purpose, ordinary insect screen are considered open to outside air and light.

Established driveway pattern. A pattern along a block face where 25 percent or more of the frontage is included in building sites upon which there are driveways. The pattern, if any, is indicated if 66 percent or more of the driveways are on one side (e.g., either the left or the right) of their respective building sites.

Face. To face directly or at an angle less than 90 degrees.

Family. One person, or a group of persons meeting any of these three criteria: (i) each member of the group is related to each of the others within four degrees of consanguinity or affinity (a "related family"); or (ii) the group includes only a related family plus one other person, all of whom live and cook together as a single housekeeping unit; or (iii) the group includes only persons who live and cook together as a single housekeeping unit, in a family-type home approved in accordance with [Article 8](#).

Family-type home means a home for which a permit or special exception is in effect as provided in [Article 8](#).

Fence-like hedge means an arrangement of vegetation or foliage having the characteristics of a fence and growing higher than 36 inches above standard base level.

Framed area. Framed area reflects the size of a building, in square footage. It is defined and illustrated in Schedule FA.

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**SCHEDULE FA
(FRAMED AREA)**

- (a) *General rule.* Framed area reflects the size of a building, in square footage. Framed area includes all floor and ground areas under a solid, fixed roof, except the uncounted areas listed in this Schedule. Floor and ground areas are measured, on each level, according to the measurement method set out below. For each building, the measured areas for each level are totaled to produce the framed area of the building.
- (b) *Measurement method.* For each level of a building, the framed area is the area of an imaginary, horizontal, unbroken plane immediately atop the structure supporting the floor (or immediately atop the ground, where there is no floor). Each plane extends horizontally to the outer main wall surfaces of the building, or to the outer perimeter of the structure above (whichever is outermost). For this purpose:
1. Steps, landings, sunken areas, floor openings and similar features are not considered separate levels, so there is no plane on those levels;
 2. Each plane extends to the outer wall surfaces of bay windows, cantilevered space and similar space on the same floor, regardless of the height of the floor;
 3. If there is a "split level" or similar irregular floor level, the building official may designate either one level to define the imaginary plane for that floor, or separate planes for the separate levels; and
 4. If area (all or part) within a one-story building has an interior height exceeding 19 feet, the area is doubled to calculate framed area (and if it has a interior height exceeding 31 feet, the area is tripled).
- (c) *Uncounted areas.* The following areas are not counted as framed area:
1. Attic area that cannot be reached through a fixed accessway;
 2. Attic area where there is a interior height less than seven feet;
 3. Those non-attic parts of an imaginary plane on a second or third-floor level, above which there is less than seven feet of interior height;
 4. Area beneath eaves, cornices, roof extensions, "greenhouse" or bay windows, cantilevered space and similar parts of building that project outward from the main wall of a building no more than 24 inches, if the area is on a lower floor level (or at ground level) and is otherwise completely open to the outdoors;
 5. Unenclosed porch area of a principal building, if the longest side of the porch directly faces the front street line or side street line of the building site, and the area is neither designed nor usable for motor vehicles;
 6. The area of "crawl space" at ground level;
 7. Unenclosed walkway or "breezeway" area if: (A) the area directly connects a principal building to an accessory building containing garage space located behind the principal building; (B) the total covered width of the area does not exceed eight feet; and (C) no part of the roof is higher than 14 feet;
 8. Area of recessed entries (garage or home) or windows that is completely open to the outdoors on at least one side, if: (A) each area faces the front street line or side street line of the building site, (B) each area is not larger than 100 square feet, and (C) the total of all such uncounted recessed area is less than 200 square feet; and

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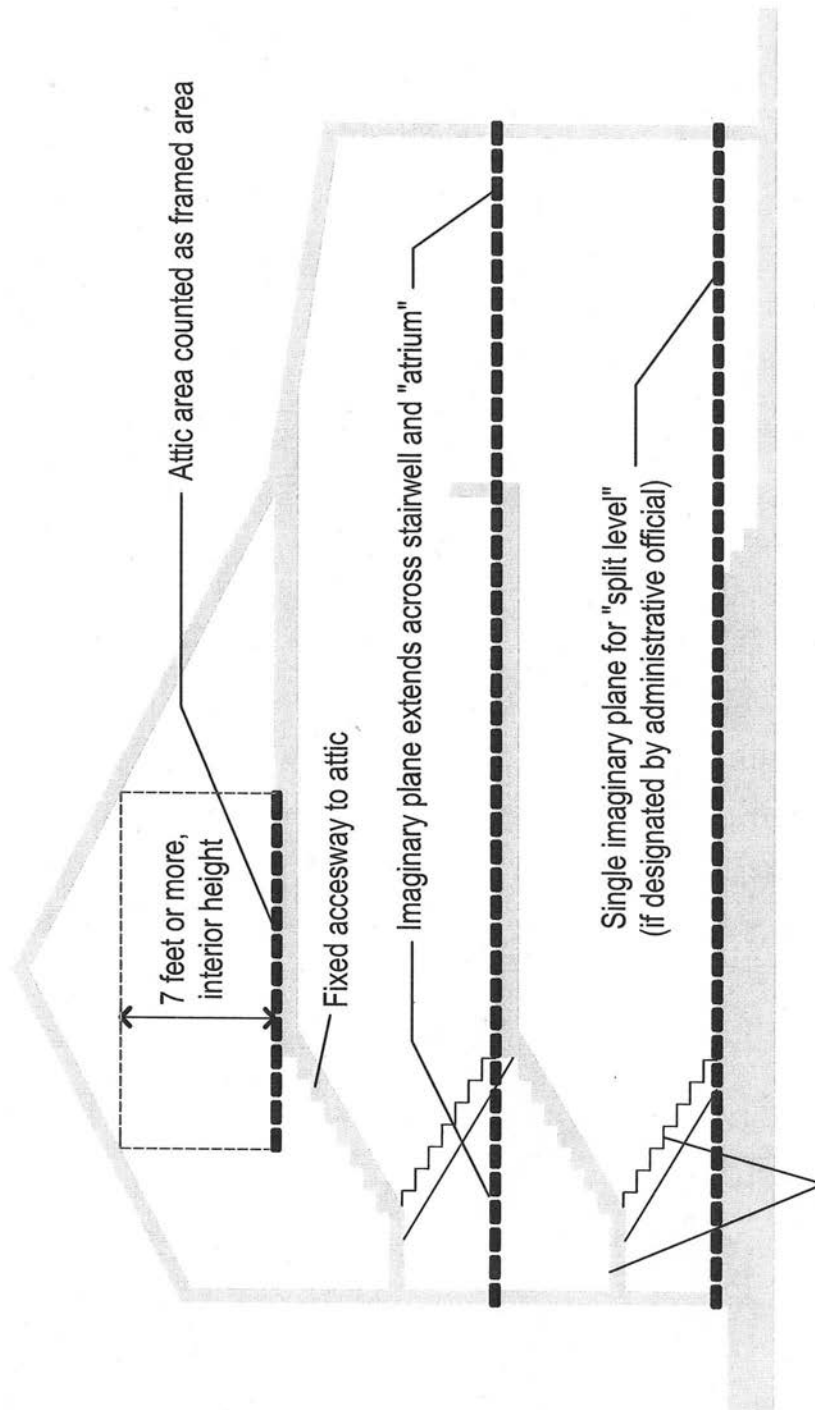
9. Basement area if: (A) the floor is at least five feet lower than the standard base level of the site, and (B) the interior height does not exceed eight feet.

The rules for uncouncted areas shall be strictly construed and applied to the defined areas only.

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Drawing to illustrate Schedule FA

Generally, dashed lines indicate area counted as "framed area."



No imaginary plane for steps or landing levels.

This is a general illustration only. Actual wording of Schedule FA controls in all cases.

Front right-of-way area. For a given building site, the area within a street area which directly abuts the building site.

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Front setback line. The line which marks the closest permissible location of a building with respect to the front street line (disregarding those projections specifically allowed by this ordinance). The front setback line is usually the edge of the front yard.

Garage space. Building space for storage of motor vehicles. Enclosed garage space must be completely within a building. Semi-enclosed garage space must have a solid or an opaque wall at least six feet high around at least one-half of its perimeter.

GR District. A general residential district.

Gross floor area. The gross floor area shall be measured by taking outside dimensions of a building or space in a building, on each floor level, excluding, however, the floor area of attached garages, basements or attics used only for storage, and opened or screened porches, except where the gross floor area of the main space is 1,100 square feet or more, in which case, half of the square footage of such opened or screened porches shall be used in computing the gross floor area.

Height. Height is measured vertically from the standard base level of a site. The height of a structure is the vertical distance to its highest point.

Height, interior. The vertical clearance between the main structural elements supporting a floor (e.g., floor joists) and the main overhead structural elements (e.g., roof rafters, ceiling joists). Where there is no floor, the interior height is measured from the imaginary plane used to measure framed area).

High-density occupancy means the use of a building or structure, or a portion thereof, for any of the types of gatherings described in Subsection A-1, A-2, A-3, A-4 or A-5, § 303, *International Building Code*, 2006 Ed., International Code Council, Inc., but only if the gathering exceeds any of the following parameters: (i) at least 100 people four times or more during any 12-month period, (ii) at least 50 people eight times or more in any 12-month period, or (iii) at least 25 people 16 times or more in any 12-month period.

The requirement for a special exception for a high-density occupancy is deemed to be satisfied if, before the effective date of this Ordinance, the ZBA issued a special exception for a use that, at that time, included substantially the same high-density occupancy.

Home occupation. A business activity upon a given building site which meets all of the following criteria:

- (1) It is carried on exclusively by persons who lawfully reside upon the building site without the employment of any other person, whether paid or unpaid.
- (2) It does not involve any sign or other means of advertisement on or near the building site.
- (3) It does not involve any significant storage of goods or fixtures.
- (4) It does not require any specialized building or structure, or any modification of a building or structure.
- (5) It does not involve the transmission of sound or electronic impulses other than by means of utility services.
- (6) It does not cause any significant increase in traffic or on-street parking.
- (7) It causes no noise, odor, discharge of any substance or gas, vibration or other condition detectable from outside the building site in question.
- (8) It is subordinate and incidental to a permitted principal use of the building site.

Incidental sale. A business activity (such as an occasional sale of used property, a "garage sale" or a "bake sale") which is specifically allowed under another ordinance of the City regulating such activity or which meets all of the following criteria:

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- (1) The activity involves only the sale of used personal property, food or beverages.
- (2) No business activity (other than activity which is part of a home occupation) occurred on the same building site on 178 or more days out of the 180 days immediately preceding the day of the activity.
- (3) The activity is an accessory use of the building site.

Interior building site or lot means a building site abutting only one street or abutting two streets which intersect at an angle greater than 135 degrees.

Licensed day care center. A facility licensed by the State of Texas that provides care, training, education, custody, treatment or supervision for more than 12 children under 14 years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than 24 hours a day, regardless of whether the facility is operated for a profit or charges for the services it offers.

Line, front street. The common boundary of a building site and a street area. For corner sites (and any other sites touching two or more street areas), the front street line is determined by the administrative official according to the following criteria, listed in order of precedence:

- (1) A special designation of the front street line made by the ZBA (see, e.g. [Article 8](#)), or by an approved QMDS plat or PDD site plan (if any).
- (2) A clear indication of the appropriate front street line, based upon:
 - (i) Subdivision platting pattern;
 - (ii) Traffic and access pattern;
 - (iii) Property size and shape;
 - (iv) Orientation of existing and historic development;
 - (v) Probable future development; and
 - (vi) Compatibility with nearby sites and their uses.

For this purpose, the administrative official shall take into account any special yard depths applicable to a "rotated corner building site" (see Table 7-2).

- (3) For sites with SFR use (including undeveloped property in an SFR district or in the GR-1 or GR-2 District):
 - (i) If one street line is substantially shorter than all others, it is the front street line;
 - (ii) Otherwise, the front street line is the line that is most compatible with nearby sites and their uses.
- (4) For sites without SFR use bordering a major thoroughfare:
 - (i) The front street line would ordinarily be the common boundary with the major thoroughfare;
 - (ii) If all boundary streets are major thoroughfares, the front street line is the common boundary with the thoroughfare with the longest frontage;
 - (iii) Otherwise, the front street line is the line that is most compatible with nearby sites and their uses.
- (5) For other sites without SFR use:
 - (i) If one street line is substantially longer than the others, it is the front street line;

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- (ii) Otherwise, the front street line is the line that is most compatible with nearby sites and their uses.

Line, rear property. The boundary of a building site most nearly opposite the front street line. The administrative official shall designate the rear property line of irregularly shaped building sites, and the line so designated need not be straight.

Line, side property (or "SPL"). Each boundary of a building site, except the front street line, the rear property line and any side street lines.

Line, side street. Each common boundary between a building site and a street area, except the front street line.

Living space. Any living room, bedroom, dining room, study, kitchen or other living activity space. A bathroom, foyer, hallway, stairway or other utility space shall not be considered living space.

Low-impact motor court (or "LIMC") is a vehicle parking and maneuvering area in a QMDS that meets all these criteria:

- (1) One Curb Cut. Only one curb cut per 50 feet of frontage, maximum 12 feet wide (measured at the narrow point of the apron).
- (2) On-Street Spaces. In GR-1 or GR-2, must leave at least two 18-foot curb spaces per 50 feet of frontage.
- (3) Landscaped Buffer Strips. Must include strips five feet deep along street areas, 18 inches deep on sides. Must be landscaped with evergreen hedges or shrubs.
- (4) Street Trees. At least one per 24 feet of street frontage (round down).
- (5) Pervious Pavement. Must be used throughout.

Note—Where an LIMC is allowed, internal access garages are not required; see definition of QMDS.

Major thoroughfare. Bissonnet Street, Kirby Drive or Bellaire (West Holcombe) Boulevard.

Mirrored glass. Glass with a reflectance greater than 20 percent.

Multiple utility service. Utility service provided to a person (or group of persons) on a given building site who is different from another person (or group of persons) to whom the same service is provided on the same building site.

1987 effective date. October 24, 1987, which was the effective date of the 1987 comprehensive revision.

Night assembly use means a use of a building or structure, or a portion thereof, which meets all three of these criteria: (i) it is nonresidential, (ii) it is operated between midnight and 6:00 a.m. four times or more in any 12-month period, and (iii) it involves the gathering of at least 25 people four times or more in any 12-month period.

Non-residential use. Any use other than a residential use.

Occupancy. The use or intended use of a particular area of land or a particular building or structure, or portion thereof, by proprietors or tenants.

Office use, light, means offices for conducting real estate, insurance and other similar businesses and the offices of the architectural, clerical, engineering, legal, dental, medical and other established and recognized professions, in which only such personnel are employed as are customarily required for the practice of such business or profession.

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Old stock housing. One or more buildings on a SFD site meeting all the following criteria, at any given time: (i) the principal building was built before 1980, and (ii) the gross floor area of all buildings on the site (at any given time) does not exceed the greater of 3,400 square feet or 200 percent of the gross floor area of all the buildings on the site when the principal building was built.

Open area. Area unoccupied by any structure and open and unobstructed to the sky, except by natural plants or trees, and except for projections specifically permitted by the Projections Schedule, to the extent therein provided.

Park, playground or community center (public). A park, playground or community center owned or operated by a governmental entity having the power of eminent domain.

Parking area. An outdoor area designated or improved to store motor vehicles. The term includes parking "pads."

PDD. A planned development district. (See Articles 3 and 9).

Person. A natural person, partnership, corporation, sole proprietorship, representative, governmental entity, unincorporated business association or any other entity.

Pervious area. An area which: (1) is natural ground or landscaped area that receives rainwater and allows it to pass through or be absorbed, thus preventing excess water flow away from the area, or (2) is specifically designated as pervious area in the Projections Schedule.

Pervious pavement includes both: (1) specially-manufactured pavement blocks or grids that have holes filled with pervious material, and (2) stones, bricks or pavers laid with intervening gaps filled with pervious materials. Pervious pavement must have a pervious base.

Place of worship. Those spaces designed and used for actual worship by a recognized and organized religious group, having an ordained minister, priest, rabbi, or similar religious leader, including parking areas and necessary supporting facilities, but not including non-worship spaces such as residences, dormitories, schools, child care facilities or physical fitness facilities.

PNC. A prior nonconformity. See [Article 12](#).

Principal building. The building on a building site housing the principal use.

PWSF or "Personal wireless service facility." A facility for the provision of personal wireless services as defined by the Telecommunications Act of [1996](#). See 47 U.S.C. § 332.

PWSF Use. A use that includes one or more PWSFs.

Qualified Medium Density Subdivision (or "QMDS") means a subdivision established by plat or replat that meets all the following criteria:

- (1) Certain Districts. The area lies within one or more of these Districts: TH, GR-1, GR-2, PDD-TH1, ~~KMU~~PDD-TH2, PDD-TH4, PDD-TH5 or PDD-TH7.
- (2) Internal Access Garages. It designates internal access garages for at least 80% of the lots in the subdivision with sufficient driveways, alleys, curb cuts and maneuvering areas to serve them. "Internal access garage" means an enclosed garage with a door that: (i) does not face the front street line of its lot, unless it is 40 feet or more from that line, and (ii) does not face a side street line of its lot, unless it is 20 feet or more from that line. Exception: For subdivision of an old building site (existing before October 24, 1987) with a width of 61 feet or less, there may be a low-impact motor court instead of internal-access garages.
- (3) Yards. It must designate all required yards, front, side and rear. (Notes: Yards are required only around the perimeter of the subdivision, not internally. However, easements, open areas and other restricted areas may be required internally; see below. Yards designated by QMDS plat control over general yard definitions elsewhere.)

ARTICLE 2. DEFINITIONS AND INTERPRETATIONS

- (4) Access, Parking, Environmental Issues. Vehicular access, driveways, maneuvering areas, streets and alleys (public or private), easements, curb cuts, parking spaces, building lines, open areas and pervious areas may be identified and restricted by the plat so that, in the judgment of the Z&PC: (i) any impact on adjacent properties or neighborhoods is minimized, (ii) routine, emergency and utility access are adequate, (iii) environmental effects (including runoff, tree impacts, bulk, light, air, etc.) are mitigated. The plat may require such areas to be larger than otherwise required by this ordinance. The Z&PC may require dedication of a public street area or alley.
- (5) Maintenance, Repair, Etc. It incorporates a permanent method for maintenance, repair, insurance and reconstruction of: (i) private streets, driveways and common areas, (ii) external features of attached dwelling units, (iii) common walls, and (iv) other common structures. The method must be either a homeowner's association with full authority to perform these functions and assess the cost to the owners, or a substantially-equivalent method approved by the Z&PC.
- (6) Easements. It includes any necessary easements for access to common areas or structures and for maintenance, repair or reconstruction of non-common structures.
- (7) Building Lines. It includes building lines approved by the Z&PC based upon the specific characteristics of the site and adjoining areas. Building lines may be deeper (or greater) than the otherwise-applicable yard areas. Areas between a building line and the street are designated and regulated as yards (front, side, etc.).
- (8) Title Block; Restrictions. The title block designates it a "qualified medium-density subdivision" and incorporates the applicable provisions of the Zoning Ordinance and [Chapter 74](#). It must recite that all restrictions on the plat or incorporated into the plat shall "run with the land" and shall be independently enforceable by any person or entity having an interest in property included in the plat (which may include the City) and by any homeowner's association that may be created. Any such enforcement by the City is an additional, alternative remedy for the City.

Reside. To live or to intend to live at a place either indefinitely or longer than 42 days.

Residential district includes all SF, TH and GR districts and all portions of a PDD designated primarily for residential purposes.

Residential purposes (or uses). Ordinary domestic purposes (or uses), not involving any business, commercial, industrial or institutional activity, whether carried on for profit or not. Providing any good or service, or offering to provide it, on or from any premises to or for anyone who does not reside on the same premises in exchange for any money or thing of value, whether demanded or accepted, is a business activity. However, in any proceeding where the presence of a business activity under this ordinance is an issue, it shall be an affirmative defense that the alleged business activity was only an incidental sale or was part of a home occupation, but such an affirmative defense shall not apply to any alleged violation of another ordinance of the City unless the other ordinance so provides.

Residential street. Any street, other than a major thoroughfare, abutting a given building site where, within 200 feet in either direction along both sides of the street (measured from the side property lines of the given building site), 51 percent or more of the property fronting on either side of the street is within a residential district.

Residential worker. A person who is employed to perform residential services at least 25 hours per week at the same premises where the person resides. Residential services are personal services which are performed for someone who also resides on the premises and which are purely residential in nature (and not income-producing) such as cooking, cleaning, attending children or handicapped persons or maintaining the grounds.

Roadway means that portion of a street area improved, designed or ordinarily used for vehicular traffic (excluding private driveways).

ARTICLE 2. DEFINITIONS AND INTERPRETATIONS

Rotated corner building site or lot means a corner building site in the SF-1 District which has been "rotated" from one street to the other, such that it has a front street line lying along a street that is different from the street along which the front street line of the original corner lot would lie. The original corner lot is the single subdivided lot on the same corner, as created by the plan recorded in Volume 444, Page 563 of the Deed Records of Harris County, Texas, entitled "Map Showing West University Place, a Part of the A.C. Reynolds Survey, Harris County, Texas." In the SF-1 District, most rotated corner building sites will be oriented north-south, because most of the original corner lots were oriented east-west (except for lots along University Boulevard or Cason Street).

ARTICLE 2. DEFINITIONS AND INTERPRETATIONS

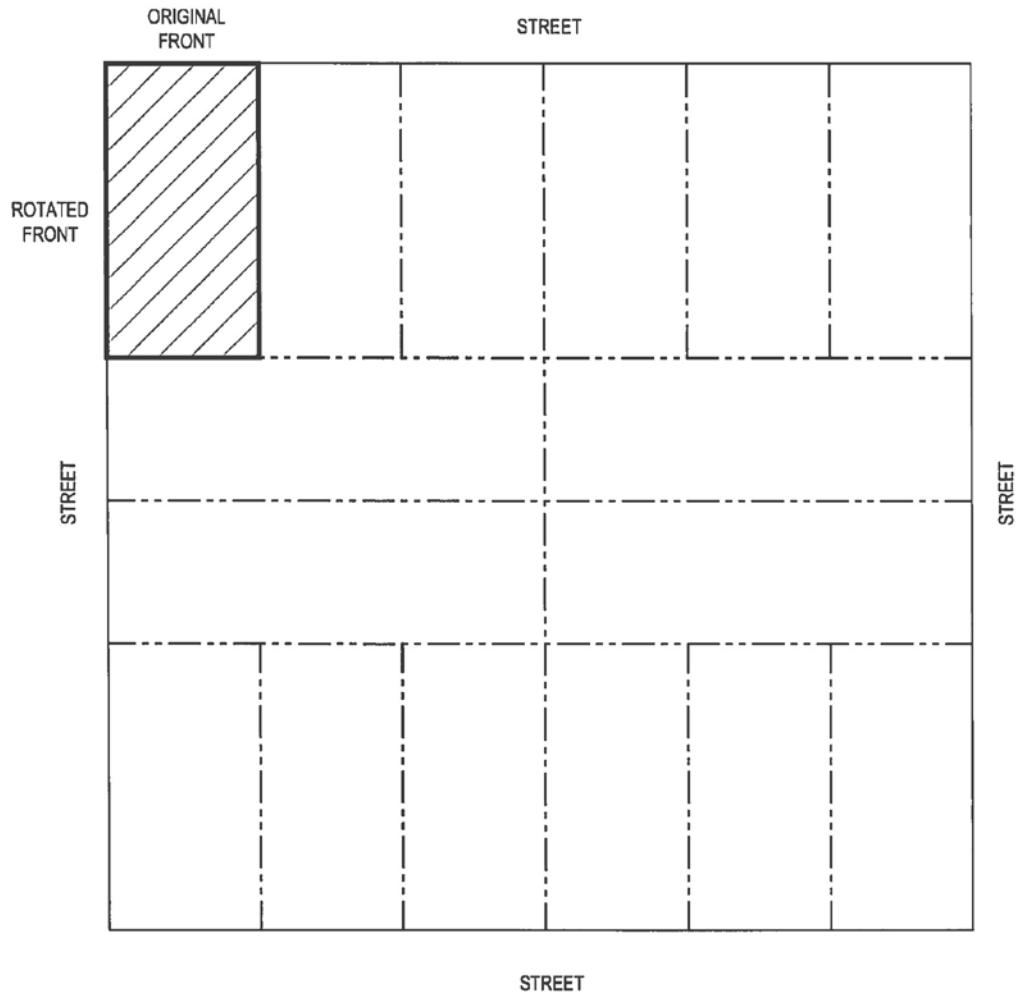


Illustration 2-102c

ROTATED CORNER BUILDING SITE

School. An establishment: (i) owned or operated by a school district or other governmental entity and used to provide public education or (ii) owned or operated by a non-governmental person under circumstances where a license or permit is in effect or required to be in effect under the Texas Education Code or any other state law pertaining in education or instructional services.

ARTICLE 2. DEFINITIONS AND INTERPRETATIONS

School (public). A school owned by a governmental entity having the power of eminent domain.

Setback. See "yard" definitions.

SF District. This term refers collectively to the SF-1 District, the SF-2 District, the SF-3 District, PDD-SF1 and PDD-SF2 and to each of them.

Shopping center. A building or group of buildings on a single building site containing three or more commercial units, each with a separate entrance to the outdoors.

Single-family (attached) use (or "SFA"). A use of a building site which meets all of the following criteria:

- (1) Each dwelling unit is located on a plot of ground to which the occupants of the unit have exclusive access, from the ground to the sky.
- (2) No dwelling unit has any entrance or exit connecting to another dwelling unit.
- (3) No dwelling unit shares any interior hall or interior passageway with any other dwelling unit.
- (4) No more than one family resides in any dwelling unit.
- (5) The entire plot of building site is used exclusively for residential purposes (although, as provided in the definition of "residential purposes," an affirmative defense is available for a home occupation and an incidental sale).

Single-family (detached) use (or "SFD"). A use of a building site which meets all of the following criteria:

- (1) There is no more than one dwelling unit, and one accessory quarters. Other lawful accessory uses are permitted on the building site. (*But see*, Table 7-4b).
- (2) There is no multiple utility service on the building site.
- (3) There is no physical connection between any building on the building site and any other building on another building site.
- (4) No more than one family, plus no more than two residential workers, reside upon the building site.
- (5) If the family includes a person not related to each of the others in the family within four degrees of consanguinity or affinity, the unrelated person resides in the principal building with at least one of the others.
- (6) The entire building site is used exclusively for residential purposes (although, as provided in the definition of "residential purposes," an affirmative defense is available for a home occupation and an incidental sale).

Special exception. See [Article 11](#) and Chapter 211 of the Texas Local Government Code.

Special screen. An opaque fence or wall designed, constructed and maintained to reduce risks of fire, unsanitary conditions and vandalism and to prevent the viewing of a loading dock or waste storage area, or any associated equipment, from any street area or from any other building site within a residential district. Buildings or other structures and gates may be incorporated into special screens.

Standard base level The standard base level is the average elevation of two points: the tops of the curb where the side lines of a site, if extended, would intersect the curb (but if there is no curb at either point, or if there is no curb at all, the intersections of the extended side lines with the paved crown of the street are used instead of the tops of the curb). Exception: If sufficient data are available, the Building Official shall designate a substitute standard base level for a site, which shall apply from and after the date of designation, as follows:

ARTICLE 2. DEFINITIONS AND INTERPRETATIONS

- (1) The substitute standard base level is the average elevation of eight points, all at ground level on the boundaries of the site, as follows: (i) four of the points are the exact corners of the site, and (ii) each of the remaining four points is the exact midpoint of one of the boundaries of the site (e.g., side street line), but (iii) if the site is irregularly shaped, or if one or more of the points cannot be measured accurately, the Building Official shall designate the eight points, using as many corners as practicable and spacing the remaining points as equally as practicable along the boundaries of the site.
- (2) The elevations of the eight points must be established by an acceptable topological survey submitted to the Building Official.
- (3) Topological surveys, to be acceptable, must meet standards set by the Building Official (including the form of the drawing and certificate), but no such survey is acceptable if three or more of the points surveyed have been disturbed by filling, demolition, construction or similar activity within the five-year period preceding the date of the survey.

SPL. See "Line, side property."

Story. The portion of a building between successive floors of such building or from the top floor to the roof.

Story, half. In the case of a two-and-one-half-story building, a third-floor level with a framed area that does not exceed 50% of the framed area of either the first or second-floor level (whichever is smaller).

Street area. All of the area within the right-of-way lines (or boundaries) of a highway, alley, street, avenue or public place or square, bridge, viaduct, underpass, overpass, tunnel or causeway dedicated or devoted to public use.

Structure. Anything made by humans which: (i) is not readily portable; (ii) is usually left in one location for an indefinite period of time; or (iii) requires either permanent or fixed location on or in the ground or attachment to something having a permanent or fixed location on or in the ground for its use. Examples of structures, which do not limit this definition, are: sculptures; lampposts; sidewalks; driveways; playground equipment and facilities; buildings; flagpoles; antennas and pools. A canopy or similar object designed or used to shelter a motor vehicle, a boat or similarly-sized items is deemed to be a structure if it remains in substantially the same place for more than ten days, regardless of whether it is readily portable, frequently moved or unattached.

Structural alteration. Any change in a supporting member of a structure, such as a bearing wall, column, beam or girder.

Subdivided lot. A lot or parcel which was: (i) created or designated by plan, plat or replat approved by the appropriate City body as required by the Texas Local Government Code or previously applicable state law, including Texas Revised Civil Statutes Annotated art. 974a; or (ii) in existence as a separately owned and separately described lot or parcel continuously since September 12, 1983.

Swimming pool. Any constructed pool for swimming or bathing over 24 inches in depth or with a surface area exceeding 200 square feet. This term includes "spas" and "hot tubs."

Through building site or lot; "rear through building site" or "lot" means a building site other than a corner building site with frontage on more than one street other than an alley.

ARTICLE 2. DEFINITIONS AND INTERPRETATIONS

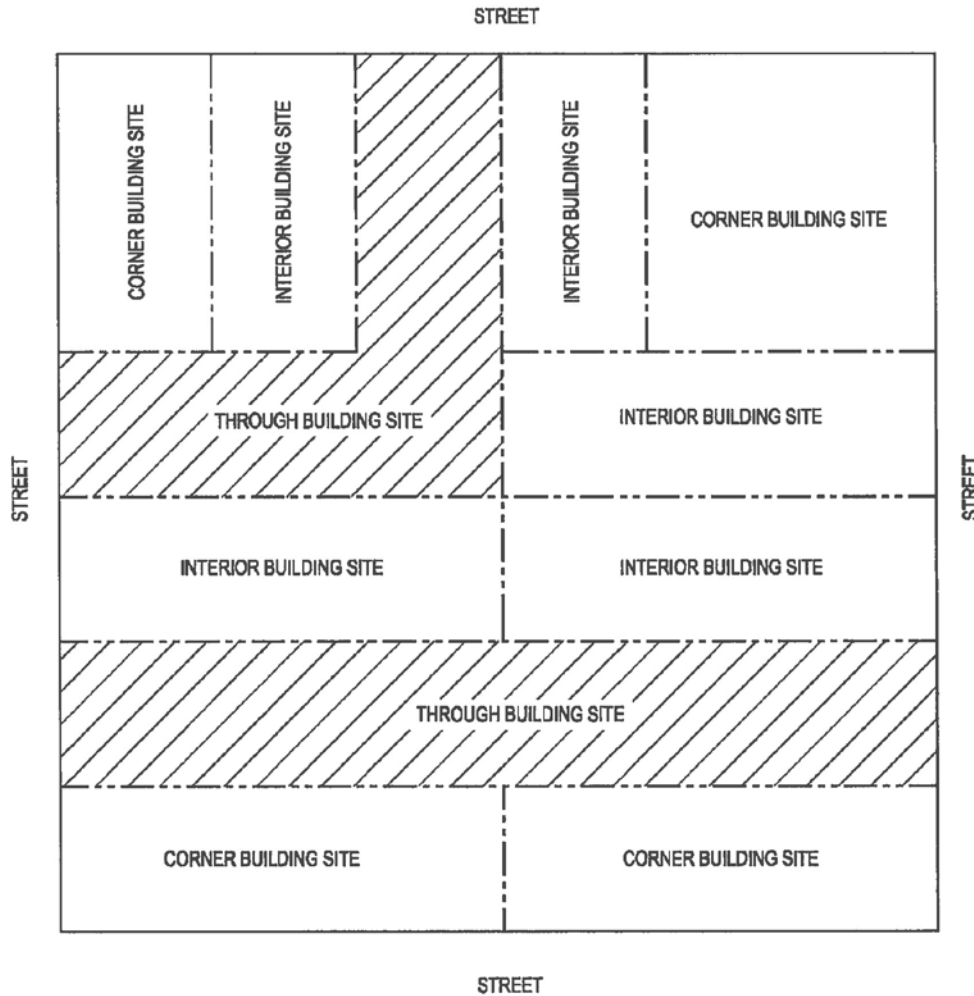


Illustration 2-102a

THROUGH BUILDING SITES

Unenclosed. Unenclosed, when referring to porch space or building space, means the space is not "enclosed" as defined above.

Use. The term includes any use of property and any activity upon or relating to property.

ARTICLE 2. DEFINITIONS AND INTERPRETATIONS

Utility or service use. A use, other than PWSF use, reasonably necessary to provide any utility service to sites in the City. This use also includes production, processing, through-transmission or central facilities primarily used to provide utility or communication service to areas outside the City, only if the facilities meet all these criteria: (i) the facilities and all their uses are specifically identified and authorized by a franchise ordinance or other special permission issued by the City, and (ii) they are located underground in street or public easement areas, unless specifically authorized to be located elsewhere by such a franchise ordinance or special permission.

Utility service. Any water, sewer, garbage, electric, lighting, gas, telephone, cable television or other similar service provided by the City, a public utility, a franchisee of the City or governmental entity serving the City.

Variance. See [Article 11](#) and Chapter 211 of the Texas Local Government Code.

Visibility triangle. This term includes both "driveway visibility triangle" and "street visibility triangle" as defined in [Chapter 82](#) of the Code of Ordinances.

Waste storage area. Any area designed or used to store garbage, trash or other wastes, except for those areas in an SF District which serve one or two dwelling units.

Width. In the case of a building site, the length of the front street line. For purposes of determining compliance with the minimum dimensions of a building site (only), the building official may accept the nominal width of a building site as shown on the current recorded plat in lieu of the actual measured width, when: (i) both dimensions are obviously intended to describe the same site, and they do not differ by more than six inches, or (ii) the ZBA has issued a special exception, based upon a finding that both dimensions are intended to describe the same site and are approximately the same.

Yard, front. That part of a building site included in the required yard (or setback area) measured street line or defined by a front building line. See "Yards" table in [Article 7](#).

Yard, rear. That part of a building site included in the required yard (or setback area) measured from the rear property line. See "Yards" table in [Article 7](#).

Yard, side. That part of a building site included in the required yard (or setback area) measured from any side property line. See "Yards" table in [Article 7](#).

ARTICLE 2. DEFINITIONS AND INTERPRETATIONS

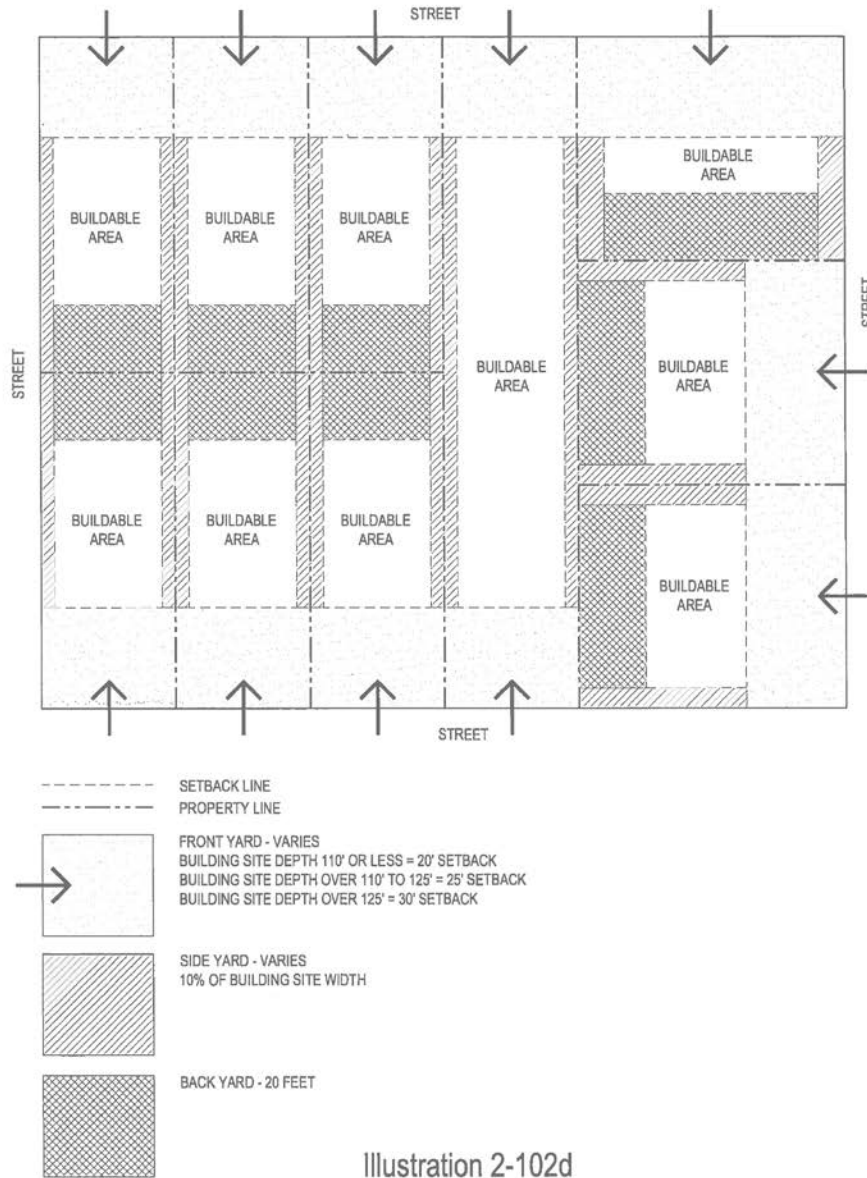


Illustration 2-102d

YARDS (SETBACKS)

Youth athletic facility. A facility that provides athletic training or athletic facilities for more than 12 children under 16 years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, on a typical operating day, regardless of whether the facility is operated for a profit or charges for the services it offers.

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APPENDIX A - ZONING ORDINANCE*

ARTICLE 2. DEFINITIONS AND INTERPRETATIONS

ZBA. The Zoning Board of Adjustment.

Z&PC. The Zoning & Planning Commission.

Zoning District Map. The map adopted on March 12, 2001 simultaneously with the comprehensive amendment of this ordinance, as said map may be amended, from time to time.

(Ord. No. 1770, 7-26-2004; Ord. No. 1819, 11-28-2005; Ord. No. 1820, 11-28-2005; Ord. No. 1798, § 1(ex. A), 5-23-2005; Ord. No. 1799, § 1(ex. A), 5-23-2005; Ord. No. 1802, § 1(ex. A), 5-23-2005; Ord. No. 1872, § 1(ex. A), 4-28-2008; Ord. No. 1873, § 1(ex. A), 4-28-2008; Ord. No. 1925, § 1(ex. A), 8-9-2010; Ord. No. 1939, § 1(ex. A), 2-28-2011; Ord. No. 1978, § 1(Exh. A), 5-20-2013; Ord. No. 1979, § 1(Exh. A), 5-20-2013)

ARTICLE 3. ZONING DISTRICTS ESTABLISHED

ARTICLE 3. ZONING DISTRICTS ESTABLISHED

Section 3-100. Districts; Purposes.

Section 3-100. Districts; Purposes.

The City is hereby divided into the following districts, with the purposes set out below:

- (1) SF-1, the First Single-Family District. The purpose of this district is to provide regulations to maintain and protect the City's single-family residences and neighborhoods in an area where corner lots have been divided and reoriented.
- (2) SF-2, the Second Single-Family District. The purpose of this district is to provide regulations to larger building sites.
- (3) SF-3, the Third Single-Family District. The purpose of this District is to provide regulations to maintain and protect the City's single-family residences and neighborhoods.
- (4) TH, the Townhouse District. The purpose of this district is to maintain and protect the City's single-family, attached building residential areas and to provide necessary regulations for buffering of adjacent areas with less-intensive land uses.
- (5) GR-1, the First General Residential District. The purpose of this district is to maintain and protect the City's duplex residential area and to provide necessary regulations for buffering of adjacent areas with less-intensive land uses.
- (6) GR-2, the Second General Residential District. The purpose of this district is to maintain and protect the City's general residential area and to provide necessary regulations for buffering of adjacent areas with less-intensive land uses.
- ~~(7) KMU, the Kirby Mixed Use District. The purpose of this district is to allow small-scale light office and commercial uses along the busy Kirby Drive frontage at the City's eastern boundary while still allowing existing and new single-family detached and attached dwellings and townhomes within the district.~~
- (7) C, the Commercial District. The purpose of this district is to provide regulations for commercial areas compatible with nearby residential areas and to provide for buffering of less-intensive land uses.
- ~~(8) TCC, the Town Center Commercial District. The purpose of this district is to accommodate limited commercial uses within the established core of the Town Center area that will benefit the City's residents, while protecting nearby single-family residences and neighborhoods from incompatible activity through application of specific development standards. The district includes all properties between Edloe Street and Poor Farm Ditch, from University Boulevard on the south to the first building site north of Rice Boulevard. TCC use regulations and other requirements apply only to principal buildings and associated accessory structures constructed after the effective date of the TCC district. Other buildings in TCC are subject to the C, Commercial District, regulations that applied prior to the effective date of the TCC district.~~
- (98) PDDs, Planned Development Districts. The PDDs are illustrated on the Zoning District Map, and the purposes of each PDD are: (i) to maintain and protect that planned development area for the uses therein authorized and (ii) to provide for buffering of less-intensive uses.

ARTICLE 4. ZONING DISTRICT MAP

ARTICLE 4. ZONING DISTRICT MAP

[Section 4-100. Zoning District Map \[adopted by reference\].](#)

[Section 4-101. Interpretation of boundaries.](#)

Section 4-100. Zoning District Map [adopted by reference].

- (a) The boundaries of the zoning districts set out herein are delineated upon the Zoning District Map of the City, said map being adopted and made a part of this ordinance as fully as if the same were set forth herein in detail.
- (b) One or more originals of the Zoning District Map, bearing the signature of the Mayor and the attestation of the City Secretary, and bearing the same date as the ordinance which last adopted it or amended it, shall be filed with the City Secretary and retained as original records.

Section 4-101. Interpretation of boundaries.

The district boundary lines shown on the Zoning District Map are usually along streets, alleys, property lines or extensions thereof. Where uncertainty exists as to the boundaries of districts, the following rules shall apply:

- (1) Boundaries indicated as approximately following the right-of-way lines of streets, highways or alleys shall be construed to follow such lines.
- (2) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such lines.
- (3) Boundaries indicated as approximately following property lines shall be construed as following such lines.
- (4) Boundaries indicated as approximately following City limits shall be construed as following City limits.
- (5) Boundaries indicated as parallel to or extensions of features indicated above shall be so construed.
- (6) Distances not specifically indicated on the Zoning District Map shall be determined by reference to specific ordinances, motions or resolutions of the city council, the Z&PC or the ZBA, or minutes of their meetings, concerning the areas in question.
- (7) Any area not clearly included in another district is within the SF-3 District.

ARTICLE 5. BUILDING SITES

ARTICLE 5. BUILDING SITES

[Section 5-100. Requirement for building site.](#)

[Section 5-101. Designation of building site.](#)

[Section 5-102. Division of building sites.](#)

Section 5-100. Requirement for building site.

(a) *Basic Criteria.* Every structure must be located upon a building site meeting all of the following criteria:

- (1) The entire site must be contiguous and under common fee-simple ownership.
- (2) The site must consist of one or more whole subdivided lots, excluding only: (i) common use areas and (ii) areas lost because of public acquisition, adverse possession, discrepancies in boundaries or similar cause.
- (3) Common-use areas are excluded.
- (4) The site may not include any area within another building site.
- (5) The site must have the minimum dimensions prescribed by Table 5-1 and this Article.

Exception: If, after the 1987 effective date, the Z&PC approves a plan, plat or replat establishing a building site with smaller dimensions, the smaller dimensions do not violate this Ordinance.

- (6) The site must have a common boundary with a street area containing a constructed roadway approved and accepted by the city, or, in a QMDS, with a private street or other platted accessway.

(b) *Certain Exceptions.* This section does not apply to: (i) fences, playground equipment or landscaping structures, or (ii) non-building structures lawfully occupying street areas, easements or similar areas.

(Ord. No. 1949, § 1(exh. A), 9-26-2011)

Section 5-101. Designation of building site.

(a) *Owner's Action.* An owner or an owner's agent may designate a building site by submitting a permit application, plat, legal description or other document to the City showing a building site meeting the applicable criteria in effect at the time of the designation.

(b) *Administrative official's Action.* The administrative official shall designate building sites for existing structures, in accordance with the criteria in effect at the time the structures were built and in accordance with the apparent intent of the owners, but the administrative official may not combine two or more subdivided lots into one building site unless: (i) the configuration of the existing structures requires the combination, or (ii) the owner consents.

Section 5-102. Division of building sites.

(a) *Criteria For Division.* Two or more subdivided lots, which are designated as a single building site, may be divided into separate building sites if all of the following criteria are met:

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ARTICLE 5. BUILDING SITES

- (1) The division occurs along the common boundaries of subdivided lots.
 - (2) The division does not cause a condition in violation of this ordinance, unless the condition relates to buildings or structures which would not have been in violation of the City's ordinances in effect at the time they were constructed, assuming that the same division of the two subdivided lots occurred at that time.
- (b) *Specific Examples.* Examples showing the division of two subdivided lots are shown in the Lot Division Schedule, attached to this ordinance and made a part hereof. The examples shown shall not limit this Article.

Table 5-1. Building Site Dimensions		<i>General Rule:</i> This table prescribes the minimum dimensions for building sites, by District. ("DU" means "dwelling unit.") <i>Exceptions/Special Rules:</i> (1) See PDD Schedules for planned development districts. (2) See special notes in table. (3) The Z&PC may establish different dimensions by approving a plan, plat or replat (see Article 5).						
Item	Measurement	SF-1	SF-2	SF-3	TH	GR-1	GR-2	C
Old building sites (before October 24, 1987) <i>See Notes 1 and 2.</i>	Width, minimum	50 ft.	75 ft.	50 ft.	N/A	50 ft. <i>See Note 4</i>	100 ft. <i>See Note 4</i>	75 ft.
	Depth, minimum	100 ft.	105 ft.	100 ft.	N/A	100 ft. <i>See Note 4</i>	100 ft. <i>See Note 4</i>	100 ft.
	Area, minimum	5,000 sq. ft.	7,875 sq. ft.	5,000 sq. ft.	2,000 sq. ft. per DU	5,000 sq. ft. <i>See Note 5</i>	40,000 sq. ft. <i>See Note 5</i>	7,500 sq. ft.
New building sites (on or after October 24, 1987)	Width, minimum	75 ft.	75 ft.	75 ft.	N/A	75 ft. <i>See Note 4</i>	100 ft. <i>See Note 4</i>	75 ft.

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ARTICLE 5. BUILDING SITES

<i>See Note 3.</i>								
75 ft.	Depth, minimum	110 ft.	105 ft.	110 ft.	N/A	110 ft. <i>See Note 4</i>	100 ft. <i>See Note 4</i>	100 ft.
	Area, minimum	8,250 sq. ft.	7,875 sq. ft.	8,250 sq. ft.	2,000 sq. ft. per DU	8,250 sq. ft. <i>See Note 5</i>	40,000 sq. ft. <i>See Note 5</i>	7,500 sq. ft.

Note 1. 4,500 Square Foot Exception. A structure may be located on an old building site with at least 40 feet of width and at least 4,500 square feet of total area, if the building site: (i) was improved with a principal building in existence on the 1987 effective date or for any period of twenty consecutive years prior to the 1987 effective date, under circumstances where there was no additional land used for the building site, and (ii) was created by subdivision plat and not made smaller thereafter except to provide public right of way or to accommodate physical encroachments, or as specifically allowed by [Article 5](#).

Note 2. 4,300 Square Foot Exception. A structure may be located on an old building site with at least 40 feet of width and at least 4,300 square feet of total area, if the building site: (i) was created by subdivision plat approved by the city council or the Z&PC, (ii) has not been made smaller thereafter for any reason.

Table 5-1, cont.		<i>General Rule:</i> This table prescribes the minimum dimensions for building sites, by District. ("DU" means "dwelling unit.") <i>Exceptions/Special Rules:</i> (1) See PDD Schedules for planned development districts. (2) See special notes in table. (3) The Z&PC may establish different dimensions by approving a plan, plat or replat (see Article 5).							
Item	Measurement	PDD-SF1	PDD-SF2	PDD-TH1	PDD-TH2	PDD-TH4	PDD-TH5	PDD-TH7	PDD-C1
Old building sites (before October 24, 1987) <i>See Notes 1 and 2</i>	Width, minimum	50 ft.		N/A					50 ft.

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ARTICLE 5. BUILDING SITES

	Depth, minimum	100 ft.	N/A	N/A
	Area, minimum	5,000 sq. ft.	2,000 sq. ft. per DU	5,000 sq. ft.
New building sites (on or after October 24, 1987) <i>See Note 3.</i>	Width, minimum	75 ft.	N/A	50 ft.
	Depth, minimum	110 ft.	N/A	N/A
	Area, minimum	8,250 sq. ft.	2,000 sq. ft. per DU	5,000 sq. ft.

Note 3. Certain Re-Subdivisions After October 24, 1987. A subdivided lot in a SF-1, SF-3 or GR-1 District may be further subdivided to produce a building site with less than seventy-five (75) feet of width or less than one hundred ten (110) feet of depth if all applicable procedures under state law and the City's ordinances, rules and regulations are followed and one of the following three sets of circumstances is present: (A) All portions of the subdivided lots are added to adjoining subdivided lots. (B) The number of lots is not increased, and all resulting lots have: (i) a depth greater than or equal to the depth of the shallowest lot before the re-subdivision, and (ii) a width greater than or equal to the width of the narrowest lot before the re-subdivision; provided that no resulting lot is irregularly shaped (unless it was so shaped before the re-subdivision). (C) A portion of the subdivided lot is needed for City use or utility or service use.

Note 4. Width & Depth in GR-1 and GR-2 Districts. Minimum widths and depths do not apply to single-family uses (attached or detached).

Note 5. Area in GR-1 and GR-2 Districts. Minimum area is 2,000 sq. ft. for single-family uses (attached or detached).

ARTICLE 6. COMPLIANCE REQUIRED

ARTICLE 6. COMPLIANCE REQUIRED

[Section 6-100. Certain conduct unlawful.](#)

[Section 6-101. Certain affirmative defenses.](#)

[Section 6-102. Penalty and remedies.](#)

Section 6-100. Certain conduct unlawful.

- (a) *General.* It shall be unlawful for any person to use, own, possess, rent (as landlord or as tenant), occupy or control any real or personal property within the City which does not comply with this ordinance.
- (b) *Construction, alteration, etc.* It shall be unlawful for any person to erect, move, construct or alter any real or personal property within the City which does not comply with this ordinance.
- (c) *Permits, licenses, etc.* It shall be unlawful for any person to use, own, possess, rent (as landlord or as tenant), occupy, control, erect, move, construct or alter any real or personal property if this ordinance requires a permit, license, or other permission for such conduct, unless the required permit, license or other permission has been duly issued and is in effect.
- (d) *Other violations.* It shall be unlawful for any person to violate any other provision of this ordinance.

Section 6-101. Certain affirmative defenses.

It is an affirmative defense in any proceeding to enforce this ordinance that any of the following sets of circumstances is applicable:

- (1) A variance, special exception or planned development district ordinance authorizing the condition or activity in question was duly issued or adopted, as the case may be, and all limitations and conditions therein prescribed are completely observed and fulfilled.
- (2) The condition or activity in question had status as a prior non-conformity (with respect to the provision alleged to be violated) at the time of the alleged violation, in accordance with [Article 12](#)
- (3) The condition or activity in question is: (i) controlled by the City itself or its officers, agents, employees or contractors, in the course of their duties for the City, and (ii) approved by the City Council.

Section 6-102. Penalty and remedies.

- (a) *Fines.* The violation of any provision of this ordinance shall be punishable by a fine. No fine shall exceed any limit imposed by state law. The fine for each offense may not exceed \$2,000, provided that this limit shall automatically increase to include any penalty now or hereafter within the jurisdiction of the City's municipal courts under Section 29.003 of the Texas Government Code or otherwise allowed by Chapter 54 of the Texas Local Government Code or other state law. Each day any violation continues shall constitute a separate offense.
- (b) *Other remedies.* Nothing in this ordinance limits any other remedies available to the City or later becoming available to the City, including, without limitation, those remedies specified in Chapters 54

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and 211 of the Texas Local Government Code and other similar provisions of state law. All such other remedies may be availed of regardless of whether a criminal prosecution is, has been or will be pending or completed. No remedy shall be a bar to any other remedy.

ARTICLE 7. DISTRICT-SPECIFIC REGULATIONS

ARTICLE 7. DISTRICT-SPECIFIC REGULATIONS

[Section 7-100. Purpose And Applicability.](#)

[Section 7-101. Regulations, Tables, Etc.](#)

Section 7-100. Purpose And Applicability.

The purpose of this Article is to prescribe regulations which differ by district. Each regulation shall be construed to carry out the purpose and intent of this ordinance as well as the purpose for the district within which it applies.

Section 7-101. Regulations, Tables, Etc.

- (a) *In General.* Every use, building site and structure must comply with the regulations set out in the following tables: Table 7-1. Uses; Table 7-2. Yards (or 'setbacks'); Table 7-3. Open & Pervious Areas; Table 7-4a. Garage Space; Table 7-4b. Buildings; Table 7-5a. Parking, Driveways, Etc.; Table 7-5b. Certain Structures
- (b) *Projections.* Permissible projections into yards, and details about computation of open and pervious areas, are set out in Table 7-6, the "Projections Schedule."

Table 7-1: Uses		<i>General Rule:</i> Within each District: uses marked "A" are allowed as the primary use, uses marked "SE" are allowed as the primary use to the extent authorized by special exception, and uses marked "X" are prohibited. <i>Exceptions/Special Rules:</i> (1) See PDD Schedules for planned development districts. (2) See special rules noted in table. The ZBA is authorized to issue all special exceptions mentioned in this Table.							
Use Category	Specific Use	SF-1	SF-2	SF-3	TH	GR-1	GR-2	C	<u>TCC</u>
Residential	Single-family (detached)	A See Note 1				A			<u>X</u>
	Single-family (attached)	X	X	X	A See Note 1	A		X	<u>X</u>
	Other residential	X	X	X	X	A		X	<u>X</u>

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Public and Semi-Public	Park, playground, or community center (public), school (public), place of worship	<i>A See Notes 1 and 3</i>						<i>A See Notes 3 and 4</i>	X
	Private green space	<i>See Notes 1 and 2.</i>							
	School (other) <i>See Note 9</i>	X	X	X	X	X	X	<i>SE See Note 3</i>	X
	Utility or service use. See Article 8 .	<i>A See Note 1</i>							
	PWSF use.	<i>A or SE See PWSF Schedule. See Note 1.</i>							
Commercial <i>See Article 8 regarding certain sexually oriented businesses.</i>	Light commercial	X	X	X	X	X	X	<i>A See Note 11</i>	<i>A See Notes 10 and 11</i>
	Medium commercial	X	X	X	X	X	X	SE	X
	All other uses	X	X	X	X	X	X	X	X

Note 1. High-density occupancies in SF District. High-density occupancies are allowed in SF Districts only to the extent authorized by a special exception. The ZBA may issue such a special exception if it finds and determines that the occupancy is a use that is (i) accessory to a lawful primary use and (ii) reasonably compatible with nearby sites and their uses (in addition to any other findings and determinations required for a special exception). *Note:* A previously-issued special exception that authorized a use with a high-density occupancy is sufficient to comply with this note.

Note 2. Private Green Space. Vineyards, gardens, landscaping, private playgrounds and other similar uses that are predominantly pervious, vegetated and non-commercial are allowed in all districts. Unless otherwise authorized by a special exception, the only structures allowed are fences, playground equipment and landscaping structures (e.g., low, retaining walls, borders, etc.). The ZBA may issue a special exception to authorize other structures. The special exception shall include a site plan specifying and limiting allowable structures. If so ordered by the ZBA, the site plan controls over any other ordinance to the contrary.

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However, the site plan may not specify yards (or "setbacks") different from those otherwise required, unless the ZBA finds that the different yards are: (i) necessary for efficient use of the available space and (ii) compatible with nearby sites and their uses. The special exception may allow accessory structures without a principal building.

Note 3. Accessory Uses and Structures. In the indicated districts, the ZBA may issue a special exception to authorize additional uses and structures, if the ZBA finds and determines that each additional use and structure is: (i) accessory to a lawful primary use and (ii) compatible with nearby sites and their uses. The special exception may include a site plan identifying and limiting such uses and structures.

Note 4. Park, Playground, Etc. In the C District, a park, playground or community center may be privately or publicly owned.

Table 7-1, cont.		General Rule: Within each District: uses marked "A" are allowed, uses marked "SE" are allowed only to the extent authorized by a special exception (see Note 3), and uses marked "X" are prohibited. Exceptions/Special Rules: (1) See PDD Schedules for planned development districts. (2) See special rules noted in table. The ZBA is authorized to issue all special exceptions mentioned in this Table.							
Use Category	Specific Use	PDD-SF1	PDD-SF2	PDD-TH1	KMU PDD-TH2	PDD-TH4	PDD-TH5	PDD-TH7	PDD-CI
Residential	Single-family (detached)	A See Notes 1 and 7							A
	Single-family (attached)	X See Note 8		A See Note 1		A See Notes 1 and 7	A See Note 1		X
	Other residential	X	X	X	X	X	X	X	X
Public and Semi-Public	Park, playground, or community center (public), school (public), place of worship	A See Notes 1 and 3							A See Notes 3 and 4

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	Private green space	See Notes 1 and 2							
	School (other)See Note 9	X	X	X	X	X	X	X	X See Note 3
	Utility or service use. See Art. 8 .	A See Note 1							
	PWSF use.	A or SE See PWSF Schedule. See Note 1							
Commercial See Article 8 regarding certain sexually oriented businesses.	Light commercial	X	See Note 5	X	SEX See Note 11	X	X	X	See Notes 6 and 11
	Medium commercial	X	See Note 5	X	X	X	X	X	X
All other uses		X	X	X	X	X	X	X	X

Note 5. *Parking Use in PDD-SF2.* The ZBA may issue a special exception to authorize parking of motor vehicles in connection with nearby commercial activities, upon approval by the ZBA of the types of vehicles, design of parking facilities (including landscaping, paving, lighting, fences or walls, signs, etc.) and curb cuts, all of which may be included as site-specific conditions of the special exception.

Note 6. *Light Office Use in PDD-C1.* The only commercial use allowed in PDD-C1 is light office use, meaning offices for conducting real estate, insurance and other similar businesses and the offices of the architectural, clerical, engineering, legal, dental, medical and other established and recognized professions, in which only such personnel are employed as are customarily required for the practice of such business or profession.

Note 7. *Garden-style use in PDD-TH4.* "Garden-style" single family detached use is allowed in PDD-TH4 if authorized by a site plan meeting the requirements of Ordinance No. 1560, adopted October 12, 1998, which is continued in effect for the original site plan and for amendments and replacements of that plan. Such a site plan, after approval by ordinance in accordance with [Article 14](#), controls over any provision elsewhere in this ordinance.

Note 8. *Attached dwellings in PDD-SF3.* Any existing attached dwellings which complied with the former Schedule PDD-TH3 (Browning Townhouse PDD) at the time of their construction have PNC status, under and subject to [Article 12](#) of this ordinance. The minimum width for interior side yards for such dwelling units is zero where there is an existing common wall (or existing

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continuously-abutting separate walls) along the property line, in either case with a four-hour fire rating or better. The minimum number of parking spaces is two per dwelling unit, and additional guest parking is not required, notwithstanding other provisions of this ordinance or any special exception issued under this ordinance.

Note 9. School (other). A special exception may authorize this use on sites wholly within the C District or partially within the C District and partially within another district.

(Ord. No. 1799, § 1(ex. A), 5-23-2005)

Note 10. Uses in TCC. The only uses allowed in TCC are retail, light office use, and food service use. TCC does not allow for residential use of any kind, bars or club uses, entertainment venues, sexually oriented businesses, auto-intensive uses, gambling establishments, surgical or emergency clinics, or any medium commercial uses.

Note 11. Hours of operation. In the C, TCC, KMU and PDD-C1 districts, hours of operation for commercial uses shall not unreasonably impact the residential character of adjoining residential districts. All operations, including deliveries and other outdoor activity, shall comply with the City's noise regulations; see Chapter 54 of the Code of Ordinances. All commercial garbage and trash collection activities shall comply with Chapter 38 of the Code of Ordinances.

Table 7-2: Yards (or 'setbacks')		General Rule: No part of any structure may be located within a part of a building site included within a yard defined, by District, in this table. ("N/A" means the rule does not apply.) Exceptions/Special Rules: (1) Structures may be located in yards to the extent allowed by the Projections Schedule. (2) See special rules noted in table. (3) See PDD Schedules for Planned Development Districts. (4) See additional setbacks in the PWSF Schedule.							
Item	Measurement	SF-1	SF-2	SF-3	TH	GR-1	GR-2	C	TCC
Front yard	Distance from front street line.	20 feet if the building site depth is 110 feet or less; 25 feet if the building site depth is more than 110 feet but not more than 125 feet; 30 feet if the building site depth is more than 125 feet. See Note 5.			10 ft. See Note 7.	20 ft. See Note 7		30 ft. See Note 5	10 ft. See Note 9
Interior side yard	Distance from side property line (each side).	Greater of 10% of building site width or 5 feet. See Note 2.			5 ft. See Notes 4.1 and 4.2. See Note 7.			5 ft. See Notes 4.1 and 4.2.	

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Street side yard	Distance from side street line.	Greater of 10% of building site width or 5 ft. <i>See Notes 2, 3, 6.</i>	Greater of 10% of building site width or 5 feet. <i>See Notes 2, 6.</i>	10 ft. <i>See Note 7.</i>	15 ft.	See Note 9
Rear yard	Distance from rear property line.	20 ft. <i>See Note 1.</i>		20 ft. <i>See Note 7.</i>	5 ft. <i>See Note 7.</i>	5 ft. 25 ft. See Note 9
SF Bufferyard	Distance from nearest part of an SF District.	N/A	N/A	N/A	20 ft. <i>See Note 7.</i>	10 ft. N/A

Note 1. Through Lots or Building Sites or Rear Through Lots or Building Sites. If a lot or building site extends all the way through a block so that the front and rear both abut a street area, there is no rear yard. The site is a "through" or "rear through" lot or building site, and is considered to have two front yards, one at each street frontage. Front yard (setbacks) shall be as provided in Table 7-2.

Note 2. Narrow Site "3/7" Exception. Alternate side yard areas apply to a building site meeting all four of the following criteria: (A) The building site is less than 55 feet wide. (B) The use is single-family (detached) use. (C) Outside the rear yard, no main wall surface of any building is closer than 10 feet to any main wall surface of a "prior building" on another building site (unless there are "prior buildings" on both sides, each within seven feet of the property line, in which case the minimum separation from a "prior building" is eight feet). A "prior building" is a building in existence, under construction or covered by a current building permit when a building permit is issued for the subsequent building. (D) The owner has designated alternate side setback areas in a form approved by the administrative official and in accordance with all of the following criteria: (1) Minimum setback, interior: 3 feet. (2) Minimum setback, street side: 5 feet. (3) Minimum setbacks, both sides combined: greater of 10 feet or 20% of the building site width. (4) On each side, the setback is uniform in width along its entire length. See Table 7-5a regarding "alternating driveway" rule.

Note 3. Rotated Corners. For rotated corner building sites (SF-1 District only), the minimum side street yard width is: (i) 10 feet if the building site width is 65 feet or less, (ii) 10 feet plus the distance by which the width of the building site exceed 65 feet, if the building site width is more than 65 feet but less than 75 feet, (iii) 20 feet if the building site width is 75 feet or more but less than 100 feet, or (iv) for building sites 100 feet wide or more, the side street yard width is determined by the same rules as the front yard depth, except that the "depth" of the building site is measured from the side street line.

Note 4.1. Common Walls. In the TH, GR-2, and C, and all PDD-TH Districts, the ZBA may issue a special exception for a zero-width side yard, but only upon application by both property owners and only if the special exception is conditioned upon the construction and maintenance of a common wall or continuously abutting separate walls (in either case with a four-hour fire rating or better) along the property line. See, also, Note 7, below, for QMDS.

Note 4.2. Common Walls in New Townhouse Construction. In all PDD-TH districts, where new townhouses are concurrently constructed on two or more abutting building sites along a blockface, zero-width side yards are allowed by right wherever a common wall or continuously abutting separate walls will be constructed and maintained (in either case with a four-hour fire rating or better) along the property line. On each building site that contains the end townhouse in a row of attached townhouses on abutting sites, the interior side yard requirement, or the street side yard requirement for a corner site, shall apply along the side property line where a common wall or continuously abutting separate walls will not be constructed. See, also, Note 7, below, for QMDS.

Note 5. Major Thoroughfares. The ZBA may issue a special exception for a front yard less than 30 feet deep abutting a major thoroughfare, if the front yard prescribed is at least 10 feet deep, and if the special exception requires the greatest practicable amount of pervious area in the front yard.

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Note 6. Special Exception. The ZBA may prescribe a different street side yard by special exception relating to frontage. See [Article 8](#).

Table 7-2, cont.		<i>General Rule:</i> No part of any structure may be located within a part of a building site included within a yard defined, by District, in this table. ("N/A" means the rule does not apply.) <i>Exceptions/Special Rules:</i> (1) Structures may be located in yards to the extent allowed by the Projections Schedule. (2) See special rules noted in table. (3) See PDD Schedules for Planned Development Districts. (4) See additional setbacks in the PWSF Schedule.							
Item	Measurement	PDD-SF1	PDD-SF2	PDD-TH1	KMU PDD-TH2	PDD-TH4	PDD-TH5	PDD-TH7	PDD-CI
Front yard	Distance from front street line.	20 feet if the building site depth is 110 feet or less; 25 feet if the building site depth is more than 110 feet but not more than 125 feet; 30 feet if the building site depth is more than 125 feet. <i>See Note 5.</i>		10 ft. <i>See Note 7.</i>				20 ft. (Mercer Street)	5 ft. (Bellaire Blvd.)
Interior side yard	Distance from side property line (each side).	Greater of 10% of building site width or 5 feet. <i>See Note 2.</i>		5 ft. <i>See Notes 4.1 and 4.2. See Note 7.</i>				20 ft. (south property line)	N/A
Street side yard	Distance from side street line.	Greater of 10% of building site width or 5 ft.		10 ft. <i>See Note 7.</i>				10 ft. (Bissonnet)	<i>See Note 8.</i>

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		<i>See Notes 2, 6.</i>					
Rear yard	Distance from rear property line.	20 ft. <i>See Note 1.</i>	20 ft. <i>See Note 1.</i>	210 ft. for residential <i>See Note 1.</i> 10 ft. for non-residential	20 ft. <i>See Note 1.</i>	5 ft. (west property line)	<i>See Note 8.</i>
SF Bufferyard	Distance from nearest part of an SF District	N/A	20 ft. <i>See Note 7.</i>	210 ft. <i>See Note 7.</i>	20 ft. <i>See Note 7.</i>	N/A	<i>See Note 8.</i>

Note 7. Yards In QMDS. In a QMDS, yards are only required around the perimeter of the subdivision and are designated by the subdivision plat. See definition of QMDS. Standard projections into QMDS yards are allowed per the Projections Schedule. In addition:

- (a) Front yard (GR-1 or GR-2 Only): A principal building with an internal access garage may project as close as 10 feet to the street area if, in the projecting part: (a) there is a first-floor porch or with at least 80 sq. ft. of floor space (open or screened) and no dimension smaller than seven feet; (b) above the porch or court, no more than half the usable floor space is enclosed (coverings and other floor space, including open or screened porches, are allowed above all the porch or court); (c) the cornice height does not exceed 27 feet; (d) there are no more than 2.5 stories; and (e) there is no garage space.
- (b) Front yard: Bay windows, canopies and balconies at least 18 inches above grade may project up to 24 inches beyond the principal building. Steps and handrails may project up to 30 inches beyond the principal building.
- (c) Rear Yard and SF Bufferyard. Buildings up to 10 feet high (measured from finished grade to top of roof plate) may project, but not closer than 10 feet to the property line.

Note 8. Yards in PDD-C1. In PDD-C1, the yards and street lines are as follows, notwithstanding other provisions of this ordinance: (i) The rear yard is the area within 20 feet of the rear property line (the line farthest from Bellaire Blvd.) of any building site, and for this purpose, the said rear property line shall be not in excess of 120 feet from the north right-of-way line of Bellaire Blvd. Exception: The rear yard upon Lot 2, Block 35, Colonial Terrace Addition (also known as the south 140 feet of Tract 9, Cambridge Place) is the area within 40 feet of the rear property line of said lot, said rear property line being located 140 north of the north right-of-way line of Bellaire Blvd. (ii) The street side yard is the area within ten feet of any side street line where the street area is 50 feet or less in width, or within five feet of any side street line where the street area is more than 50, but less than 70, feet wide. (iii) The front yard is the area within five feet of the front street line (which is the common boundary with Bellaire Boulevard). Any area outside of a building line established by ordinance or by recorded plat is considered part of the corresponding yard.

Note 9. Yards in TCC. In TCC, except for the first property north of Rice Boulevard, the front street line is designated as the common boundary of the building site and the Edloe Street street area. For building sites with a side street along Rice Boulevard, the side yard shall be zero feet. For building sites with a side street line along University Boulevard, the side yard shall be five feet. The rear yard may be reduced by any future reduction in the width of the utility easement along the Poor Farm Ditch.

Table 7-3: Open & Pervious	General Rule: Every building site must have the minimum open and
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Areas		pervious areas shown, by District, in this table. ("N/A" means the rule does not apply.) <i>Exceptions/Special Rules:</i> (1) See PDD Schedules for planned development districts. (2) See special rules noted in table. (3) See the Projections Schedule for details about calculating open and pervious areas.							
Item	Measurement	SF-1	SF-2	SF-3	TH	GR-1	GR-2	C	<u>TCC</u>
Open area	Front yard, minimum percentage.	60%.			N/A	40%		N/A	
	Rear yard, minimum percentage. <i>See Note 6.</i>	60%. <i>See Note 1.</i>			N/A	N/A		N/A	
	Entire building site, minimum percentage.	40%			25%	25%		15%	
Pervious area	Front yard, minimum percentage	50%			50% <i>See Note 2.</i>	50% <i>See Note 2.</i>		N/A	
	Entire building site, minimum percentage.	24%			15%	15%		15%	<u>10%</u>
	Landscaping strips	Required, except for SFD uses on building sites with 5,000 sq. ft. or more. <i>See Note 3.</i>							
	Qualified trees	For SFD uses on building sites with 5,000 sq. ft. or more, Chapter 82 of the Code of Ordinance must be located within a contiguous and reasonably compact pervious area containing at least 25 sq. ft. However, additional or better pervious area may be required to comply with Chapter 82							
	Pervious	In a QMDS only, pervious pavement is allowed to be used for all vehicular							

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	pavement	areas, and part of it may count as pervious area. <i>See Note 4.</i>	
	Parking areas, interior	Each parking area containing 21 or more parking spaces must contain interior pervious areas in "island" or "peninsula" configurations aggregating in area at least two square feet for each parking space.	N/A

Note 1. Rear Yard Adjacent to Non-SF. The ZBA may issue a special exception to reduce the requirement for open area in a rear yard in a SF District to not less than 40%, if the rear yard abuts a non-SF District.

Note 2. Pervious Area in QMDS. Front yard minimum pervious area requirement in a QMDS is 40%, or 30% for a front yard in a QMDS "low-impact motor court."

Note 3. Landscaping Strips. Vegetated pervious areas required as follows: (a) minimum five feet wide adjacent to each street area (or 3.5 ft. if located in front of a fence or wall at least 3.5 feet high), and (b) minimum 18 inches wide to separate each paved vehicular area from a fence or subdivision or replat boundary. Exception: Strips are not required along alleys or where they must be crossed by sidewalks or driveways. Strips along street areas must have live, evergreen shrubs (maximum spacing is 3.5 ft.) and live qualified trees under [Chapter 82](#) of the Code of Ordinances (maximum spacing is 20 ft.). The administrative official may approve different spacing for shrubs or trees, upon a showing that (i) the spacing is allowed by standard urban forestry criteria for the particular species and location and (ii) the spacing will comply with [Chapter 82](#). The ZBA may issue a special exception to allow a landscaping strip to be located in whole or in part within a street area, if the ZBA finds that the particular landscaping will, in all probability, be allowed to remain intact for at least 50 years and that it can be maintained and will function as well as a strip located completely on private property.

Open area	Front yard, minimum percentage.	60%.	N/A	N/A
	Rear yard, minimum percentage. <i>See Note 6.</i>	60%. <i>See Note 1.</i>	N/A	N/A
	Entire building site, minimum percentage.	40%	25%	N/A
Pervious area	Front yard, minimum percentage	50%	50% <i>See Note 2.</i>	N/A
	Entire building site, minimum	24%	15%	N/A

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	percentage			
	Landscaping strips	Required, except for SFD uses on building sites with 5,000 sq. ft. or more. <i>See Notes 3 and 5.</i>		
	Qualified trees	For SFD uses on building sites with 5,000 sq. ft. or more, there must be at least one qualified tree in the front yard or in the adjacent street area. For all other uses, each qualified tree required by this ordinance or Chapter 82 of the Code of Ordinance must be located within a contiguous and reasonably compact pervious area containing at least 25 sq. ft. However, additional or better pervious area may be required to comply with Chapter 82		
	Pervious pavement	In a QMDS only, pervious pavement is allowed to be used for all vehicular areas, and part of it may count as pervious area. <i>See Note 4.</i>		
	Parking areas, interior	Each parking area containing 21 or more parking spaces must contain interior pervious areas in "island" or "peninsula" configurations aggregating in area at least two square feet for each parking space.		

Note 4. Pervious Pavement. In a QMDS, the area of the holes or gaps (if actually pervious) counts toward pervious area requirements (but no more than 30% out of any area with pervious pavement may count).

Note 5. Visual Buffer Zone. In TCC, along the east edge of each property a landscaped buffer zone shall be established consisting of trees, shrubs, and other durable vegetation adequate to minimize the transmittal of light and provide a visual buffer between a use in TCC and adjacent SF district properties. Evergreen shrubs shall be planted to form a continuous hedge with no gaps. Shrubs shall be hardy species that will withstand freezing temperatures. The plants shall be at least 18 inches in height as measured from the surrounding soil line and shall have a maximum 18 inch width at the widest portion when planted. Shrubs shall be capable of growth to not less than 48 inches in height when measured from the surrounding soil line and shall form a continuous hedge within three annual growing seasons. Shrubs shall be maintained at a height that does not interfere with overhead utility lines. Trees planted in the buffer zone shall not interfere with overhead utility lines. ~~Reserved.~~

Note 6. Old Stock Housing. The ZBA may issue a special exception to reduce the open area requirement in the rear yard, if the ZBA determines: (i) the reduction is reasonably necessary to preserve or protect old stock housing as it then exists or as it may be proposed to be remodeled or expanded (up to a total gross floor area, for all buildings on the site, that does not exceed the greater of 3,400 square feet or 200% of the gross floor area of all the buildings on the site when the principal building was built, before 1980); and (ii) there will be no substantial adverse impact upon nearby properties.

(Ord. No. 1798, § 1(ex. A), 5-23-2005; Ord. No. 1800, § 1(ex. A), 5-23-2005; Ord. No. 1872, § 1(ex. A), 4-28-2008)

Table 7-4a: Garage space	<i>General Rule:</i> Every building site, garage space and related 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
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		Development Districts. (3) See Note 1 regarding special exceptions.						
Item	Regulation	SF-1	SF-2	SF-3	TH	GR-1	GR-2	C
Garage space, in general	Garage parking spaces. See Article 10	Minimum 2.0 per DU (1.0 per DU for old stock housing); each must be enclosed or semi-enclosed and adjoin a driveway. Maximum 1.0 per 2,225 square feet of building site area, not to exceed 4.0.			Minimum 2.0 per DU; each must be enclosed.			
	Minimum garage parking space dimensions	Ten feet wide, 20 feet deep (for each required garage parking space).			12 ft. wide, 25 ft. deep (for each required garage parking space).			
Garage doors or openings	Maneuvering area	See Article 10						
	Door or opening facing front street line.	Prohibited unless: (i) the garage door is set back ten feet or more from the front yard, and (ii) there is only open area above the driveway for at least seven feet inward from the front yard, and (iii) any structure above the driveway (and within ten feet of the front yard) must be cantilevered or suspended from the building (no special posts or vertical supports being allowed).			(May affect eligibility as QMDS. See definitions in Article 2.)			
	Door or	Prohibited unless: (i) the garage door is set			(May affect eligibility as			

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	opening facing side street line	back ten feet or more from the side street line, and (ii) there is only open area above the driveway for at least seven feet inward from the side street line, and (iii) any structure above the driveway (and within ten feet of the side street line) must be cantilevered or suspended from the building (no special posts or vertical supports being allowed).	QMDS. See definitions in Article 2.)
Garage accessory buildings	Limit on non-garage space	Max. 600 sq. ft. GFA in any accessory building containing garage space.	N/A

Note 1. Special Exceptions. The ZBA may issue a special exception for a parking area, garage or driveway in another location or with a different design than prescribed by this table, if it finds that: (i) the other location or design will not unreasonably interfere with available light and air and will not significantly alter access for fire-fighting and similar needs; (ii) the other location or design will prevent the destruction of a qualified tree; (iii) in the case of the remodeling of a principal building, the location requested is the same location as an existing parking area, garage or driveway; or (iv) the location or design requested is necessary for safety considerations.

Table 7-4a, cont.		General Rule: Every building site, garage space and related structure must conform to the applicable regulations shown, by District, in this table. ("N/A" means the rule does not apply.) Exceptions/Special Rules: (1) See special rules noted in table. (2) See Article 9 regarding Planned Development Districts. (3) See Note 1 regarding special exceptions.							
Item	Regulation	PDD-SF1	PDD-SF2	PDD-TH1	PDD-TH2	PDD-TH4	PDD-TH5	PDD-TH7	PDD-C1

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Garage space, in general	Garage parking spaces. See Article 10	Minimum 2.0 (1.0 per DU for old stock housing); each must be enclosed or semi-enclosed and adjoin a driveway. Maximum 1.0 per 2,225 of building site area, not to exceed 4.0.	Minimum 2.0 per DU; must be enclosed.	N/A
	Minimum garage parking space dimensions	10Ten feet wide, 20 feet deep (for each required garage parking space).	102 feet- wide, 205 feet- deep (for each required <u>garage</u> parking space).	N/A
Garage doors or openings	Maneuvering area	See Article 10		N/A
	Door or opening facing front street line.	Prohibited unless: (i) the garage door is set back ten feet or more from the front yard, and (ii) there is only open area above the driveway for at least seven feet inward from the front yard, and (iii) any structure above the driveway (and within ten feet of the front yard) must be cantilevered or suspended from the building (no special posts or vertical supports being allowed).	(May affect eligibility as QMDS. See definitions in Article 2)	N/A
	Door or opening facing side street line	Prohibited unless: (i) the garage door is set back ten feet or more from the side street line, and (ii) there is only open area above the	(May affect eligibility as QMDS. See definitions in Article 2)	N/A

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		driveway for 10 at least seven feet inward from the side street line, and (iii) any structure above the driveway (and within ten feet of the side street line) must be cantilevered or suspended from the building (no special posts or vertical supports being allowed).		
Garage accessory buildings	Limit on non-garage space	Max. 600 sq. ft. GFA in any accessory building containing garage space.	N/A	N/A

Table 7-4b: Buildings		<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	<u>TCC</u>
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>	<u>N/A</u>
Framed area, all buildings on a building	Maximum area as a percentage of building	80%			100% <i>See Note 4.</i>			N/A	

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site	site area				
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 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 garage space.</i>	Maximum number per building site	Three	N/A		
	Height, maximum	25 ft.		35 ft. <i>See Note 2.</i>	35 ft. See Notes 12 and 13.
Principal buildings <i>See Article 10 regarding garage space.</i>	Stories, maximum	Two and one-half.	Three.	<i>See Note 6.</i>	N/A
	Height, maximum	35 feet; 25 feet in rear yard. <i>See Note 1.</i>		35 ft. <i>See Note 2.</i>	35 ft. See Notes 12 and 13.
	Minimum gross floor	1,400 square	1,200 sq. ft., each DU.	750 sq. ft, each DU	1,400 sq. ft.

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	area	feet, if used for residential purposes			
	Width, minimum	N/A	16 ft., each DU.	N/A <i>But see QMDS Schedule.</i>	N/A
<u>Height and screening of rooftop mechanical equipment</u>	<u>See Note 11.</u>	<u>N/A</u>			<u>Applies.</u>

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.

Table 7-4b, cont.		General Rule: Every structure must conform to the applicable regulations shown, by District, in this table. ("N/A" means the rule does not apply.) Exceptions/Special Rules: (1) See special rules noted in table. (2) See Article 9 regarding Planned Development Districts.							
Item	Regulation	PDD-SF1	PDD-SF2	PDD-TH1	KMU PDD-TH2	PDD-TH4	PDD-TH5	PDD-TH7	PDD-C1
Dwelling units	Maximum number per	One, plus one AQ		17.5 per acre. <i>See Note 9.</i>					One plus

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	building site					one AQ
Framed area, all buildings on a building site	Maximum area as a percentage of building site area	80%	100%. See Note 4.	100% for all dwelling types other than TH; 125% for TH. See Note 4.	100%. See Note 4.	N/A
Length or width, any building	Maximum horizontal dimension	N/A	130 feet (for residential buildings only) . See Note 3.			N/A
Exterior materials, any building.	Type	N/A	Must be of equal grade and quality, all sides. See Section 8-104			
Separation of DU's	Fire-rated wall	N/A	A four-hour firewall, or its equivalent, must separate adjoining dwelling units. See Notes 3 and 5. See also Note 10 (PDD-TH7 only)			
SF privacy protection	See Note 8.	N/A	Applies. See Note 8. See also Note 10 (PDD-TH7 only)			N/A
Accessory buildings See Article 10 regarding garage space.	Maximum number per building site	N/A	3 (applies only to sites with a principal residential use)			N/A
	Height, maximum	25 ft.		May not exceed height of a principal	25 ft.	35 ft. See Note 2.

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				non-residential building		
Principal buildings	Stories, maximum	2 and one-half	3	3 residential 1 non-residential	3	N/A
	Height, maximum, in feet	35, 25 in rear yard. See Note 1	35. See Notes 1 and 7.	35 residential 22 non-residential	35. See Notes 1 and 7.	35
	Minimum gross floor area, square feet	1,400 each DU	1,200 each DU			1,600 each DU
	Width, feet (min,), outside to outside	N/A	16, each DU			N/A
<u>Height and screening of rooftop mechanical equipment</u>	<u>See Note 11.</u>	<u>N/A</u>		<u>Applies.</u>	<u>N/A</u>	<u>Applies.</u>

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

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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, KMU 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.

Table 7-5a: Parking, driveways, etc.		General Rule: Every building site, vehicular area and related structure must conform to the applicable regulations shown, by District, in this table. ("N/A" means the rule does not apply.) Exceptions/Special Rules: (1) See special rules noted in table. (3) See Article 9 regarding Planned Development Districts. (3) See Note 7 regarding special exceptions. (4) See Article 10							
Item	Regulation	SF-1	SF-2	SF-3	TH	GR-1	GR-2	C	<u>TCC</u>
Off-street parking spaces and parking areas <i>Other regulations apply; see, e.g. Article 10</i>	Number, location, size, design	Depends on land use, layout, etc. <i>See this Table, Table 7-4a, and Article 10 (including maneuvering areas, design requirements, "same site" rule, yards, street areas, loading spaces, etc.).</i>							

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	Maneuvering areas	See Article 10	
	Grouping or sharing.	Not allowed, except in a QMDS platted parking reserve serving two or more DU's. <i>But see Note 2.</i>	
	Use of parking areas	Parking spaces for non-SFD uses may only be used for motor vehicle parking. <i>See Note 3.</i>	
Emergency accessway	Minimum width. <i>See Note 1.</i>	20 ft, via public or private street, to each principal building and each DU (or to an adjacent open area accessible to firefighters and equipment). Other regulations also apply, e.g, fire code.	
Driveways and private streets <i>Other regulations apply; see, e.g. Article 10</i>	Minimum width. <i>See Note 1.</i>	For SFD use: nine ft. For non-SFD residential use: 10 feet, or 17 feet if two-way and serving three or more DU's.	
	Maximum width (in front yard or street area) <i>See Note 1.</i>	For SFD use: (i) Driveway serving any single-bay garage: 12 feet. (ii) Driveway in a front yard serving rear garage or side-facing garage: 12 feet. (iii) Driveway in side street area of a corner site serving a side-facing garage with three or more bays: 30 feet; (iv) Any other driveway: 20 feet. For other residential uses: 24 ft. (or 35 feet if connecting to a major thoroughfare). For all other uses: 30 feet (or 35 feet if connecting to a major thoroughfare).	
	Maximum length	For non-SFD uses: 160 feet, driving distance to the nearest street area, measured along centerline from farthest end point. A longer driveway is allowed if there is an approved turnaround or second means of egress, or if the drive-way is platted as part of the common area in a QMDS.	
	Route, location	<i>See Note 6.</i>	N/A
	Spacing	For non-SFD uses: There must be at least 40 feet between the "inside" apron edges (at their narrowest points) of driveways serving the same building site.	
Pavement	Required type	For SFD use: Hard-surfaced or pervious pavement required for each	

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	<i>See Note 4.</i>	required driveway and parking space; twin "ribbons" of pavement are permitted. For all other uses: Reinforced concrete, with curbs and drains required for all vehicular areas. Exceptions: (i) See Table 7-3 (pervious pavement) and Note 4, below. (ii) See Article 10 regarding "overhang."
Markings; wheel stops.	Required type	For non-SFD uses: Parking spaces must be clearly marked on the pavement, and wheel stops are required. <i>See Note 12.</i>
Curb cuts <i>Other regulations apply; see, e.g. Article 10 and Chapter 70 of the Code of Ordinances.</i>	Number	For SFD use: Maximum one per designated building site abutting the street. For non-SFD uses: Maximum one per 50-ft. segment of street line. <i>See Note 5.</i>
	Max. width per 50-ft. segment of street line	Four feet (for aprons) plus the maximum driveway width allowed. Each curb cut must be confined to the part of the street area that directly abuts the building site(s) served. <i>See Note 1.</i>
Visibility triangles <i>See definitions in Article 2</i>	Forbidden structures, plants and other things	The following are forbidden on parts of a building site within a visibility triangle: structures, plants or other things taller than 2.0 ft. or shorter than 8.0 ft. This does not require removal of trees in existence on July 1, 1992, if kept pruned.

Table 7-5a, cont.		<i>General Rule:</i> Every building site, vehicular area and related 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) <i>See</i> special rules noted in table. (2) <i>See</i> Article 9 regarding Planned Development Districts. (3) <i>See</i> Note 7 regarding special exceptions. (4) <i>See</i> Article 10							
Item	Regulation	PDD-SF1	PDD-SF2	PDD-TH1	KMU PDD-TH2	PDD-TH4	PDD-TH5	PDD-TH7	PDD-C1
Off-street parking	Number, location, size,	Depends on land use, layout, etc. <i>See this Table, Table 7-4a, and Article 10 (including maneuvering areas, design requirements, "same site" rule,</i>							

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spaces and parking areas <i>Other regulations apply; see, e.g. Article 10</i>	design	<i>yards, street areas, loading spaces, etc.).</i>	
	Grouping or sharing.	Not allowed, except in a QMDS platted parking reserve serving two or more DU's. <i>But see Note 2.</i>	
	Use of parking areas	Parking spaces for non-SFD uses may only be used for motor vehicle parking. <i>See Note 3.</i>	
	Maneuvering areas	<i>See Article 10</i>	
Emergency accessway	Minimum width <i>See Note 1.</i>	20 ft, via public or private street, to each principal building and each DU (or to an adjacent open area accessible to firefighters and equipment). Other regulations also apply, e.g, fire code.	
Driveways and private streets <i>Other regulations apply; see, e.g. Article 10</i>	Minimum width <i>See Note 1.</i>	For SFD use: nine ft. For non-SFD residential use: 10 feet, or 17 feet if two-way and serving three or more DU's.	
	Maximum width (in front yard or street area) <i>See Note 1.</i>	For SFD use: (i) Driveway serving any single-bay garage: 12 feet. (ii) Driveway in a front yard serving rear garage or side-facing garage: 12 feet. (iii) Driveway in side street area of a corner site serving a side-facing garage with three or more bays: 30 feet; (iv) Any other driveway: 20 feet. For other residential uses: 24 ft. (or 35 feet if connecting to a major thoroughfare). For all other uses: 30 feet (or 35 feet if connecting to a major thoroughfare).	
	Maximum length	For non-SFD uses: 160 feet, driving distance to the nearest street area, measured along centerline from farthest end point. A longer driveway is allowed if there is an approved turnaround or second means of egress, or if the driveway is platted as part of the common area in a QMDS.	
	Route, location	<i>See Note 6</i>	N&A

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	Spacing	For non-SFD uses: There must be at least 40 feet between the "inside" apron edges (at their narrowest points) of driveways serving the same building site.
Pavement	Required type <i>See Note 4.</i>	For SFD use: Hard-surfaced or pervious pavement required for each required driveway and parking space; twin "ribbons" of pavement are permitted. For all other uses: Reinforced concrete, with curbs and drains required for all vehicular areas. <i>Exceptions: (i) See Table 7-3 (pervious pavement) and Note 4, below. (ii) See Article 10 regarding "overhang."</i>
Markings; wheel stops.	Required type	For non-SFD uses: Parking spaces must be clearly marked on the pavement, and wheel stops are required. <i>See Note 12.</i>
Curb cuts <i>Other regulations apply; see, e.g. Article 10</i>	Number	For SFD use: Maximum one per subdivided lot abutting the street. For non-SFD uses: Maximum one per 50-ft. segment of street line. <i>See Note 5.</i>
	Max. width per 50-ft. segment of street line	Four feet (for aprons) plus the maximum driveway width allowed. Each curb cut must be confined to the part of the street area that directly abuts the building site(s) served. <i>See Note 1.</i>
Visibility triangles	Forbidden structures, plants and other things	See Chapter 82 of the Code of Ordinances.

Note 1. Width measurement methods. Minimum driveway width refers to unobstructed vehicular access path and, for non-SFD use, pavement. Maximum driveway width refers to maximum width of pavement in a front yard or street area, excluding complying curb cut aprons. Maximum curb cut width refers to the width of the driveway plus aprons, measured at the edge of the roadway.

Note 2. Grouped or shared parking. [Article 10](#) also provides for a special exception, in certain circumstances.

Note 3. Parking exclusivity (non-SFD uses). Required parking spaces must be kept open, readily accessible and used for parking only, with no sales, dead storage, display, repair work, dismantling or servicing of any kind. Required guest parking spaces must be kept open and reserved for that use only.

Note 4. Pavement. The ZBA may issue a special exception to allow other materials if it finds that they will provide equal or better durability.

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Note 5. Curb cuts. The ZBA may issue a special exception for additional curb cuts. Two curb cuts for circular driveways specifically allowed by [Chapter 70](#) of the Code of Ordinances are not prohibited and do not require a special exception.

Note 6. Route; Alternating Driveways. Each driveway must connect garage space to the street by the most direct route. On narrow sites where alternate side yard areas apply (see "Yards" table), the following special restrictions also apply: (A) there must be a driveway located as nearly as practicable to one side of the site; (B) the side is determined in accordance with the established driveway pattern for the block face in question, if there is such a pattern; and (C) if there is no such pattern, and if there is an adjacent driveway on one adjoining building site but not the other, the driveway must be on the side farthest from the adjoining driveway. Exceptions: (i) this paragraph does not prohibit circular driveways specifically permitted under another ordinance of the City, and (ii) a driveway may be curved or moved away from the most direct route to the extent reasonably necessary to avoid destroying or seriously injuring a tree.

Note 7. Special Exceptions. The ZBA may issue a special exception for a parking area, garage or driveway (or other maneuvering area) in another location or with a different design than prescribed by this ordinance, if it finds that: (i) the other location or design will not unreasonably interfere with available light and air and will not significantly alter access for fire-fighting and similar needs; (ii) the other location or design will prevent the destruction of a qualified tree; (iii) in the case of the remodeling of a principal building, the location requested is the same location as an existing parking area, garage or driveway; or (iv) the location or design requested is necessary for safety considerations.

Note 8. Curb Cuts in PDD-TH1. (i) If a building site abuts both Bellaire Boulevard and another street, then all vehicular access shall be from the other street, and no more than two curb cuts shall be allowed. However, in the case of the development of Lots 6, 7, 8, 9 and the east ten feet of Lot 10, Block 1, Kent Place Addition, if Lot 6 is included in the same building site or in a joint development with the other lots, vehicular access shall be limited to one curb cut on Mercer Street. (ii) If a building site abuts only Bellaire Boulevard, vehicular access shall be limited to two curb cuts.

Note 9. Curb Cuts in PDD-TH5. (i) If a building site abuts both Academy and Bissonnet, no curb cuts on Bissonnet and no more than two curb cuts on Academy are permitted. (ii) If a building site abuts only Bissonnet, there may be no more than two curb cuts.

Note 10. Driveways in PDD-TH7. Cul-de-sac driveways in PDD-TH7 may not exceed 50 feet in length, or 200 feet if a terminus is provided with dimensions adequate for turning.

Note 11. Curb Cuts in ~~KMLU~~PDD-TH2. (i) If a building site abuts both Kirby Drive and another street, there may be one curb cut on Kirby Drive and on each other abutting street, ~~unless the building site involves a non-residential use, in which case no curb cut may be oriented toward, or connected to, a residential street.~~ (ii) If a building site abuts only Kirby Drive, vehicular access shall be limited to two curb cuts.

Note 12. Curbs as Wheel Stops. Curbs may be used as wheel stops. Area outside a curb-wheel stop counts toward minimum parking space dimensions if actually usable as "overhang" and not needed for maneuvering area.

(Ord. No. 1925, § 1(ex. A), 8-9-2010; Ord. No. 1977, § 1(Exh. A), 5-20-2013)

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Table 7-5b: Certain Structures		General Rule: Every structure must conform to the applicable regulations shown, by District, in this table. ("N/A" means the rule does not apply.) Exceptions/Special Rules: (1) See special rules noted in table. (3) See Article 9 regarding Planned Development Districts.						
Item	Regulation	SF-1	SF-2	SF-3	TH	GR-1	GR-2	C
Swimming pools	Maximum number per building site	One. See Note 1.			See Note 2.	N/A		
Tennis	Maximum number per	One (may only be a private tennis court).						

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courts	building site	See Note 1.		
All structures See Note 4 See, also, Article 8	Height, maximum	25 feet. But see "Buildings" table for certain building height limits.	35 ft. See Note 3.	

Note 1. Tennis Courts., Swimming Pools in SF Districts. Each tennis court in a SF District must: (i) be a private accessory structure for a single building site, (ii) be used for residential purposes only, (iii) be open to the sky, but enclosed and screened to a height of at least eight feet on all sides, and (iv) never be lighted for play. Each swimming pool in an SF District must be a private accessory structure for a single building site and used for residential purposes only.

Note 2. Swimming Pools, Tennis Courts In TH Districts. The ZBA may issue a special exception for a tennis court or a swimming pool if the ZBA finds that the proposed facility will not create a drainage or noise problem and will not cause a significant increase in traffic on nearby streets. Tennis courts and swimming pools must comply with the tennis court and swimming pool regulations in the SF Districts, but may serve commonly-platted or restricted sites. See Note 1.

Table 7-5b, cont.		General Rule: Every structure must conform to the applicable regulations shown, by District, in this table. ("N/A" means the rule does not apply.) Exceptions/Special Rules: (1) See special rules noted in table. (3) See Article 9 regarding Planned Development Districts.							
Item	Regulation	PDD-SF-1	PDD-SF-2	PDD-TH1	KMU PDD-TH2	PDD-TH4	PDD-TH5	PDD-TH7	PDD-C1
Swimming pools	Maximum number per building site	One. See Note 1.		See Note 2.					
Tennis courts	Maximum number per building site	One (may only be a private tennis court). See Note 1.							
All structures See, also,	Height, maximum	25 feet. But see "Buildings" table for certain building height limits.							35 ft. See Note 3.

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Note 3. 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 4. Utility Poles. An ordinary utility pole owned by a franchisee of the City may be up to 43 feet high, if the administrative official certifies that the additional height is necessary to separate wires of different voltages and capacities from each other and from the ground, applying standard technical codes and utility safety guidelines.

Table 7-6. Projections Schedule

Projections Schedule		<i>General Rule:</i> This schedule describes certain structures which are allowed to "project" into yards (or setbacks). It also provides special rules for calculating open and pervious areas affected by such structures. See the "Yards (or 'setbacks') and the "Open & Pervious Areas" tables.				
Type of Structure		Maximum Allowed Projection (In Inches), Measured From The Inside Edge Of The Yard				Special Rules For Calculating Open & Pervious Areas
		Front Yard	Rear Yard	Side Yard	SF Bufferyard	
Buildings And Attached Structures	Items above ground level: Eaves, cornices, roof extensions, "greenhouse" and bay windows (no floor space), window sills, cantilevered building space, window boxes, belt courses, window air conditioners and similar parts of buildings.	15" <i>See Note 1.1.</i>	15" <i>See Notes 1.1 and 13</i>	24" except that no item below the eave may be closer than 36" to the SPL. <i>See Notes 1.1 and 13.</i>	15" <i>See Notes 1.1 and 13.</i>	The area does not count as open area.

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Items at and above ground level: Chimneys/fireplaces (with cross-sectional areas of 8 square feet or less) and similar parts of buildings.	15"	15" See Notes 1.1 and 13.	12" except that no item below the eave may be closer than 36" to the SPL. See Notes 1.1 and 13.	15" See Notes 1.1 and 13.	The area does not count as either open or pervious area.
Porches/platforms/decks higher than 14 inches, and similar structures attached to a building.	0, but see Note 1.2. See Note 1.1.	0 See Notes 1.1 and 13.	0 See Notes 1.1 and 13.	0 See Notes 1.1 and 13.	The area does not count as either open or pervious area. The area beneath a deck may count as pervious area if rain is allowed to pass through the deck.
Steps not higher than the first floor level.	120" See Note 1.1.	0 See Notes 1.1 and 13.	0. See Notes 1.1 and 13.	0. See Notes 1.1 and 13.	The area does not count as either open or pervious area.

Table 7-6. Projections Schedule, cont.

Type Of Structure	Maximum Allowed Projection (In Inches), Measured From The Inside Edge Of The Yard.	Special Rules For Calculating Open & Pervious Areas

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		Front Yard	Rear Yard	Side Yard	SF Bufferyard	
Buildings And Attached Structures, Cont.	Items near ground level: porches, platforms and decks higher than six inches but not higher than 14 inches, and similar structures attached to buildings	120" <i>See Note 1.1.</i>	No limit. <i>See Note 1.1.</i>	0 <i>See Note 13.</i>	No limit	The area counts as open area. The area beneath a deck may count as pervious area if rain is allowed to pass through the deck.
	Other parts of buildings and structures attached to buildings.	0, but see Note 2. <i>See Note 1.1.</i>	0, but see Notes 3 and 4. <i>See Notes 1.1 and 13.</i>	0, but see Note 5. <i>See Note 13.</i>	0, but see Note 3. <i>See Notes 1.1 and 13.</i>	The area does not count as either open or pervious area.
Ground level and underground items	Sidewalks, patios, porches/platforms/decks, retaining walls, driveways, parking areas and similar structures not higher than six inches; all underground structures. <i>See also Table 7-3 regarding pervious pavement.</i>	No limit, except that decks may not project more than 120"	No limit	No limit	No limit	The area counts as open area but not as pervious area unless the material is completely pervious to water. The area beneath a deck may count as pervious area if rain is allowed to pass through the deck. <i>See Table 7-3.</i>

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Mechanical Equipment	Air conditioning equipment, pool equipment, and similar freestanding mechanical equipment	0	See Note 6.	See Note 6.	0	The area does not count as either open or pervious area.
	Utility meters and related apparatus	0	No limit	15"	12"	The area may count as both open area and pervious area.

Table 7-6. Projections Schedule, cont.

Type Of Structure		Maximum Allowed Projection (In Inches), Measured From The Inside Edge Of The Yard.				Special Rules For Calculating Open & Pervious Areas
		Front Yard	Rear Yard	Side Yard	SF Bufferyard	
Certain Accessory Structures	Basketball goals	120"	No limit	No limit generally, <i>but see Note 7.</i>	No limit	The area may count as both open area and pervious area.
	Playground equipment	0	No limit	0	No limit	The area may count as both open area and pervious area.
	Flagpoles	120"	0	0	0	The area may count as both open area and pervious area.
	Fences	0, <i>but see Notes 8.1,</i>	No limit	No limit, <i>but see Notes 8.1, 8.2 and</i>	No limit	The area does not count as either open or pervious

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		<i>8.2, and 12.</i>		<i>11.</i>		area.
Swimming pools	0	0, but see Note 9	0, but see Note 9.	No limit		The area counts as open area. Only the water area counts as pervious area.
Tennis courts (with associated screens)	0	0	0	No limit		The area counts as open area but not pervious area (unless the area is made of grass).
Lights and lampposts	No limit generally, but see Note 10.	No limit generally, but see Note 10.	No limit generally, but see Note 10.	No limit generally, but see Note 10.		The area may count as both open area and pervious area.
Gate closers	24"	No limit	No limit	No limit		The area may count as both open area and pervious area.
Signs (see Code of Ordinances)	No limit	0	0	0		The area does not count as either open or pervious area.

Note 1.1. Projections in QMDS. See QMDS Schedule.

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. (c) Supporting vertical columns, if the total width of the outer faces of the columns does not exceed either 50% of the outside perimeter of the porch or 25% of the theoretical

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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).

Note 2. Gas Pipeline Sites. A principal building may project into the front yard if: (a) the building site includes land in the rear of the building site subject to a gas transmission easement thirty feet or wider that is actually traversed by a gas transmission (not distribution) pipeline; (b) no part of the principal building, except items that are otherwise allowed to project into front setback areas, is within twenty feet of the front street line; and (c) The entrance to garage space is not closer than thirty feet to the front street line.

Note 3. Buildings In Rear Yard or SF Bufferyard. A building may be located in a rear yard or SF Bufferyard if it meets all of the following criteria: (a) No part of the building may be closer than five feet to the rear property line (or to any SF District, if in a SF Bufferyard). (b) Within ten feet of another building site in an SF District (whether on the side, rear or otherwise), it may have no window, door or other opening above the ground floor (and facing the property line of the other building site), except for translucent (but not transparent), non-operable openings. (c) Space in any projecting building may only be used for single-family (detached) use. (d) A principal building may not project unless the ground floor of the projecting part is at least 51 percent garage space, and there is no more than 600 square feet of building space, other than garage space, in the projecting part). See garage restrictions in [Article 10](#).

Note 4. Railway/Gas Sites. A building may be located in a rear yard if: (a) the yard abuts land used for railway purposes or gas transmission (not distribution) pipeline purposes; (b) the building does not occupy any area subject to a utility easement or drainage easement, unless each entity claiming an interest in the easement grants its consent or acquiescence to the encroachment; and (c) the building is an accessory building. If these criteria are met, the normal restrictions for rear yard projections do not apply (see notes above).

Note 5. Garages In Side Yards. A building may project toward an interior side property line (not a side street line) if it meets all of the following criteria: (a) No part of the building may be closer than three feet to the side property line. *Exception:* Eaves may be as close as two feet. (b) The projecting part may only contain garage space and space above the garage (plus stairway and eaves). (c) Any projecting part must be at least seventy feet from the front street line. (d) Within ten feet of another building site in an SF District (whether on the side, rear or otherwise), the building may have no window, door or other opening above the ground floor (and facing the property line of the other building site). *Exception:* There may be translucent (but not transparent), non-operable openings.

Note 6. Equipment In Rear or Side Yard.

REAR YARD: Indicated equipment may project into a rear yard only if: (a) separating the equipment from any building site across the rear lot line, there is a solid wall at least one foot higher than the highest part of the equipment; (b) if the equipment occupies any part of an easement under the control of the City, the City has issued a separate acquiescence or consent to the occupancy of the easement; (c) there has been formally granted to the city any utility easement deemed necessary by the City's chief utility official; (d) the base of the equipment is not higher than 14 inches above the ground (*Exception:* The base may be elevated to the minimum level of the lowest floor of the principal building, as established by the City's flood damage prevention ordinance, if that level is higher than 14 inches above the ground.); and (e) if located within five feet of any property line, the equipment is fully encased in a sound-absorbing cabinet or is otherwise designed and operated to comply with the City's noise regulations; see [Chapter 54](#) of the Code of Ordinances.

SIDE YARD: Indicated equipment may project into an interior or street side yard (but not closer than three feet to a property line) only if it is fully encased in a sound-absorbing cabinet, or is otherwise designed and operated to comply with the City's noise regulations; see [Chapter 54](#) of the Code of Ordinances. However, equipment replacing older equipment in a side yard may project as close as 18 inches to a property line, if the fire marshal determines that such projection will not significantly interfere with emergency access, either on the same site or on another site.

NEW AND REPLACEMENT EQUIPMENT: These rules apply to all new and replacement equipment. *Exception:* If older equipment was lawfully installed on an elevated structure in a rear yard, replacement equipment may be installed on the same structure. If the older equipment was lawfully installed without the required separating wall, the wall must be provided, but it may be either solid or at least 50% solid (e.g., lattice). All other rules apply.

Note 7. Basketball Goals. No part of the equipment may be closer than ten feet to any street line.

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.

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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.

Note 9. Swimming Pools. Except as specifically allowed by another ordinance of the City governing setbacks for swimming pools and appurtenances.

Note 10. Lampposts. Maximum diameter of projecting posts is six inches; maximum height is eight feet.

Note 11. Rotated Corner Fences. Notwithstanding any other provision of this ordinance or any other ordinance, no fence is allowed in the side street yard of a rotated corner building site (SF-1 District), except for temporary construction fences required by [Chapter 18](#) of the Code of Ordinances.

Note 12. Front Fences in Townhouse Districts. On a building site in a townhouse district (including the TH and PDD-TH districts), there may be fences in the front yard, but not higher than seven feet and not closer than five feet to the front street line. More permissive provisions elsewhere may also apply.

Note 13. Old Stock Housing. The ZBA may issue a special exception to authorize projection of buildings and attached structures into a side yard, rear yard or an SF Bufferyard, if the ZBA determines: (i) the projection is reasonably necessary to preserve or protect old stock housing as it then exists or as it may be proposed to be remodeled or expanded (up to a total gross floor area, for all buildings on the site, that does not exceed the greater of 3,400 square feet or 200% of the gross floor area of all the buildings on the site when the principal building was built, before 1980); and (ii) there will be no substantial adverse impact upon nearby properties.

(Ord. No. 1797, § 1(ex. A), 5-23-2005; Ord. No. 1798, § 1(ex. A), 5-23-2005; Ord. No. 1799, § 1(ex. A), 5-23-2005; Ord. No. 1840, § 1(ex. A), 4-23-2007; Ord. No. 1869, § 1(ex. A), 4-28-2008; Ord. No. 1870, § 1(ex. A), 4-28-2008; Ord. No. 1871, § 1(ex. A), 4-28-2008; Ord. No. 1872, § 1(ex. A), 4-28-2008; Ord. No. 1878, § 1(ex. A), 8-25-2008; Ord. No. 1879, § 1(ex. A), 8-25-2008; Ord. No. 1925, § 1(ex. A), 8-9-2010; Ord. No. 1979, § 1(Exh. A), 5-20-2013)

ARTICLE 8. ADDITIONAL REGULATIONS

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Section 8-100. Purpose And Applicability.

This Article prescribes additional regulations to supplement the district-specific regulations and to reduce adverse effects upon adjacent properties and districts. Unless otherwise specifically indicated, the regulations in this Article apply in all districts.

Section 8-101. Building Site Requirement.

See [Article 5](#) for the requirement that each structure be located upon a building site meeting certain criteria.

Section 8-102. Accessory Structures; Use And Density

- (a) *Number.* The number of non-building structures per building site is not generally restricted, but each one must be accessory to a lawful use of the building site.
- (b) *Accessory Status.* Any buildings in addition to the principal building on a building site must be accessory to the principal building and accessory to a lawful use of the principal building. But see, Table 7-1, Note 2.
- (c) *Density Compliance.* Any structure designed, constructed, adapted or maintained for a use or a density not specifically permitted by this ordinance is prohibited.

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Section 8-103. Transition Features.

- (a) *When Required.* Each building site must have the transition features required by this section if it lies directly across the street from, or within 20 feet of, another building site restricted by this ordinance to a use less intensive than the actual use of the first building site. Intensities of uses are ranked in the following order, beginning with the least intensive use:
- (1) Single-family (detached) use;
 - (2) Single-family (attached) use;
 - (3) Other residential use;
 - (4) Any other use.
- (b) *Fence Or Wall.* If the building site lies within 20 feet of the less-intensive use, there must be an opaque fence or wall eight feet in height separating the more-intensive activities on the building site from the less-intensive use. ~~In KMU, the fence or wall height shall be 10 feet along the rear of a building site that fronts on Kirby Drive and where the abutting less-intensive use is a single-family detached or attached residential use.~~ The side of the fence or wall facing the less-intensive use must be finished.
- Exception: In PDD-C1, the fence or wall must be at least six, but not more than seven, feet high.
- (c) *Across-Street Requirement.* If the building site lies directly across the street from the less intensive use, there must be the greatest practicable amount of pervious area within the ten feet of the building site closest to the less-intensive use.

Section 8-104. Non-Residential Sites And Buildings.

- (a) *Buildings, Entrances, Etc.* If a building site with a non-residential use abuts both a residential street and a major thoroughfare, none of the following may face, or be located adjacent to, the residential street: (i) any building on the site, (ii) any primary entrance to a building, or (iii) any structure or device designed to provide goods or services. On such a building site, no sign, driveway or curb cut may be oriented toward, or connected to, a residential street. *Exception:* This does not apply to temporary driveway access authorized by a special city permit, if the permit is issued in connection with nearby construction or other temporary conditions. Such a permit may not have a term longer than two years, may not authorize destruction of any large tree (see Code of Ordinances) and must require restoration of the affected driveway area to its pre-existing condition.
- (b) *Buildings In C District.* If a building site with a non-residential use in the C District adjoins a building site in a residential district, none of the buildings on the non-residential building site, and no structure or device designed to provide goods or services, may face the adjoining building site.
- (c) *Building Materials.* The materials of each building with a non-residential use must be of equal grade and quality on all sides. No such building may have an exterior surface of mirrored glass.
- ~~(d) *Building Materials in TCC District.* In the TCC District, all structures shall have exterior finishes that are consistent with those of the religious, governmental and educational facilities located in the Town Center area. Examples of acceptable finishes include brick, natural and cast stone, and store front glazing systems. Structural frames shall be constructed of steel or reinforced concrete.~~
- ~~(e) *Limitation on Outdoor Customer Service Areas.* When a building site with a non-residential use abuts a residential property, any outdoor seating, assembly or other area that is partially or entirely outside a building and intended for patronage by or service to customers of the non-residential use shall be located only in front of a line connecting the midpoints of the two opposite side property lines of the~~

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building site. Any such outdoor activity shall also comply with the City's noise regulations; see Chapter 54 of the Code of Ordinances.

(Ord. No. 1750, 11-24-2003)

Section 8-105. Loading docks and waste storage areas.

All loading docks and waste storage areas must be surrounded by special screens. Any gates or openings in the special screens must be kept securely closed when not in use. No part of a waste storage area may be located within ten feet of any adjoining building site used for residential purposes.

Section 8-106. Parking, Garages, Driveways, Loading Areas.

[Article 10](#) also regulates parking, garages, driveways and loading areas.

Section 8-107. Outdoor Lighting

- (a) *Intent.* The intent of this section is to require outdoor lighting to use "full cut-off" fixtures, low-output bulbs, shields or other methods to reduce light trespass, glare and light pollution and to encourage energy conservation.
- (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.
- (c) *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 yard or street side 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.

Section 8-108. Sexually oriented businesses.

- (a) *Spacing.* Notwithstanding any other provision of this ordinance to the contrary, a "regulated establishment" (as defined in the sections of the Code of Ordinances relating to sexually oriented businesses) may not be located:
 - (1) within 750 feet of any school, church, youth athletic facility or licensed day care center, within the City, which facilities are hereby found and determined to be inconsistent with the operation of a regulated establishment; or

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- (2) within 250 feet of any other such regulated establishment for which there is a permit.
- (b) *Measurement.* Measurements for the foregoing distance regulations shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the building site where the regulated establishment is located to the nearest point on the property line of the building site occupied by the other facility or establishment.
- (c) *Other Provisions.* The provisions of this Ordinance and the provisions of the Code of Ordinances relating to sexually oriented businesses shall both be applied to regulated establishments, and said provisions of the Code are adopted, confirmed and made a part of this Ordinance by this reference.

Section 8-109. Maintenance.

Any facilities or structures required to comply with this ordinance or with any variance or special exception must be maintained in good working order.

Section 8-110. Frontage and side yard.

- (a) *Special Exceptions.* The ZBA may issue a special exception to change the front street line of a building site from one street to another, if it finds that the change will not unduly alter the character of the immediate neighborhood and will not unreasonably interfere with sight lines or other safety factors.
- (b) *Minimum Street Side Yard.* In connection with any such special exception, the ZBA shall prescribe a special width for the street side yard, which shall control over the general yard width requirement. The minimum width the ZBA may prescribe is determined by the width of the building site measured along the new front street line (formerly the side street line), as follows:

Width Of Building Site	Minimum Street Side Yard
Less than 60 feet	10 feet
60 feet or more, but less than 70 feet	15 feet
70 feet or more, but less than 80 feet	20 feet
80 feet or more	The same setback distance which would be required if the side street line were the front street line (i.e., front yard depth).

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Section 8-111. Other Ordinances.

Other ordinances also apply to structures and activities regulated by this ordinance. See, for example, Chapters 6, 10, 18, 26, [62](#), 70 and 74 of the City's Code of Ordinances.

Section 8-112. Other Laws.

- (a) *Purposes.* The purposes of this section are: (i) to recognize that federal or state laws (or constitutions) can amend or take precedence over this Ordinance, (ii) to establish an efficient method to respond to claims that such a law has amended or taken precedence over this Ordinance, (iii) to allow claimants to get an official ruling on such claims before there is a violation of this Ordinance, and (iv) to encourage interpretations and rulings that would harmonize this Ordinance with all federal and state laws, whenever practicable. Requests for the City to make an accommodation or other legally-required exception are included in this category of claims.
- (b) *Notice.* A person with such a claim may notify the Administrative official. To be effective, a notice must: (i) identify the law upon which the claim is based as well as the part of this Ordinance claimed to be amended or otherwise affected, (ii) identify the specific premises and activities proposed, (iii) include identification data for the persons who would carry on the activities, if identity is relevant under the law upon which the claim is based, and (iv) be signed, verified by affidavit and delivered to the Administrative official. The Administrative official may promulgate a standard form and may require supplemental information.
- (c) *Endorsement.* When an effective notice is delivered, the Administrative official shall examine it and attempt to confirm the information provided. The administrative official may request the assistance of other City officials and, if appropriate, law enforcement agencies. If the Administrative official determines: (i) that a notice is true and complete, (ii) that the law mentioned in the notice clearly supports the claim made and (iii) that there is no discretion about the application of the law and its effect on this Ordinance, the Administrative official shall endorse the notice to indicate the extent that part of this ordinance has been amended or otherwise altered, for the specific premises and activities mentioned in the notice. In order to make such determinations, the Administrative official may impose reasonable conditions or explanations of the endorsement.
- (d) *Appeals, Etc.* A claimant who does not receive a full, unconditional endorsement of the claimant's notice within 21 days following delivery to the Administrative official may appeal to the ZBA for such endorsement at any time. Unless a greater vote is required by state law, the ZBA, by simple majority, may issue any non-discretionary endorsement. If there is discretion involved, no endorsement may be issued, but the ZBA may issue a variance or special exception as provided below. For any appeal filed later than the 180th day following the date the notice was originally delivered, the ZBA may require a showing of good cause for the delay and a showing that circumstances have not materially changed.
- (e) *Special Exceptions, Etc.* In addition to an appeal, or in lieu of an appeal, the claimant may request a variance or special exception (note that the owner of the site must join in the request). If the ZBA makes special findings that the notice filed with the Administrative official was true and complete and that the law relied upon clearly or probably supports the claim, the ZBA may issue a special exception to cover the premises and activities claimed. Either the Administrative official or the ZBA may refer a claim to the Z&PC or the City Council if it appears that a response to the claim would require an amendment to this Ordinance.
- (f) *Confidentiality.* A claimant may request that information provided to the City under this section be held confidentially by taking these steps: (i) marking the information clearly and providing a second copy of each affected document from which the marked information has been obliterated, and (ii) providing an explanation of why the information should be kept confidential. The City shall not

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release any information claimed to be confidential unless required to do so by Chapter 552, Texas Government Code or other controlling law. For good cause shown, the ZBA may provide for confidentiality in its proceedings, also subject to Chapter 552, Texas Government Code.

- (g) *Effect of Endorsed Notice.* In any proceeding to enforce some specific part of this Ordinance, it is an affirmative defense that: (i) the alleged violation falls within the scope of the premises and activities (and the specific part of this Ordinance) mentioned in a notice filed under this section, and is carried on by the persons identified in the notice, if identity is relevant; (ii) the notice was endorsed as contemplated by this section before the violation occurred; and (iii) any conditions imposed by the endorsement were fully complied with.

Section 8-113. Utility Or Service Uses.

The ZBA may issue a special exception to authorize a non-complying activity, structure or site for a complying utility or service use, in any district, if the ZBA finds that: (i) the proposal is both necessary and reasonable, (ii) it will not unduly alter the character of the immediate neighborhood and (iii) it will not unreasonably interfere with sight lines or other safety factors. An affirmative defense may also apply to City-controlled conditions or activities under [Article 6](#). The PWSF Schedule, not this section, applies to PWSF Uses.

Section 8-114. Other Municipalities.

The Administrative official is authorized to make arrangements with other municipalities for cooperation in administration, enforcement and exchange of information, both routinely and in cases of zoning amendments and discretionary approvals.

Section 8-115. Family-Type Homes.

- (a) *Purpose and policy.* The purpose of this section is to provide for persons with disabilities who wish to share residential living arrangements in a family-type environment. This section shall be administered to carry out this purpose. Nothing in this section shall be construed as attempting to regulate the right of persons with disabilities to purchase single-family residences or to affect the right of individuals to care for family members who are disabled. Nothing in this section shall be applied to "community homes" contrary to Chapter 123 of the Texas Human Resources Code.
- (b) *Approvals.* Subject to compliance with this section:
- (1) the Administrative official may grant approval, in the form of a permit, for a family-type home for three or four persons with disabilities, plus one caregiver;
 - (2) the ZBA may grant approval, in the form of a special exception, for a family-type home for five or more persons with disabilities plus one or more caregivers, all of which shall be prescribed and limited by the special exception.
- (c) *Minimum standards.* Each home must meet the following standards:
- (1) Only residential use is allowed.
 - (2) The home must be inspected by the Administrative official and found to be in compliance with the appropriate portions of the "Minimum Licensing Standards for Facilities Serving Persons with Mental Retardation and Related Conditions," or its most current amendment as established by Texas Department of Health, Bureau of Long Term Care, or the "Minimum Licensing Standards for Personal Care Facilities" as established and amended under Texas Health &

ARTICLE 8. ADDITIONAL REGULATIONS

Safety Code, Section 247.001 et seq. If the facility is licensed by the State, the Administrative official may waive the inspection.

- (3) The home must be inspected by the Administrative official and found to be in compliance with applicable fire, housing and building codes of the city.
 - (4) The home may not be located closer than 600 feet to a pre-existing family home or a community home. The measurement is made in a straight line from property line to property line.
 - (5) The holder of the permit or special exception, and at least one designated caregiver living in the home, must affirm in writing that they will be in charge of and responsible for the operation of the home including compliance with applicable regulations.
 - (6) The permit or special exception must be prominently displayed at all times at the facility.
 - (7) A permit, but not a special exception, must incorporate a site plan submitted by the applicant which clearly shows compliance with the following criteria: (i) at least 100 square feet of floor space for each single-occupancy bedroom, (ii) at least 120 square feet in each double-occupancy bedroom, (iii) no more than two persons per bedroom, and (iv) a separate bedroom or other appropriate, designated area for the designated caregiver.
- (d) *Other provisions.* Permits and special exceptions are also subject to these additional provisions:
- (1) There is no permit or application fee.
 - (2) A permit has a term of one year. A special exception has a term of three years. Neither is transferable.
 - (3) Permits and special exceptions expire automatically if the authorized use is discontinued for 180 days or longer, or if the facility is used for conventional single-family use or other use.

ARTICLE 9. PLANNED DEVELOPMENT DISTRICTS

ARTICLE 9. PLANNED DEVELOPMENT DISTRICTS

[Section 9-100. Purpose.](#)

[Section 9-101. Certain regulations.](#)

[Section 9-102. Site criteria.](#)

[Section 9-103. Procedures.](#)

Section 9-100. Purpose.

The purpose and intent of this article is to provide a flexible, alternative procedure to encourage imaginative and innovative designs for the unified development of property in the City, with overall use regulations as set forth below and in accordance with the City's comprehensive plan. A planned development district is designed: (i) to allow development other than single family (detached) uses which is harmonious with close proximity to SF Districts and will provide a benefit to residents of the City; (ii) to enhance and preserve areas which are unique or have outstanding scenic, environmental, cultural or historic significance; (iii) to provide an alternative for more efficient use of land, resulting in smaller utility networks, safer streets, more open space, and lower construction and maintenance costs; (iv) to encourage harmonious and coordinated development, considering natural features, community facilities, circulation patterns and surrounding properties and neighborhoods; (v) to facilitate the analysis of the effect of development upon the tax base, the local economy, population, public facilities and the environment; and (vi) to require the application of professional planning and design techniques to achieve overall coordinated developments and avoid the negative effects of piecemeal or unplanned development.

Section 9-101. Certain regulations.

Within a PDD, the applicable regulations shall be described in the corresponding PDD schedule. A PDD schedule must require a minimum setback from the front street line on each building site of five feet, except for PDD's established in the C District. A PDD schedule may include the following land uses, and no others, determined by the pre-existing district in which the PDD is proposed:

- (1) In a SF District: single-family (detached) use only.
- (2) In a non-SF residential district: any use permitted in the GR-2 District.
- (3) In a non-residential district: any use permitted in the GR-2 District or the C District.

(Ord. No. 1801, § 1(ex. A), 5-23-2005)

Section 9-102. Site criteria.

A person applying for the establishment of a PDD must own the entire area subject to the application. *Exception:* In the C District, two or more persons may own the area subject to the application, if they jointly apply for a single PDD. The area must include either: (i) 40,000 square feet or more, all contiguous or separated only by a street, or (ii) 30,000 square feet or more, all contiguous.

(Ord. No. 1801, § 1(ex. A), 5-23-2005)

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Section 9-103. Procedures.

- (a) *Submissions.* The applicant must submit a development plat (which may be the same as a plat submitted under another ordinance of the City, if allowed by such other ordinance) and a development report containing a general description of the proposed development and an analysis of traffic patterns, street areas, drainage, utilities, and maintenance of public spaces, together with any additional items the administrative official or the Z&PC may reasonably request.
- (b) *Processing.* The processing procedure for approval of a PDD shall be the same as for an amendment to this ordinance. If a PDD is approved, the Zoning District Map shall be amended to show the PDD boundaries, and a PDD schedule shall be added to this ordinance to provide the necessary regulations.
- (c) *Review; No Entitlement.* The review of a PDD, like all amendments to zoning ordinances, involves extensive procedures and legislative weighing of competing policy considerations. Therefore, no person is guaranteed or assured that a PDD either will or will not be acted upon favorably or within any given period of time, and no person shall ever be entitled to the approval of a PDD under any circumstances.

ARTICLE 10. PARKING AREAS, DRIVEWAYS AND LOADING AREAS

ARTICLE 10. PARKING AREAS, DRIVEWAYS AND LOADING AREAS

[Section 10-100. Off-Street Parking.](#)

[Section 10-101. Parking Spaces; Basic Counting Rule.](#)

[Section 10-102. Minimum Dimensions; Design.](#)

[Section 10-103. Location of parking spaces.](#)

[Section 10-104. Loading spaces.](#)

Section 10-100. Off-Street Parking.

There must be off-street parking spaces for each occupied building space within the city, as set out below, and subject to the other provisions of this ordinance:

Use of type of space	Minimum number of parking spaces
SFD use.	The number of garage parking spaces required by <u>Article 7</u> plus one additional space located between the required garage spaces(s) and the public roadway. The additional space may be on the building site or in the adjacent street area (or partly in each), but may not encroach upon any part of a public sidewalk (existing or proposed) or the roadway.

Use of type of space	Minimum number of parking spaces
Other residential space	2.5 (3.0 in PDD-TH1, KMU PDD-TH2 and PDD-TH5) per DU. See Note 1.
Community center, library, school, place of worship, museum or similar institution, which may include mixed uses and types of space served by common parking spaces (including auditoria and any high-density occupancy spaces that are part of the institution)	10.0 plus 3.33 per 1,000 square feet of gross floor area in excess of 2,000 square feet.

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ARTICLE 10. PARKING AREAS, DRIVEWAYS AND LOADING AREAS

Health care facility space (not including offices)	Greater of 1.5 per bed or 1.5 per employee on the maximum work shift.
Theater or auditorium space or space with any high-density occupancy (except as included in community center, library, school, place of worship, museum or similar institution)	Greater of: (i) 1.0 for each four seats; or (ii) 1.5 per 1,000 square feet of gross floor area, plus 1.0 for each employee on the maximum shift.
Office space used to provide medical services	6.0 per 1,000 square feet of gross floor area.
Other office space	4.0 per 1,000 square feet of gross floor area.
Physical fitness facility space	10.0 per 1,000 <u>square</u> feet of gross floor area.
Studio and gallery <u>space for visual arts, bank and financial services space (except space used for auto-intensive uses)</u>	<u>5.0 per 1,000 square feet of public area. Greater of: (i) 5.0 per 1,000 square feet of gross floor area; or (ii) 3.0 per commercial unit.</u>
<u>Bank and financial services space (except space used for auto-intensive uses)</u>	<u>3.3 per 1,000 square feet of gross floor area.</u>
Space with auto-intensive uses	10.0 per 1,000 square feet of gross floor area.
Retail space used for rental of personal property (except space used for auto-intensive uses)	10.0 per 1,000 square feet of gross floor area.
Food service space with indoor or outdoor seating such as dine-in restaurant space, club, cafe and similar recreation or amusement space (except space used for auto-intensive uses)	Greater of: (i) 1.0 for each three seats for the general public; or (ii) 10.0 per 1,000 square feet of gross floor area.
Grocery store space, <u>including neighborhood convenience store space</u>	5.0 per 1,000 square feet of gross floor area.
<u>Convenience store space (without gasoline fueling facilities)</u>	<u>4.0 per 1,000 square feet of gross floor area.</u>
<u>Retail space for the showroom display and sale of</u>	<u>2.0 per 1,000 square feet of showroom and repair</u>

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APPENDIX A - ZONING ORDINANCE*

ARTICLE 10. PARKING AREAS, DRIVEWAYS AND LOADING AREAS

<u>home furnishings and appliances</u>	<u>area.</u>
Other retail and personal service space, including carryout food service space with no indoor or outdoor seating, <u>and studios for dance, martial arts, yoga and similar activity.</u>	5.0 per 1,000 square feet of gross floor area.
Utility service space, research or testing laboratory space, laboratories, warehouses	1.0 for each three employees on the maximum working shift, plus 1.0 space for each truck or vehicle used in connection therewith.
Shopping centers	4.0 per 1,000 square feet of gross floor area, plus spaces required for office, theater, auditorium and food service space. <i>See Note 2.</i>
<u>Bar</u>	<u>13.3 per 1,000 square feet of gross floor area.</u>
All other types of space and uses	10.0 per 1,000 square feet of gross floor area used or occupied by people.
<u>All types of spaces and uses in the TCC District</u>	<u>2.60 per 1,000 square feet of gross floor area. (Applies only to principal buildings constructed after the effective date of the TCC district. Other buildings in TCC are subject to the parking requirements for C, Commercial District, uses that applied prior to the effective date of the TCC district.)</u>

Note 1. Guest spaces. There must be guest parking spaces marked and kept always available for common use, not reserved for specific persons or classes of persons. Minimum number of guest spaces: 0.5 per DU (1.0 per DU in PDD-TH1, ~~KMU~~PDD-TH2 and PDD-TH5), rounded up. See Table 7-1, Note 7 regarding parking for "garden style use" in PDD-TH4. See Articles 7 and 10 regarding grouping and other requirements.

Note 2. Additional spaces for shopping centers: (a) If office space exceeds 10% of the gross floor area of the center, add 3.0 spaces per 1,000 square feet of office space in excess of 10%. (b) If a theater or auditorium occupies 10% or less of the gross floor area of the center, add 3.0 spaces for each 100 seats in the theater or auditorium. (c) If a theater or auditorium occupies more than 10% of the center's gross floor area, the seats are apportioned on a square-foot basis, so that one portion corresponds to 10% of the gross floor area and the other portion corresponds to space in excess of 10%; for the 10% portion, add 3.0 spaces for each 100 seats, and for the portion in excess of 10%, add 25.0 spaces for each 100 seats. (d) If there is any dine-in food service space with indoor or outdoor seating, add 6.0 spaces per 1,000 square feet of gross floor area of food service.

(Ord. No. 1799, § 1(ex. A), 5-23-2005; Ord. No. 1879, § 1(ex. A), 8-25-2008; Ord. No. 1939, § 1(ex. A), 2-28-2011)

ARTICLE 10. PARKING AREAS, DRIVEWAYS AND LOADING AREAS

Section 10-101. Parking Spaces; Basic Counting Rule.

To compute the parking requirements for any particular building, the total parking requirement shall be the sum of the specific parking space requirements for each use or type of space included in the building, as set out above. Exception: This does not apply to a community center, library, school, place of worship, museum or similar institution or to shopping centers; see special rules, above.

(Ord. No. 1799, § 1(ex. A), 5-23-2005)

Section 10-102. Minimum Dimensions; Design.

- (a) *Parking Spaces.* All parking spaces must be at least nine feet wide and 18 feet long in order to be counted toward the minimum required number. In addition, the following regulations apply in the indicated circumstances for all new construction or major development projects as defined by city ordinance. There shall be no loss of PNC status for design dimensions when resurfacing or restriping an existing parking area.
- (1) Ninety-degree angle parking: Each parking space shall be not less than nine feet wide and not less than 19 feet in length. Maneuvering space shall be not less than 24 feet in length or breadth.
 - (2) Sixty-degree angle parking: Each parking space shall be not less than nine feet wide perpendicular to the parking angle and not less than 21 feet in length when measured at right angles to the building or parking line. Maneuvering space shall be not less than 18 feet perpendicular to the building or parking lines.
 - (3) Forty-five-degree angle parking: Each parking space shall be not less than nine feet wide perpendicular to the parking angle and not less than 19 feet in length when measured at right angles to the building or parking lines. Maneuvering space shall not be less than 15 feet perpendicular to the building or parking lines.
 - (4) Wheelchair-accessible parking spaces: Must be installed and maintained with numbers and sizes prescribed by applicable regulations.
- (b) *Walkways.* A private walkway, if provided adjacent to a non-SF building, shall be not less than five feet in width and shall be in addition to the minimum requirement for parking and maneuvering space herein required. In a QMDS, there must be a paved walkway (at least 3.0 ft. wide) to the curb from each main entrance oriented toward a street area.
- (c) *Maneuvering areas.* In addition to the minimum dimensions for parking spaces, there must be sufficient driveways and other maneuvering areas to allow ordinary, practical use of each required parking space. Maneuvering areas for non-SFD uses must also comply with the following:
- (1) To facilitate access to each required garage parking space, there must be a maneuvering area immediately outside the garage opening. The minimum dimensions are 24 feet long and two feet wider than the garage opening, and the area must be located entirely on the building site.
 - (2) Maneuvering areas may not be counted toward the required number of parking spaces except for townhouses in the TH and all PDD-TH districts provided that all applicable emergency access and on-site circulation requirements are met.
 - (3) Maneuvering areas (except those serving only one or two dwelling units) must be provided, sized and arranged so that a large vehicle can enter and exit the required parking areas in a forward motion without backing into the street area. As used in this section, "large vehicle" means a truck 18 feet long, with a turning radius of 24 feet (outside of bumper).

ARTICLE 10. PARKING AREAS, DRIVEWAYS AND LOADING AREAS

- (4) Reasonable, usable "overhang" above low landscaping and similar areas may be counted toward required maneuvering area.
- (d) *Traffic Engineering Handbook*. All parking spaces, maneuvering areas, loading areas and other vehicular facilities must comply with the applicable provisions of the Traffic Engineering Handbook, current edition, including, in particular, [Chapter 14](#). Where multiple standards are provided, the highest standard shall apply. Where this ordinance provides specific numerical criteria different from the same criteria in the Traffic Engineering Handbook, this ordinance controls.
- (e) *Other criteria*. See [Article 7](#) for additional criteria, including driveway, parking and garage regulations.
- (Ord. No. 1878, § 1(ex. A), 8-25-2008; Ord. No. 1977, § 1(Exh. A), 5-20-2013)

Section 10-103. Location of parking spaces.

- (a) *Same Site Rule*. All parking spaces required by this ordinance must be located on the same building site with the building space served. *Exception*: the required spaces may be located up to 300 feet from the entrance of a building served (and may be outside the City limits) for: (i) parking for building sites not used primarily for residential purposes where an increase in the number of spaces is required by a change or enlargement of use, (ii) spaces allowed by this Ordinance to be used jointly for two or more uses or types of space, or (iii) a community center, library, school, place of worship, museum or similar institution with mixed uses and types of space served by common parking spaces.
- (b) *Yards and street areas*.
- (1) In an SF district, all parking areas and maneuvering areas (including dead-end or stub driveways) must be behind the principal building or surrounded by opaque fences or walls at least six feet tall, and all such areas are prohibited in front yards. *Exception*: On a building site accessible only from a roadway marked for four lanes or more, there may be a driveway stub, if it meets all the following criteria:
- (i) The stub must be designed to allow vehicles on a driveway to turn around and enter the roadway headfirst;
 - (ii) The width of the stub may not exceed nine feet (plus up to two feet on each side for aprons);
 - (iii) The length of the stub, when added to the width of the driveway, may not exceed 24 feet (but if the site width is 60 feet or more, the length of the stub may be up to 18 feet, in addition to the actual width of the driveway);
 - (iv) The stub must be pervious pavement;
 - (v) Aprons may not be larger than two feet in any dimension;
 - (vi) No part of the stub or its aprons may be closer than two feet to any property line or public sidewalk; and
 - (vii) The stub may be located in the front yard only to the extent that existing structures or obstructions make another location impractical.
- (2) In a non-SF district, no required parking space may be:
- (i) Closer than 10 feet to a street area, except an alley; or
 - (ii) Farther than 500 feet (driving distance) from a street area.

ARTICLE 10. PARKING AREAS, DRIVEWAYS AND LOADING AREAS

- (c) *Certain Joint Use Of Spaces.* The ZBA may issue a special exception to allow up to 75 percent of the parking spaces required for any use or type of space to be used jointly for another use or type of space, if the ZBA finds that no increase in on-street parking is likely to result. See Table 7-5a.
- (d) *Above-Grade and Underground Parking Prohibited.* No parking spaces ~~shall~~may be located above grade or below grade, meaning that all off-street parking required by this Article shall be provided as at-grade "surface" parking. In the TCC district, no at-grade parking shall be located below any portion of a building.
- (e) *Easements in PDD-C1.* In PDD-C1, parking spaces may not be located in any easement for underground utilities.

(Ord. No. 1799, § 1(ex. A), 5-23-2005; Ord. No. 1894, § 1(ex. A), 4-27-2009)

Section 10-104. Loading spaces.

On the same building site with every building used for non-residential purposes there must be adequate loading space, separate and apart from the off-street parking spaces. The amount of loading space shall be sufficient in size and configuration to avoid the possibility that loading or unloading would obstruct a street or sidewalk, taking into account the proposed use of the building and the types of vehicles likely to serve it. However, there must be at least one loading area (10 wide by 30 feet long) for each 20,000 square feet of gross floor area, or fraction thereof, of building space likely to require loading space. Loading areas do not satisfy this section unless they are located within 200 feet (measured in a straight line horizontally) of the farthest point in the building space they serve.

ARTICLE 11. VARIANCES AND SPECIAL EXCEPTIONS

ARTICLE 11. VARIANCES AND SPECIAL EXCEPTIONS

[Section 11-100. General.](#)

[Section 11-101. Procedures.](#)

[Section 11-102. Findings; burden of proof.](#)

[Section 11-103. Conditions; Time Period; Etc.](#)

[Section 11-104. Variances for old stock housing.](#)

Section 11-100. General.

- (a) *Variances.* The ZBA may grant variances only in those instances specifically allowed by state law, subject to any limitations prescribed by this ordinance. In connection with the issuance of any variance, the applicant and the ZBA must comply with state law and this article.
- (b) *Special exceptions.* The ZBA may issue special exceptions only in those instances specifically allowed by this ordinance. In connection with the issuance of any special exception, the applicant and the ZBA must comply with this article.

Section 11-101. Procedures.

- (a) *Pre-application briefing.* This subsection only applies to: (i) applications for special exceptions referred to in Table 7-1, and (ii) other applications which the administrative official determines could have a significant effect upon nearby properties. Before filing such an application, the applicant must give notice and conduct a public briefing. Notices must be mailed to: (i) all owners of property located in whole or in part within 200 feet of the site, (ii) all City utility ratepayers for premises located in whole or in part within 200 feet of the site, (iii) the City Secretary, and (iv) the administrative official. Notices must be mailed no later than the 10th day preceding the date of the briefing. The briefing must be open to the public and held within one mile of the site. At the briefing, the applicants must: (i) describe the proposed structures and uses, the application documents and the application process, (ii) describe the possible alternative locations and designs and state why they were rejected, (iii) solicit suggestions from persons at the meeting, and (iv) keep detailed written minutes showing the names and addressees of all persons notified, all attendees and a synopsis of the matters discussed.
- (b) *Application.* The applicant for a variance or a special exception must submit to the ZBA all of the following:
 - (1) A written application signed by the owner of the site in question and the proposed operator, if different. Exception: The administrative official may waive or modify this requirement for publicly-owned, jointly-owned or leased sites. This application must identify the specific provision of this ordinance from which a variance is requested or the specific provision which authorizes the special exception requested, as the case may be. The ZBA may prescribe the form of the applications.
 - (2) Proof of ownership in a form satisfactory to the ZBA.
 - (3) A plat prepared by a registered public surveyor showing the site in question, areas adjacent to the building site, existing structures and proposed structures. If substantially the same

ARTICLE 11. VARIANCES AND SPECIAL EXCEPTIONS

information is shown on any plat required by [Chapter 74](#) of the Code of Ordinances, such plat may be accepted by the ZBA.

- (4) If requested by the ZBA or the administrative official, a traffic and parking analysis conforming to requirements as to scope, format and authorship as may be prescribed by the ZBA or administrative official.
- (5) Such other materials and information required by this ordinance or requested by the ZBA or the administrative official.
- (6) The filing fee for the type of application question.
- (c) *Third-party reviews.* If required by the administrative official or the ZBA, the application may be submitted to a third-party consultant, advisor or expert. Unless otherwise prescribed by the administrative official or the ZBA, the cost of such review must be paid by the applicant in advance. Such review could be requested to resolve technical or regulatory issues raised by the application, including: (i) accuracy and completeness of applications, (ii) analysis techniques and methodologies, (iii) validity of conclusions reached, (iv) other technical or regulatory issues. To provide time for such review, any hearing may be postponed or continued.
- (d) *Notice and hearing.* Before issuing or modifying any variance or special exception, the ZBA must provide notice and an opportunity for any interested person to be heard. The notice shall be given in a form prescribed or approved by the ZBA, on or before the tenth day preceding the hearing, as follows:
 - (1) By mailing a copy of the notice to the owners of building sites located within the City and located in whole or in part within 200 feet of any part of the building site upon which the variance or special exception is sought, as such owners are shown on the most recent tax roll of the City.
 - (2) By publishing the notice in a newspaper of general circulation in the City, unless the ZBA requires that a notice be posted on the building site in question, in which case the notice shall be posted as prescribed by the ZBA.
 - (3) The ZBA may prescribe additional notice for hearings or rehearings of a matter for which notice is initially given as prescribed above, and if additional notice is prescribed, the ZBA may also prescribe the form and manner of giving any such additional notice.

Section 11-102. Findings; burden of proof.

- (a) *Variances.* The ZBA may not issue or modify a variance unless all of the following circumstances are present:
 - (1) The ZBA has made all findings and determinations required by state law for the granting of a variance. A "special condition" or "hardship" that is self-created, personal or based only on financial reasons is not sufficient to support the issuance of a variance.
 - (2) The ZBA has made any additional findings and determinations required by a specific provision of this section which relates to the variance.
 - (3) The variance has been reduced to writing and includes any conditions prescribed by the ZBA or required by this section for the variance in question.
- (b) *Special exceptions.* The ZBA may not issue or modify a special exception unless all of the following circumstances are present:
 - (1) The ZBA has determined that the proposed special exception will not cause any significant increase in on-street parking, will not cause any substantial traffic congestion, will not cause any

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substantial increase in traffic or an unreasonable burden upon utility systems or upon any other public facility or public service.

- (2) The ZBA has determined that the proposed special exception will be in harmony with the general purpose and intent of this section.
 - (3) If the proposed special exception involves a bar, the ZBA has found that the applicant has clearly demonstrated that there is a readiness, willingness and ability to comply with all applicable laws, rules, regulations and ordinances relating to alcoholic beverages.
 - (4) The ZBA has made any additional findings and determinations required by a specific provision of this section.
 - (5) The special exception has been reduced to writing and includes any conditions prescribed by the ZBA or required by this section for the special exception in question.
- (c) *Burden of proof.* The applicant has the burden of presenting evidence to the ZBA and persuading the ZBA that:
- (1) Each circumstance required for a variance or special exception is present; and
 - (2) Each required finding and determination is supported by substantial evidence.

(Ord. No. 1882, § 1(ex. A), 11-10-2008)

Section 11-103. Conditions; Time Period; Etc.

The ZBA may prescribe conditions in connection with any variance or special exception to the extent necessary to enable the ZBA to make any of the findings or determinations necessary for the granting or issuance of the variance or special exception or to the extent otherwise necessary to minimize or diminish any adverse effects of the variance or special exception. Variances and special exceptions may be issued for a temporary period. All variances and special exceptions shall remain subject to the regulatory jurisdiction of the City, and none shall be deemed to grant any property right or vested right of any kind.

Section 11-104. Variances for old stock housing.

The ZBA may consider protection or preservation of old stock housing as a factor in determining whether the "hardship" test for a variance is met, either for such housing as it then exists or as it may be proposed to be remodeled or expanded.

(Ord. No. 1798, § 1(ex. A), 5-23-2005; Ord. No. 1872, § 1(ex. A), 4-28-2008)

ARTICLE 12. PRIOR NONCONFORMITIES

ARTICLE 12. PRIOR NONCONFORMITIES

[Section 12-100. Purpose.](#)

[Section 12-101. Burden of proof.](#)

[Section 12-102. Acquiring PNC status.](#)

[Section 12-103. Losing PNC Status.](#)

[Section 12-104. Work To Achieve Compliance.](#)

[Section 12-105. Special Exceptions To Extend PNC Status.](#)

[Section 12-106. Special exception, certain work under permit.](#)

Section 12-100. Purpose.

The purpose of this article is to establish rules to allow prior non-conformities ("PNCs") to continue (with certain exceptions) until they are removed or terminated, but not to encourage their survival. It is also the purpose of this article to prevent the enlargement, expansion or extension of PNCs and to limit the degree of nonconformity of PNCs.

Section 12-101. Burden of proof.

As provided in [Article 6](#), PNC status is an affirmative defense, so it is the burden of the person desiring PNC status to prove, for each non-conforming item: (i) PNC status has been acquired, and (ii) PNC status has not been lost.

Section 12-102. Acquiring PNC status.

- (a) *General Rule.* An item (defined below) acquires PNC status if: (i) the item was constructed or established in conformance with the zoning ordinance (as applicable at the time); and (ii) after construction or establishment, the item became non-conforming solely because the zoning ordinance was adopted or amended. The item acquires PNC status on the effective date of the ordinance making it nonconforming. Items which can acquire PNC status are:
- (1) A separately-existing building site.
 - (2) A structure.
 - (3) Some aspect, use or part of such a building site or structure.
- (b) *Work under construction.* For purposes of acquiring PNC status, any structure for which all necessary City construction permits have been applied for (by filing complete and effective plans, specifications, applications and all other required items, including fees) prior to a given effective date shall be treated the same as a structure constructed before the effective date, but only if: (i) the applications are eventually granted, and the permits are actually issued (before or after the effective date), and (ii) the structure is completed substantially in accordance with the same plans and specifications filed initially to obtain the permits, within the time allowed by those permits, including any extensions lawfully granted. The ZBA may grant a special exception to allow a partially-completed building to be treated the same as a building constructed before the effective date, but

ARTICLE 12. PRIOR NONCONFORMITIES

only if all of the building's significant structural elements, including the roof and all load-bearing members, were completed as of the effective date and the building is fully completed within five years thereafter.

- (c) *Other committed work.* For purposes of acquiring PNC status, any principal building constructed new or substantially remodeled after a given effective date shall be treated the same as a structure constructed before that effective date, if all of the following criteria are present:
- (1) Prior site acquisition. The person initially claiming PNC for the building ("applicant") must have acquired fee simple title to the entire building site for the building on or before the ninetieth day preceding the effective date in question.
 - (2) Diligent progress to completion. The applicant must also make, or cause to be made, diligent progress toward the completion of the principal building. Such progress must include both of the following steps: (i) completion of the plans and specifications and the filing (by the applicant) of complete and effective applications for all necessary building permits incorporating such completed plans and specifications, on or before the ninetieth day following the given effective date; (ii) completion of the construction or remodeling substantially in accordance with the same plans and specifications filed initially to obtain the necessary City permits, within the time allowed by those permits, including any extensions lawfully granted.

In case of non-compliance with side yard regulations based on 10% of the building site width as stated in the "Yards" table adopted in December 1994: (A) the time to acquire the entire building site is extended through May 31, 1995, and (B) the time to file applications for permits is extended through September 29, 1995

- (d) *Enlargement of building site and yard.* A structure located in a yard (or "setback" area) in apparent violation of Table 7-2 acquires PNC status if: (i) after the 1987 effective date, the building site was enlarged in compliance with City ordinances, (ii) the enlargement of the building site also expanded the yard to include the structure, (iii) the structure was built before enlargement of the site, and (iv) the structure did not violate the yard (or "setback") regulations before the enlargement. The structure acquires PNC status only for non-compliance with Table 7-2.
- (e) *Certain yard encroachments.* A structure located in a yard (or "setback" area) in apparent violation of Table 7-2 acquires PNC status if the ZBA issues a special exception granting PNC status. The ZBA may only issue such a special exception if it makes all of the following special findings: (i) The encroachment was inadvertent and neither misrepresented to the City nor hidden from City officials. Exception: This finding is not required if the encroachment commenced before 1970. (ii) The encroachment will not cause a substantial adverse effect on other persons. (iii) The encroachment does not create a significant health or safety risk.

Section 12-103. Losing PNC Status.

- (a) *New principal building.* If, after the 1987 effective date, a new principal building is constructed on a building site, PNC status is lost for all PNC items relating to the building site. Exceptions: (i) this does not apply to those principal buildings treated the same as structures constructed prior to a given effective date (see above); (ii) PNC status with respect to a building site dimension is not lost.
- (b) *Conformance is achieved; discontinuation.* If a PNC item is changed to conform to this ordinance for an indefinite period or for 180 days or more, PNC status is lost for that item. If a use of property is discontinued for 180 days or more (exclusive of time when actual construction work prevents the use), the use loses PNC status.

ARTICLE 12. PRIOR NONCONFORMITIES

- (c) *Loss to casualty, etc.* If 51% or more of the replacement cost of a structure is lost to casualty, eminent domain, involuntary demolition or other similar cause, the structure loses PNC status. Exceptions:

This does not apply to a building used for SFR purposes, except as to non-compliance with framed area regulations (i.e., in case of such a 51% or greater loss, PNC status for non-compliance with framed area regulations is lost). For this purpose, "replacement cost" is determined by standard cost levels for similar structures as most recently published by the International Code Council or similar agency. See, e.g., the ICC internet publication of "Building Valuation Data," which provides average construction costs per square foot, by type of construction and occupancy group, with factors to modify those costs for the Houston area. The ZBA may issue a special exception to allow such a structure to be rebuilt and retain PNC status, if the ZBA finds: (i) rebuilding is necessary to avoid substantial economic waste and economic hardship, and (ii) there will be no substantial adverse effects of the rebuilt structure.

The ZBA may issue a special exception to allow a structures in the TCC district, which predated adoption of the TCC district, to be rebuilt with a square footage that is substantially the same as existed at the time of loss to casualty, etc., if the ZBA finds items (i) and (ii) above, and, additionally, if the square footage is substantially the same.

The TCC district and its associated standards are intended, in part, to transform the physical form and character of the Town Center commercial area from its current auto-oriented nature to a design that is more safe, convenient and appealing for pedestrians and cyclists, as well as automobiles. It is recognized that this transformation will likely occur incrementally over time through new construction or rebuilding of existing structures following a loss to casualty, etc. Therefore, in evaluating special exception requests under this section, the ZBA shall generally aim to uphold the TCC district intent by requiring compliance with all other district standards. However, the ZBA may determine that some relief is warranted due to the circumstances of a particular building site, such as the impracticality of providing vehicular access to a rear parking area in the event that on-site parking along the Edloe Street frontage was to be relocated to the rear. In such cases the ZBA may apply an alternative level of compliance for the following TCC standards that is less than full compliance but also may be more restrictive than the condition that existed at the time of loss to casualty, etc.:

(1) Front, side and rear yards (setbacks).

(2) Location of the principal building on the site relative to the front or rear property lines.

(3) Off-street parking.

Otherwise, such a structure loses PNC status and may be replaced only by a new structure that conforms with applicable TCC standards at the time of the new construction.

- (d) *Violation of special conditions.* If a PNC item was specially authorized by a zoning ordinance of the City or by a special exception, variance, permit or other authorization, and if the terms or conditions of the authorization are violated, the item loses PNC status.
- (e) *Degree of nonconformity increased.* A PNC item loses PNC status to the extent that the degree of nonconformity is increased (or to the extent that the non-conforming area is expanded).

Exceptions:

- (1) This provision does not apply to the initial work on those structures treated the same as structures in existence on a given effective date pursuant to the provisions of this Article (i.e., "work under construction" and "other committed work").
- (2) If a principal building in a SF District acquired PNC status on an effective date because of a non-conformity with a new side setback or side yard requirement on one side of the building site, the building does not lose its PNC status with respect to that specific nonconformity (on

ARTICLE 12. PRIOR NONCONFORMITIES

that same side of the building site) if the nonconformity is expanded or increased as a result of a remodeling project and the gross floor area of the principal building has not increased to 200 percent or more of its gross floor area on the given effective date. A principal building so remodeled has the same PNC status as the original building with respect to the side setback or yard requirement on the same side of the building site where the original nonconformity was located, but this does not apply to any new nonconformity (on the other side or elsewhere).

- (3) If the PNC item is a shortage in off-street parking spaces serving a building, PNC status is not lost by a change in the building if the increase in the number of required spaces resulting from the change is provided, on an incremental basis.
- (f) *Garages.* If the PNC item is non-compliance with garage regulations, PNC status is lost if: (i) an existing garage is removed, destroyed or converted to a non-garage use, or (ii) space is added to the principal building so that its gross floor area is increased to 200 percent or more of its gross floor area on the 1987 effective date.
- (g) *Driveways.* If the PNC item is noncompliance with driveway regulations in an SF district, PNC status is lost if:
- (1) A new driveway is constructed;
 - (2) An existing driveway is either replaced or expanded; or
 - (3) Space is added to the principal building so that its gross floor area is increased to 200 percent or more of its gross floor area on the 1987 effective date.

This subsection does not apply to noncompliance with minimum dimensions for a driveway (or maneuvering area) on a site with SFD use only.

- (h) *Building site dimensions.* If the PNC item is non-compliance with one or more of the required minimum dimensions of building sites (Example: minimum dimensions of 75 by 105 feet in the SF-2 District), PNC status is not lost as to any dimension unless it is brought into compliance. Any such non-compliant building sites may be improved by any construction, reconstruction, expansion or other project otherwise lawful.
- (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	

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APPENDIX A - ZONING ORDINANCE*

ARTICLE 12. PRIOR NONCONFORMITIES

	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	

- (j) *Change in use.* A nonconforming commercial use loses PNC status if changed to any other commercial use.

(Ord. No. 1770, 7-26-2004; Ord. No. 1873, § 1(ex. A), 4-28-2008; Ord. No. 1879, § 1(ex. A), 8-25-2008; Ord. No. 1939, § 1(ex. A), 2-28-2011)

Section 12-104. Work To Achieve Compliance.

The administrative official may issue a permit with a specific condition requiring that a PNC item be brought into compliance if: (i) the item has lost PNC status or will soon lose PNC status, (ii) substantial work is necessary to achieve compliance, and (iii) the person in control of the property demonstrates both the willingness and the ability to achieve compliance. It shall be an affirmative defense in any proceeding to enforce this ordinance with respect to the PNC item that: (i) such a permit was issued, and (ii) work to achieve compliance is prosecuted diligently.

Section 12-105. Special Exceptions To Extend PNC Status.

The ZBA may issue a special exception to extend or reinstate PNC status for any item, upon application by the owner or someone with a substantial interest in the affected property, if the ZBA finds: (i) a substantial investment was reasonably made in the PNC item, or in reliance upon it, and (ii) extension of PNC status is necessary to allow a reasonable period in which to amortize the investment, or to avoid unreasonable waste of any remaining value of the item with PNC status. An extension may be for

ARTICLE 12. PRIOR NONCONFORMITIES

a fixed term or for an indefinite period. This section applies both to PNC items losing status by lapse of time and to PNC items losing status for other reasons. A special exception may allow the rebuilding, remodeling or modest enlargement of a structure which would otherwise lose PNC status and may allow the continuation of PNC status.

Section 12-106. Special exception, certain work under permit.

(a) *Generally.* The ZBA may issue a special exception to grant PNC status for a structural item that did not conform to this ordinance when it was constructed or established, if the ZBA finds:

- (1) The nonconformance was clearly and specifically shown in plans and specifications duly submitted to obtain a city permit;
- (2) Before the work was done, neither the owner, the designer, the surveyor, the contractor nor any other person assisting with the work knew about the noncompliance;
- (3) The nonconformance was clearly covered by the city permit (the same permit for which the plans and specifications were submitted), and the permit was otherwise regularly issued;
- (4) After learning of the nonconformance, the owner promptly conferred with the administrative official (and voluntarily halted any further nonconforming work);
- (5) The item will neither constitute a health or safety hazard nor cause a significant impact upon another person or property; and
- (6) The item can be brought into conformance with this ordinance within the time period specified in the special exception, at a modest or reasonable cost.

Exception: Bringing the item into conformance need not be required if the ZBA finds that the impact of the item on other persons or properties is either nil or extremely small.

(b) *Time to comply; conditions.* No such special exception is effective unless it specifies a time period within which the item must be brought into conformance with this ordinance (if required; see above). PNC status granted for a specified time period is lost when the specified time period expires or if ownership is sooner transferred (unless the new owner acknowledges both the special exception and the date the time period expires, by written instrument filed with the administrative official before the transfer). Any special exception issued under this section may contain conditions designed to:

- (1) Reduce nonconformance;
- (2) Mitigate (or compensate for) the effects of nonconformance;
- (3) Achieve conformance sooner than the specified time period; or
- (4) Any combination of the foregoing.

(c) *Scope of exception.* For good cause shown, such a special exception may allow completion, minor modification and occupancy of the structural item without losing PNC status.

(Ord. No. 1883, § 1(ex. A), 11-10-2008)

ARTICLE 13. ENFORCEMENT

ARTICLE 13. ENFORCEMENT

[Section 13-100. Certain permits.](#)

[Section 13-101. Other ordinances.](#)

[Section 13-102. Procedures.](#)

[Section 13-103. Proof of certain facts.](#)

Section 13-100. Certain permits.

Except as provided below, a permit is required for each of the following:

- (1) The erection, moving, construction or alteration of any structure within the City.
- (2) The occupancy of any building space.
- (3) A change in the occupancy of any building space, whether by change in ownership, tenancy or otherwise.
- (4) A change in the use of any building site or structure.
- (5) Any change which would affect the number of off-street parking spaces required by this ordinance for a given building or building space.

Section 13-101. Other ordinances.

The City Council, by ordinance, may prescribe terms, conditions, fees, regulations, exceptions and procedures for the permits required by this ordinance and may provide for consolidated permits to enforce not only this ordinance but also the other ordinances and regulations of the City.

Section 13-102. Procedures.

Unless otherwise prescribed by ordinance, a person desiring a permit under this ordinance must apply in writing to the administrative official. Any person aggrieved by any action or inaction of the administrative official with respect to this ordinance may pursue those appeals prescribed by state law or other ordinance of the City.

Section 13-103. Proof of certain facts.

- (a) *Multiple-family residence.* It is presumed that two or more families reside upon a given building site if either of the following sets of circumstances is present:
 - (1) Seven or more people, with at least three different family names among them, reside upon the building site.
 - (2) Two or more persons pay money or give any thing of value to one third party in exchange for the right to live upon separate portions of the building site, where each separate portion is physically separated from the others and each has a separate entrance to the outside.

ARTICLE 13. ENFORCEMENT

- (b) *Single-family building.* It is presumed that a building is used for a residential use other than single-family (attached) use or single-family (detached) use, if the building is separated into two or more rooms or groups of rooms by partitions, locked doors or other devices with the effect of excluding persons who could live in one part of the building from another part of the building which could be used as living space by one or more other persons.
- (c) *Control of property.* It is presumed that a person controls real property (and all structures on the property) during a given time period, if that person has either arranged for or paid for any utility service for the property for that time period. Proof of such arrangement or payment may consist of excerpts from the customer billing records of the company or entity providing the service.
- (d) *Ownership of property.* It is presumed that a person owns a given item of property if:
 - (1) the person is shown on the current City tax roll as the owner of the property; or
 - (2) the property was conveyed (or purportedly conveyed) to the person by deed, bill of sale or other document, and a reasonable search has revealed no similar document conveying (or purporting to convey) the property to someone else.
- (e) *Multiple utility service.* It is presumed that utility service is provided to a person at a given place during a given time period, if that person has arranged for or paid for the utility service for that place for that time period. Proof of such arrangement or payment may consist of excerpts from the customer billing records of the company or entity providing the service.
- (f) *Proof of residence.* For purposes of this ordinance only, it is presumed that a person resides in a given place at a given time, if any of the following sets of circumstances is present:
 - (1) The person is registered to vote with the place listed as his or her residence at that place.
 - (2) The person has arranged for or paid for any utility service with respect to the place in question and for the time period in question; the place is a residence; and the person did not give the company or entity providing the service another address as the person's residence.
 - (3) The person has given the address of the place as the person's address at or shortly before that time, without indicating that it is temporary or "in care of" another person.
 - (4) According to official records of the Texas Department of Public Safety (or its successor), the person's residence address is at the given place at that time.
 - (5) The person has stayed overnight at the given place more than once during the time period in question. Proof of such stays may consist of one or both of the following, or other proof: (i) proof that the person was present at the place for an hour or longer between the hours of 2:00 a.m. and 7:00 a.m. on any two days separated by at least 42, but not more than 90, intervening days; or (ii) proof that a motor vehicle registered in the person's name was present upon or adjacent to the place for an hour or longer between the hours of 2:00 a.m. and 7:00 a.m. on any three separate days, where the first day and the last day are separated by at least 42, but not more than 90, intervening days, together with proof that the person operated the vehicle on at least one of the three days.

ARTICLE 14. AMENDMENTS

ARTICLE 14. AMENDMENTS

[Section 14-100. Manner of initiation.](#)

[Section 14-101. Procedure and hearings.](#)

[Section 14-102. Special majorities.](#)

Section 14-100. Manner of initiation.

- (a) *Interested Persons.* Any interested person may initiate the consideration of an amendment to this ordinance by submitting the proposed amendment to the Z&PC together with any required filing fee and any information and materials the Z&PC may require.
- (b) *City Bodies.* The City Council, the ZBA, other boards and commissions of the City and the officers and employees of the City acting in their official capacities may also initiate the consideration of amendments to this ordinance by submitting them to the Z&PC together with any information and materials the Z&PC may require.
- (c) *Z&PC Initiation.* The Z&PC may initiate the consideration of a proposed amendment on its own motion.

Section 14-101. Procedure and hearings.

- (a) *State Law Procedures.* In connection with the adoption of any proposed amendment to this ordinance, the Z&PC and the City Council shall comply with state law with regard to procedure and hearings.
- (b) *Legislative Proceedings.* The extent and type of consideration given to any proposed amendment is purely within the legislative discretion of the Z&PC or the City Council, as the case may be, and no amendment is guaranteed any particular degree or type of consideration.

Section 14-102. Special majorities.

The number of votes on the City Council required to approve an amendment is determined by the City Charter, except that, when the number of written protests required by section 211.006(d) of the Texas Local Government Code (Vernon's 1988) or any successor statute, is received with respect to a given amendment subject to such statute, the number of votes required to approve the given amendment is determined by such statute.

SECTION 15. ZONING & PLANNING COMMISSION AND ZONING BOARD OF ADJUSTMENT

ARTICLE 15. ZONING & PLANNING COMMISSION AND ZONING BOARD OF ADJUSTMENT

[Section 15-100. Constitution; powers and duties.](#)

[Section 15-101. Zoning & Planning Commission.](#)

[Section 15-102. Zoning Board of Adjustment.](#)

Section 15-100. Constitution; powers and duties.

The Z&PC and the ZBA are established and shall be constituted as prescribed by the City's Charter. They have the powers and duties prescribed by the Charter, applicable law, this ordinance or other ordinances of the City.

Section 15-101. Zoning & Planning Commission.

- (a) *Number, Quorum.* The Z&PC shall have the number of members appointed by the City Council from time to time, within the limits prescribed by the Charter. A quorum is a majority of the members appointed and holding positions which are not vacant, but never fewer than three. Each member of the Z&PC shall be appointed to a specific numbered position, numbered from "1" through "5" (plus "6" and "7," if appointed).
- (b) *Qualifications.* Each appointee, at the time of appointment, must be a resident of the City. A member who ceases to be a resident of the City shall be deemed to have resigned and may be replaced at any time thereafter, but shall continue to serve until the successor is appointed and qualified.
- (c) *Terms.* Each position has successive terms of office, with each term beginning on September 1 of each odd-numbered calendar year and extending through August 31 of the next following odd numbered calendar year. Each member appointed shall serve for the specific term, or the unexpired portion thereof, of the specific position to which the member is appointed. Members shall also serve after the expiration of a term of office
- (d) *Appointments, Vacancies.* Appointments for upcoming terms may be made no sooner than sixty days prior to the beginning of the term. In the event of death, resignation, removal from office or any other vacancy, a successor shall be appointed to serve the remaining unexpired portion of the specific term of office of the vacant position.
- (e) *Removal.* The City Council may remove a member for cause on a written charge after a public hearing.
- (f) *Officers.* The city council may provide for appointments of a presiding officer, a vice presiding officer, and a secretary and may allow one or more such officers to be selected by the Z&PC.
- (g) *No Compensation.* The members of the Z&PC shall receive no compensation for their services. This shall not prohibit reimbursement for actual and reasonable expenses incurred by authority of the city manager or the City Council.

(Ord. No. 1756, 10-27-2003)

SECTION 15. ZONING & PLANNING COMMISSION AND ZONING BOARD OF ADJUSTMENT

Section 15-102. Zoning Board of Adjustment.

- (a) *Number, Quorum.* The ZBA shall have the number of members prescribed by the Charter. A quorum is four. Each member of the ZBA shall be appointed to a specific numbered position, numbered as follows: regular positions numbered from "1" through "5" and alternate positions numbered from "A1" through "A4."
- (b) *Qualifications.* Each appointee, at the time of appointment, must be a resident of the City. A member who ceases to be a resident of the City shall be deemed to have resigned and may be replaced at any time thereafter, but shall continue to serve until the successor is appointed and qualified.
- (c) *Terms.* Each position has successive terms of office, with each term beginning on September 1 of each odd-numbered calendar year and extending through August 31 of the next following odd numbered calendar year. Each member appointed shall serve for the specific term, or the unexpired portion thereof, of the specific position to which the member is appointed. Members shall also serve after the expiration of a term of office until a successor is appointed and qualified.
- (d) *Appointments, Vacancies.* Appointments for upcoming terms may be made no sooner than sixty days prior to the beginning of the term. In the event of death, resignation, removal from office or any other vacancy, a successor shall be appointed to serve the remaining unexpired portion of the specific term of office of the vacant position.
- (e) *Removal.* The City Council may remove a member as provided in applicable state law.
- (f) *Officers.* The city council may provide for appointments of the presiding officer and the vice presiding officer, and may allow one or both such officers to be selected by the ZBA. The presiding officer, and the vice presiding officer while serving in place of the presiding officer, shall have the authority of the "chairman."
- (g) *No Compensation.* The members of the ZBA shall receive no compensation for their services. This shall not prohibit reimbursement for actual and reasonable expenses incurred by authority of the city manager or the City Council.
- (h) *Office.* The office of the ZBA shall be at the office of the administrative official.

(Ord. No. 1756, 10-27-2003)

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APPENDIX A - ZONING ORDINANCE*

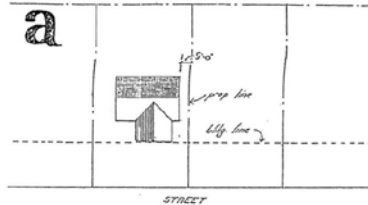
SECTION 15. ZONING & PLANNING COMMISSION AND ZONING BOARD OF ADJUSTMENT

[End of Base Text. Schedules and Diagram follow; these are integral parts of this Ordinance.]

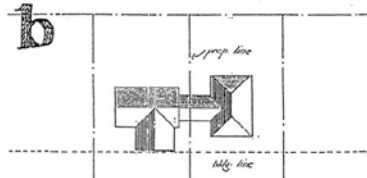
LOT DIVISION SCHEDULE

See Article 5

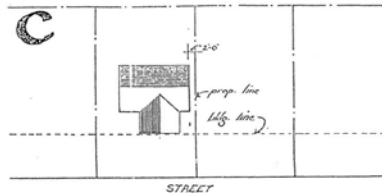
Example A. Assuming that, if the two (2) subdivided lots were divided, the closest structure to a side property line would be set back by five (5) feet, and further assuming that there would be no other conditions in violation or noncompliance with this ordinance, the two (2) subdivided lots could be divided along their common boundary.



Example B. If a structure straddles the common boundary of the two (2) subdivided lots, to divide the lots would create a condition in violation of this ordinance (i.e., a violation of setback regulations), and this would prevent the division of the two lots.

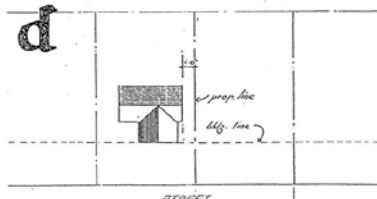


Example C. Assuming that, if the two (2) subdivided lots were divided, the closest structure to a side property line would be set back by only two (2) feet, the two (2) subdivided lots could not be divided.



Example D. Assuming that:

- (1) If the two (2) subdivided lots were divided, the closest structure to a side property line would be set back by four (4) feet;
 - (2) Such a four-foot setback would be in violation of this ordinance;
 - (3) Such a four-foot setback would not have been in violation of the city's ordinances at the time the structure was constructed; and
 - (4) There are no other conditions in violation or noncompliance with this ordinance;
- The two (2) subdivided lots could be divided along their common boundary.



SECTION 15. ZONING & PLANNING COMMISSION AND ZONING BOARD OF ADJUSTMENT

DRIVEWAY VISIBILITY DIAGRAM

See definition in Article 2 and Table 7-5a

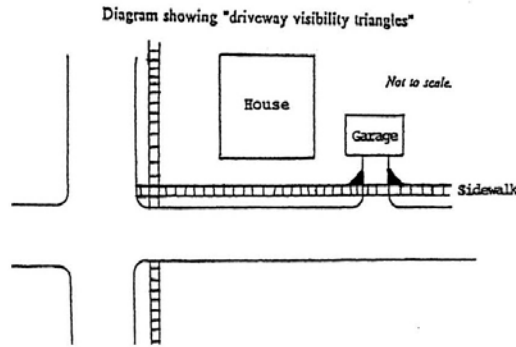
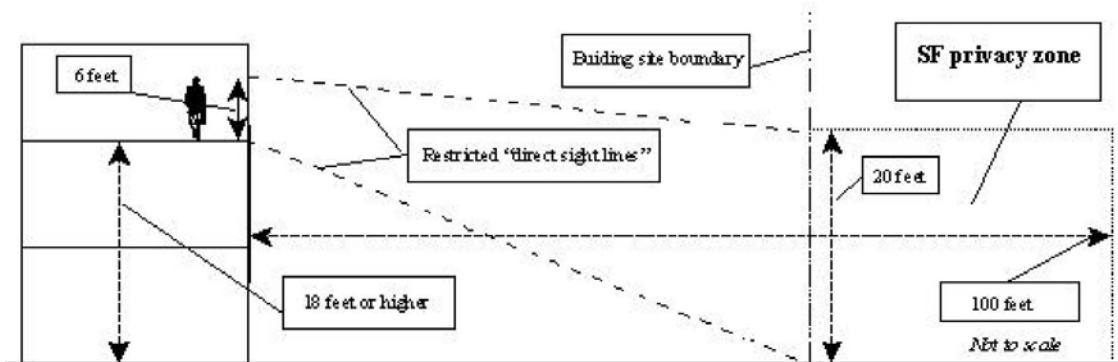


FIGURE SFP

See Table 4-B regarding "SF Privacy Protection"



PWSF SCHEDULE

(Personal Wireless Service Facilities)

- A. *In General.* A PWSF complies with this ordinance only if, for that specific PWSF:
1. Pre-application. Any applicable pre-application process has been followed.
 2. Application. The required application has been completed and filed.
 3. Review, etc. The applicable review and issuance process has been completed.
 4. Permit. The appropriate type of permit (either a low-impact PWSF permit or a permit authorized by special exception) is in effect and not suspended or terminated.
 5. Other. The PWSF otherwise complies with this schedule and other applicable provisions of this ordinance.
- B. *Definitions.* In this schedule:

SECTION 15. ZONING & PLANNING COMMISSION AND ZONING BOARD OF ADJUSTMENT

1. "Antenna" means the surface from which radio signals are sent or received.
2. "Building-mounted antenna" means an antenna attached to the surface of, or mounted inside, a building or building-like structure such as, for example, a steeple, cooling tower, elevator housing, parapet, penthouse or elevated tank.
3. "Co-locate" means to use a single mount or site for two or more PW SF's.
4. "Monopole" means a single shaft used primarily to mount PW SF's.
5. "Low-impact PW SF" means a PWSF in one or more of the following categories:
 - (a) Low-Impact, building-mounted. The antenna is building-mounted, and:
 - (1) Any exposed elements are flush-mounted (not more than one foot from the face of a wall and at least one foot below the top of the wall) and are covered or painted to match the color and texture of the building.
 - (2) All other equipment is screened from off-site views.
 - (b) Low-impact, standard street structure. The PWSF is incorporated into a new or existing streetlight or other street structure with a standard or ornamental design formally adopted by the city council and approved for joint use with a PWSF.
6. "Rooftop-mounted antenna" means an antenna mounted on the roof of a building that is not a "building-mounted antenna."
7. "Sightline representation" means a profile drawing of a sight line from a viewpoint to the highest visible part of a PWSF meeting these criteria:
 - (a) Intersecting trees and other objects must be shown.
 - (b) The scale must be one inch equals 40 feet, unless otherwise specified by the City.
8. "Tower" means a structure, other than a monopole, used primarily to mount PW SF's.
- C. *Application.* The owner and proposed operator of a PWSF must file a complete, written application, including the following:
 1. *Form, etc.* A City-prescribed application form, with all required signatures, fees, plans and specifications.
 2. *Sketch plat.* A sketch plat as required for new major development, including all structures located within 200 feet of the proposed PWSF or its site.
 3. *Service area.* A map of the service area for the PWSF.
 4. *Other facilities.* A map showing all existing and planned facilities, both within the City and within three miles of the site, that could be, or will be, used by the applicant for, or in connection with, the PW SF. The map must show all cables, connection devices and the height, mounting style and number of antennas.
 5. *Collocation certificate* (not required for low-impact PWSF's). A certificate, in recordable form, signed and acknowledged by the owner and operator (and each lien holder) stating that the PWSF and its site are, and will remain, available for collocation upon reasonable, non-discriminatory terms and conditions. (With the certificate, there must be a current title report or other proof of ownership and liens acceptable to the administrative official.)
 6. *Towers, monopoles.* The following additional items are required if the application is for a new tower or monopole:
 - a. A map indicating, for all the area within one mile of the proposed PWSF: (i) all monopoles and towers in existence, planned or under construction, and (ii) all structures in existence

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or under construction with a height comparable to the proposed PWSF (e.g., towers, buildings, poles, etc.), and (iii) other possible or potential sites for the monopole or tower, including stand alone locations.

- b. A detailed description of efforts made to locate or co-locate the proposed PWSF at or upon each pole, tower, structure and site required to be indicated on the map. The description must also include: (i) the names, addresses and telephone numbers of the owners and persons contacted, and (ii) reasons why each was rejected, giving particular emphasis to the criteria set out in this schedule.
- c. A detailed description of: (i) efforts made to blend the facilities with the surrounding area and to screen them, (ii) the process for selecting the proposed color, (iii) efforts made to minimize the diameter and mass of the main supporting structures, including an engineering analysis, (iv) efforts made to minimize the equipment attached to the pole or tower to support the antennas, including an engineering analysis, (v) efforts made to minimize the size, bulk and number of antennas and ancillary equipment to be mounted on the pole or tower, including an engineering analysis, and (vi) a description of the function of any such ancillary equipment and the need to locate it on the pole or tower in question.
- d. A photo simulation of the site.
- e. If the site is located within 500 feet of any dwelling: (i) a photo simulation of the views from each dwelling, (ii) two photo simulations from the closest streets, and (iii) an analysis of the simulations and the other required information to determine the most effective way to screen or blend the facility with the surrounding environment.

7. *Certain other types of PWSF's:* The following additional items are required for all other PWSF's, except low-impact PWSF's:

- a. A detailed description of: (i) efforts made to blend the facilities with the surrounding area and to screen them, (ii) the process for selecting the proposed color, (iii) efforts made to minimize the diameter and mass of the supporting pole or tower (if there is one), including an engineering analysis, (iv) efforts made to minimize the equipment attached to the pole or tower (if there is one) to support the antennas, including an engineering analysis, (v) efforts made to minimize the size, bulk and number of antennas and ancillary equipment, if visible from off-site, including an engineering analysis, and (vi) a description of the function of any such ancillary equipment and the need to locate it as designed.
- b. Sightline representations from the most common viewpoints, including any building facades and public or private roadways within 500 feet of the site.
- c. A photo simulation of the site from the main street frontage.
- d. If the site is located within 500 feet of any dwelling: (i) a photo simulation of the views from each dwelling, (ii) two photo simulations from the closest streets, and (iii) an analysis of the simulations and the other required information to determine the most effective way to screen the facility or blend it with the surrounding environment.

D. *Review, Issuance, Permits.* The review and issuance process includes:

- 1. *Administrative review.* By City staff.
- 2. *Sketch plat.* Review of the sketch plat as required; see [Chapter 74](#)
- 3. *Consultants.* Review by a third-party consultant, if required by the administrative official, the ZBA or City Council. Such review would normally be requested to resolve technical or regulatory issues raised by the application, including: (i) accuracy and completeness of applications, (ii) analysis techniques and methodologies, (iii) validity of conclusions reached, (iv) other technical or regulatory issues.

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4. *Hearings.* Any required hearings have been duly noticed and held. The administrative official may require special hearings, even if not otherwise required.
 5. *Permits.* Preparation, approval and issuance of a permit, as follows:
 - a. Low-impact PWSF's. The administrative official may issue a low-impact PWSF permit, but only after determining that the definition of "low-impact PWSF" clearly applies. See above. The administrative official may also issue a low-impact permit if the ZBA determines that the definition applies.
 - b. Other PW SF's. All other PWSF's require a special exception to authorize the administrative official to issue a permit. A special exception may impose site-specific conditions and restrictions upon a PWSF that are more restrictive than this schedule.
 6. *Term of permits.* The term of each PWSF permit is five years from the date of issuance. Exceptions: (1) A special exception can prescribe a shorter term. (2) If a permit calls for co-location with a pre-existing PWSF, a special exception may extend the term of all co-located PWSF's at that site to the fifth anniversary of the issuance of the last permit for that site.
- E. *General Criteria & Regulations.* The following apply to PWSF's and PWSF permits:
1. *Site, equipment.* The site and type of equipment must offer a lower impact upon nearby residential sites than the other reasonable alternatives. For this purpose, impact is measured in terms of: (i) visual intrusiveness, (ii) risk of physical impact, and (iii) reduction in property values. Each PWSF must comply with other applicable laws, rules, charters, guidelines, ordinances and regulations, and each applicant and permittee must submit proof of such compliance when and permits to use public rights of way. (2) Written statements of compliance with federal regulations and guidelines on radio frequency exposure, including engineering analyses and impact assessments based upon appropriate field tests, signed by a registered professional engineer who has both training and substantial experience in connection with radio frequency exposure.
 2. *SFD/SFA sites.* No PWSF is allowed upon any subdivided lot or building site where the actual or intended principal use is SFD or SFA. The intended use is determined by the applicable zoning regulations and the size and shape of the parcel.
 3. *Yards, special setbacks.* Regular yard regulations apply. In addition, all parts of a PWSF must be set back the following distances:
 - a. two feet for each one foot of height, measured from the nearest building site boundary; and
 - b. three feet for each one foot of height, measured from the nearest SF District boundary (or, if the PWSF is within an SF District, the nearest building site with an existing dwelling).

Exception: These additional setbacks do not apply to building-mounted PWSF's or low-impact PW SF's.
 4. *Height.* Regular height regulations apply. See [Article 7](#) which limits heights to 25 or 35 feet. Exceptions: (1) A low impact PWSF incorporated into a standard street structure may be up to four feet higher than that structure, assuming the height of that structure does not otherwise violate this ordinance (taking into account any PNC status, other defenses and exceptions). (2) A special exception may prescribe different height regulations.
 5. *Design aspects.* The design of each PW SF must:
 - a. Minimize the mass of the PWSF that may be visible from off-site or street areas, to the extent reasonably possible while maintaining structural integrity.

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- b. Provide for present and future collocation with other PWSF's to the extent reasonably possible. Exception: This does not apply to low-impact PW SF's.
- c. Prescribe shapes and dimensions that will blend with similar objects to the extent feasible.
- d. Include a permanent marker (not larger than 4x6 inches) clearly identifying the owner's name, address and emergency telephone number.
- e. Either comply with the definition of a low-impact PWSF or comply with all the following additional criteria for issuance of a special exception:
 - (1) The height of the PW SF must not be intrusive, obtrusive or out of character with the surrounding areas.
 - (2) Arrays and supporting structures must blend with the existing physical context and may not be unnecessarily intrusive or obtrusive.
 - (3) Trees, natural landscaping and screening must be incorporated into the PWSF and its surroundings to the greatest extent feasible.
 - (4) Camouflage or disguise techniques must be incorporated to the greatest degree feasible, for aspects of the PWSF that cannot be screened.
 - (5) In all other respects, the PWSF must blend into its setting to the maximum extent feasible and may not unnecessarily intrude into surrounding landscapes or views.
 - (6) The PWSF must comply with the general purpose and intent of this ordinance and the comprehensive plan.
- 6. *Guy wires.* Guy wires may not be used for monopoles or towers.
- 7. *Collocation* (not required for low-impact PWSF's). Each PWSF and its site must be made available for collocation upon reasonable, non-discriminatory terms and conditions, at all times. The collocation certificate must be recorded in the Harris County real property records.
- 8. *Screening.* All equipment must be screened from off-site and street area views to the extent reasonably possible by opaque screens, walls, parapets, etc. Exception: This does not apply to low-impact PW SF's.
- 9. *Underground; Enclosures.* All cabinets, boxes and similar non-antenna-related equipment must be located underground, unless it is so designed and located that it is not visible from a street area. For example, the equipment may be located inside a non-residential building similar to other buildings in the area, or completely enclosed by an opaque wall or other enclosure designed and maintained to resemble similar enclosures in the vicinity, with external landscaping similar to landscaping present in the vicinity. Gates must be opaque. Exception: Undergrounding or enclosure is not required for equipment that is part of a low-impact standard street structure.
- 10. *Lighting.* All exterior lighting designed for the PWSF itself must be contained within the enclosure as described above.
- 11. *Parking.* Notwithstanding [Article 10](#), no off-street parking is required for a PWSF.
- 12. *Removal.* A PWSF that is not used for 180 days or longer, or for which there is no PWSF permit in effect, must be removed. Each owner and person in control of the site is responsible for removal, jointly and severally. A permit may require the filing of financial security and rights of entry with the City to secure the obligation to remove.
- 13. *Registry.* The administrative official may maintain a registry of all PWSF's and may require each permittee to certify the locations, equipment, designs, operations, and other information about its PW SF's periodically.

FINAL DRAFT OF PROPOSED AMENDMENTS (February 12, 2015)

APPENDIX A - ZONING ORDINANCE*

SECTION 15. ZONING & PLANNING COMMISSION AND ZONING BOARD OF ADJUSTMENT

14. *Suspension, termination.* All permits are subject to suspension and termination in the same manner as provided for building permits generally, except that only the ZBA may suspend or terminate a permit authorized by special exception.

(Ord. No. 1765, 4-12-2004)

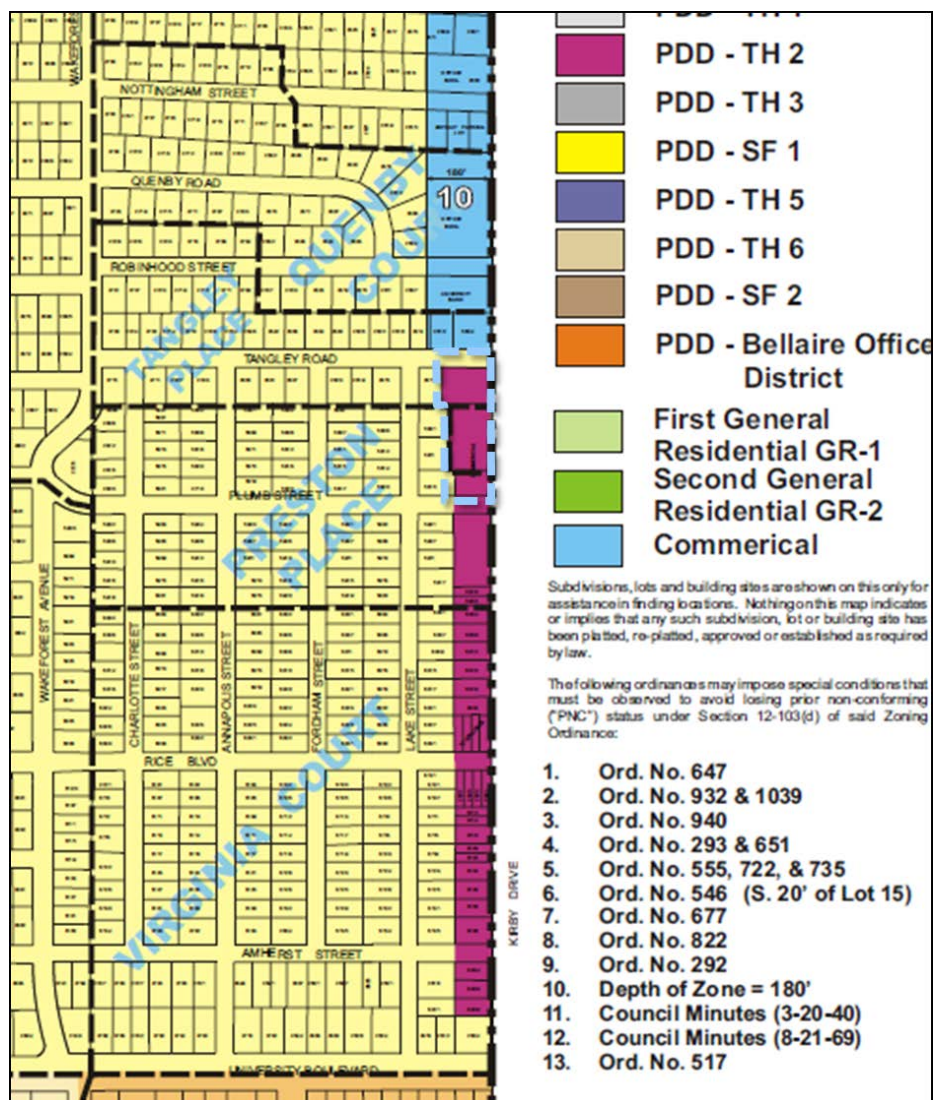
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Proposed Zoning District Boundary Changes

1. Along Kirby Drive, shift the southern boundary of the existing Commercial (C) district one block southward to Plumb Street. This is illustrated below by the area in the north portion of the existing PDD-TH2 district that is shown within the light blue dashed line. This is intended to place the pre-existing commercial blockface along Kirby, between Tangley and Plumb, in the C district rather than in the PDD-TH2 district, which is intended strictly for residential uses.



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2. In the Town Center area along Edloe Street, the portion of the existing Commercial (C) district along the east side of Edloe, from Rice Boulevard on the north to University Boulevard on the south, would change to the proposed new Town Center Commercial (TCC) district. This is illustrated below by the area shown within the purple dashed line. The one existing C-zoned property immediately north of Rice Boulevard would remain in the Commercial district.

